



Proposed Gender Actions and Recommendations on the World Bank's Environmental and Social Framework Guidance Notes

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Achieving an effective ESF/ESS implementation greatly depends on Bank's staff and stakeholders' capacity to manage risks directly; and that minimizing social risks and optimizing positive impacts needs the engagement of both women and men equally, working together for the common good. The ESF/ESS are only as effective as interpreted and applied, they begin with policy commitments, and are operationalized through policy procedures, guidance notes, processes, management plans, organizational capacity, M&E processes and, finally, disclosure and documentation. Underpinning this commitment with a strategic gendered approach will help to ensure a level playing field, fairness among and between communities and improve the efficiency, effectiveness and sustainability of project investments.

Both ESP and ESS need to be applied in the context of the World Bank's own recognition that a lot more needs to be done on gender equality, and its institutional commitment to implement its 2015 Gender Strategy. Given that the Guidance Notes (GNs) are designed to help and guide staff and borrowers to effectively implement the ESF/ESS, there needs to be a strong alignment throughout the GNs to the Bank's own gender strategy – to better harmonize and reflect the Bank's gender commitments at the project level.

The 2015 WBG Gender Strategy recognizes that stronger and better-resourced efforts are needed to address key gaps between women and men, in IDA countries and beyond. In particular, the strategy calls for IDA-supported activities to sharpen the focus on addressing inequalities in access to jobs and control over productive assets and benefits. Addressing gender considerations is and remains integral to a human rights approach to international development, it includes the treatment of relationships between women and men who hold different positions of power and privilege – something that the rights-based approach can unequivocally address in making sure that basic entitlements, security and freedoms are provided to all and especially to the weakest and most vulnerable.

This paper devotes a section to each ESS to alert the World Bank to the gender responsive considerations that the GNs should address, and it also aims to flag:

- ▶ Risks for where there is a potential high risk in relation to women's rights and rights to land, and where the Bank should ensure GNs address appropriately, and
- ▶ Opportunities for where the WB ESS framework and commitments provide support and assistance to women and should be expanded upon in GNs.



What follows is a Standard-by-Standard gender assessment highlighting specific gender-related concerns and recommendations for the World Bank to consider within the ESS' Guidance Notes.

ESS OBJECTIVES	GUIDANCE NOTES RECOMMENDATIONS / PROPOSED GENDER ACTIONS
ESS 1: Assessment and Management of Environmental and Social Risks and Impacts	
<p>According to the ESS 1, the main objectives include efforts to “identify, evaluate and manage the environment and social risks and impacts consistent of the project in a manner consistent with the ESSs”, and to “adopt a mitigation hierarchy approach to anticipate and avoid risks and impacts”, and where avoidance is not possible to “minimize or reduce risks and impacts to acceptable levels”, and where “risks and impacts have been minimized or reduced, to mitigate”, and where significant residual impacts remain, “compensate for or offset them where technically and financially feasible”. It further stipulates that differentiated measures should be adopted so they do not fall disproportionately on the disadvantaged or vulnerable, and that they are not disadvantaged in sharing the benefits of the projects and opportunities resulting from the project.</p>	
<p>Borrower is responsible for assessing, managing and monitoring environmental and social risks and impacts throughout the project cycle and conducting the Environmental and Social Impact Assessment (ESIA)</p> <p>NOTE: Key project document produced by the Bank in agreement with the borrower is the Environmental and</p>	<ul style="list-style-type: none"> ▶ There are multiple references in ESS1 about “disadvantaged and vulnerable people and groups”, and it states explicitly that they should not be disadvantaged in sharing development benefits and opportunities resulting from projects.ⁱ ▶ ESS1(28.b) explicitly states that “risks or impacts associated with land and natural resource tenure and use, including land use patterns and tenurial arrangements” (refer to ESS5) will be part of all social impact assessments. ▪ Areas of interventions to ensure the protection and strengthening of women and women’s land rights should be made via GNs in response to ESS1. They include the following assessment areas: <ul style="list-style-type: none"> (i) Environmental Health and Safety Guidelines (ii) The examination for all High and Substantial Risk projects should automatically trigger the appointment of advisory panels of independent gender specialists to advise on all aspects of the project via-a-vis the ESIA (iii) High and Substantial risk projects should automatically assess the cumulative (negative) project impacts affecting women and their access to land tenure/rights (iv) Where “Social Risks and Impacts, including threats to human security through the escalation of personal, communal, or inter-state conflict, crime or violence are addressed and where risks fall disproportionately on:

<p>Social Commitment Plan (ESCP)</p> <p>The ESCP must commit to addressing gender equality by (i) building staff capacity and expertise; (ii) allocating adequate financing and other resources; (iii) monitoring and evaluating gender-differentiated results</p>	<ul style="list-style-type: none"> a. individuals and groups who, because of their particular circumstances, may be disadvantaged or vulnerable; b. where prejudice or discrimination toward individuals or groups who may be disadvantaged or vulnerable may restrict them access to development resources or project benefits; c. where negative economic and social impacts relating to the involuntary taking of land or restrictions on land use, land and natural resource tenure/tenurial arrangements, land access and availability, food security, land values may occur; d. and where risks relating to conflict and contestation over land and natural resources may negatively impact on the health, safety and well-being of workers and project-affected communities; <ul style="list-style-type: none"> ▪ ESS1 considers the development of management tools that the Borrower is expected to use to develop and implement agreed upon measures and action. According to the WB this could include environmental and social management plans, management frameworks, operational policies, operational manuals, management systems, procedures, practices. The GNs should define desired outcomes in measurable terms against baseline conditions with specific references to women and, where appropriate, to women’s land rights; ▪ The GN should make available and clearly reference tools for Gender-responsive monitoring, accountability and reporting.ⁱⁱ The extent and mode of gender-based monitoring should be defined, including the establishment of institutional arrangements, systems, resources, timelines, and personnel to ensure that gender differences and women’s rights are taken into account and are being observed/protected. Additionally, social and environmental risks and impacts, and compliance requirements could be defined; ▪ ESIA entry points for gender relations/differentials, identify disproportionate impacts on women and girls including women’s land rights include the following: <ul style="list-style-type: none"> (i) Environmental and social audit – to determine the nature and extent of all environmental and social areas of concern at a project or activities; (ii) Hazard and risk assessment – identifying, analyzing and controlling for hazards associated with the presence of dangerous materials; (iii) Cumulative Impact Assessment – impact of the project in combination with impacts from other relevant past, present and reasonably foreseeable developments, as well as unplanned developments; (iv) Social and Conflict analysis – where a project may exacerbate existing tensions and gender inequality within society, where it has a negative effect on stability and human security; (v) Mitigation measures and analysis of alternatives to project proposal(s).
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- ▶ The ESCP requires gender sensitive analysis and gender-responsive processes to be built into all the ESS management processes – throughout the project cycle. This entails conducting gender-sensitive environmental and social assessments and stakeholder consultations (refer to ESS 10). ESS GNs will need to seamlessly interlink gender-sensitive stakeholder consultation and engagement into each ESS.
- ▶ The GN should be clear that national environmental and social framework are key points of reference, this includes national policies, laws and protocols relating to human rights; labor rights; women’s rights and the rights of indigenous communities. It also should call into reference the various international conventions that nation states are signatories to. Projects will need to refer to the countries’ national gender strategy or equivalent national commitments to aid in assessing gender risks.
- The GNs can ensure that gender assessment questions guide WB staff and Borrowers to consider the following:
 - What possibility is there that the project might reduce or increase risk to women’s access to or control of resources, entitlements and benefits?
 - What possibility is there that project can adversely affect men and women in marginalized or vulnerable communities?
 - What is the possibility that the project might ignore gender roles and the abilities of women or men to participate in the decisions/designs of the project’s activities (such as lack of time, child care duties, low literacy or educational levels, societal discrimination)?
 - What gender roles and abilities of women or men are recognized to benefit from the project’s activities (e.g. does the project criteria ensure that it includes minority groups or landless peoples) by this project?
 - Might the Project potentially further deepen gender discrimination or the exclusion of minority and powerless groups?
 - Would the Project potentially limit women’s ability to use, develop and protect natural resources, considering their different roles and priorities in accessing and managing environmental goods and services?
 - Is there scope within the project to benefit women specifically through investment in social infrastructure such as women’s organizations, social protection, etc.?
 - Is there a likelihood that the proposed Project would expose women and girls to further risks or hazards, including gender-based violence?
 - The Project shall not directly or indirectly lead to/contribute to adverse impacts on gender equality and/or the situation of women. Specifically, this shall include (not exhaustive):
 - (i) Sexual harassment and/or any forms of violence against women - address the multiple risks of gender-based violence, including sexual exploitation or human trafficking;

- (ii) Slavery, imprisonment, physical and mental drudgery, punishment or coercion of women and girls;
- (iii) Restriction of women’s rights or access to resources (natural or economic) including undocumented rights;
- (iv) Recognize women’s ownership rights regardless of marital status - adopt project measures where possible to support to women’s access to inherit and own land, homes, and other assets or natural resources.

- Project ESCPs should be required to seek the input of Gender expert Stakeholders and include their recommendations in their design. The called-upon experts may need to facilitate stakeholder consultations, and conduct gendered stakeholder mapping.
- WB should require project baselines for environmental and social risks or impacts that are gender-differentiated. Understanding that the Standards need to be operationalized through compliance and reporting, the Bank will need to work towards establishing the required personnel and resources to conduct verifiable M&E processes.

▶ “The borrower may request technical assistance from the Bank to strengthen Borrower capacity, or the capacity of other responsible agencies for resettlement planning, implementation and monitoring. [This] assistance may include staff training, assistance in formulating new regulations or policies relating to land acquisition or other aspects of resettlement, financing for assessments or other investment costs associated with physical or economic displacement, or other purposes.”ⁱⁱⁱ

GNs should require Project Leads and Borrowers to:

- ✓ Ensure that the project aligns with the national gender strategy and related policies (if host country has one);
- ✓ Align the project with other national development strategies that promote equal opportunities, whether in the intervention region or in the sector;
- ✓ Refer to lessons learned from comparable development projects or programs in the region that provide useful context on gender issues, risks and opportunities;
- ✓ Refer to, for instance, the national report to The Committee on the Elimination of Discrimination against Womeniv (CEDAW) for data or context relevant to the project.

ESS 2: Labor and Working Conditions

The WB has introduced a separate Labor and Working Conditions Standard but it falls short of its promise when assessed against the much-needed fundamental shift in labor-management relations in WB investment project financing. The World Bank fails to make any reference in its treatment of “Worker’s organizations” in ESS2 to the International Labor Organization (ILO), the international standard-setting body on labor, and its eight fundamental rights conventions, and/or its four core labor standards. This is troubling because the other MDBs that have labor safeguards include references to the ILO’s core labor standards conventions, which all states belonging to the ILO must respect and comply with whether they have ratified the specific conventions or not.

The scope depends on the type of employment relationship and negotiated contractual agreements between project workers and the Borrower and applies to primary suppliers, migrant workers as well as part time, temporary and seasonal workers.

- The GN should clearly state that that projects shall apply the principles of nondiscrimination, equal treatment, and equal pay for equal work, and specifically:
 - Where appropriate for the implementation of a project, paid, volunteer work or community contributions will be organized to provide the conditions for equitable participation of women and men in the identified tasks/activities.
 - Introduce conditions that ensure the participation of women and men in project activities and benefits based on pregnancy, maternity/paternity leave, regardless of marital status.
 - Ensure that these conditions do not limit the access of women or men, as the case may be, to project participation and benefits.
- ▶ ESS2 (16) has implications on freedom of association. The WB points toward “alternative mechanisms” to protect workers’ rights without explaining what the alternatives might be. What is clear is that the critical freedom of association can be ignored in WB-financed investment projects with impunity by borrowers if national laws do not fully protect this right, even though the policy asserts that child labor, forced labor and gender and other types of discrimination will not be tolerated in Bank projects, no matter what national laws say. This introduces a troubling double standard with regard to which of the ILO-defined fundamental workers’ rights must be respected in Bank projects. The GNs need to be consistent and clear to avoid a pick-and-choose approach by the borrower at the expense of project workers’ right to freedom of association of their choosing, this has important implications for women who tend to be employed in low-paid, low-security jobs.
- ESS 2 (12) “Terms and conditions of employment” requires a more consensual approach. The GN should clarify that termination should not be a unilateral decision made and announced by the borrower, but should be considered and

executed only after the project workers' bargaining agent/union has had a chance to review the reasons and details for the planned termination and both the borrower and project workers' bargaining agent have agreed on the terms of the termination.

- ESS 2 addresses “Non-discrimination and equal opportunity” in very generic terms. Given the proclivity of sexual harassment and violence in the work place, The GN should clearly state a zero tolerance for any sexual harassment and violence, this has no place in World Bank-financed investment projects. The borrower should also be required to offer trainings to both management and project workers about what is and what is not acceptable behavior at project sites and hold the borrower accountable for providing a work place free of any form of harassment and violence as more women seek formal employment alongside men.
- ESS 2 (15) states that the borrower will provide “appropriate measures of protection and assistance to address the vulnerabilities of project workers, including specific groups of workers, such as women, people with disabilities, migrant workers and children (of working age in accordance with ESS)”. The GN should clearly guide the World Bank staff how to identify and concretizing specific measures to make them tangible and meaningful. The GN should also make specific reference to ILO conventions and recommendations, as well as links to these documents and incorporation of their major points into the text of the GN. Here, that is particularly core Convention 111 on discrimination.
- The references to the Grievance mechanism (Paragraphs 21, 22, and 23) reflect an outdated approach to labor-management relations. In its present form, it is merely a management tool to dominate and, when necessary, limit the extent to which both potential grievances – as defined as any difference arising out of the interpretation, application, administration or alleged violation of a mutually agreed-upon working contract, whether negotiated in a collective agreement or bilaterally between management and labor – by labor representations of project workers, irrespective whether they are project workers, contracted workers, or community workers – can be addressed and settled to terms favorable to the borrower. While paying tribute to the criticality of responding expeditiously to grievances, the relevant paragraphs lack fundamentals and clarity (what, for example, constitutes a grievance mechanism that is “properly designed and implemented”?) indispensable for their fair and balanced consideration and resolution. These need to be addressed in the GNs from a gendered perspective. Criteria for what constitutes a proper and effective grievance mechanism could include independence, transparency, predictability in terms of internal processes from submitting a complaint, timeliness for getting a response acknowledging submission, timeline for the eligibility process, dispute resolution, negotiations, agreements and compensation and restoration, as well as formal investigation or audit of policy violations.

- The GN should stand by the principle that grievance mechanisms are only objective, independent and fair if they are NOT tied to or dominated by one of the parties involved. Also critical is that the grievance mechanisms offers safety mechanisms against any type of reprisal from government officials, companies, management, etc. This is especially critical to ensure protection to vulnerable and marginalized groups among others women, children, elders, indigenous, people with disabilities, LGBTQ etc. A mechanism exclusively devised by the borrower – as has been proposed – is destined to fall short of that requirement and can reinforce power inequities. Grievances by their very nature are very project-specific, and utilizing existing grievance mechanisms will not and cannot adequately respond to them. The language about existing grievance mechanisms can refer both to preexisting mechanisms that are a part of collective bargaining agreements, or to mechanisms unilaterally designed by an employer. Mechanisms that are collectively bargained ensure that one party does not dominate, and it is good that ESS2 protects such mechanism from being displaced. More specific criteria for judging grievance mechanisms designed by the client or contractor would be good to have in the GN. That is nowhere more evident when addressing grievances across the “project workers-contract workers-community workers’ spectrum” since workers of the latter categories are routinely subject to the greatest exploitation and abuse, and are more frequently the victims of unsafe workplaces, discriminatory practices and unjust dismissal. They routinely constitute the most dominant yet unrepresented workforce on World Bank project sites.
- The GN should guide Bank staff to put in place a multi-stakeholder approach to bring the WB, the borrower, and project parties or their representatives (which may be their bargaining agent/union) to agree by consensus on the design of gender-sensitive project-specific grievance mechanisms; to jointly oversee the fair and balanced implementations of demands or grievances and seek guidance from, among others, the United Nations Guiding Principles on Business and Human Rights, which stress that grievance mechanisms should provide effective remedies for both individuals and communities adversely affected by an Operation. An independent panel of gender experts especially for high and substantial risk projects can facilitate this role of a multi-stakeholder approach to design and oversee a gender sensitive grievance mechanism. Once in place, procedures should be made clear to all the relevant parties to avoid misunderstandings and, arising from there, skewed decisions.
- There should also be clear distinctions between the various grievance categories, such as individual, group, discrimination and policy grievances, all of which have important gender implications. Once a complaint has decided to file a grievance,



he/she submits a statement of grievance with date of filing, nature and type of grievance, the article of the labor contract alleged to have been violated if applicable, a statement of the particular facts relevant to the grievance, including dates, and the remedy sought. Workers should be able to file grievances on a range of topics that are not directly addressed in their employment contract. For example, gender discrimination is unlikely to be addressed in an employment contract but should be an eligible topic for the grievance mechanism.

- The GN should clarify the appropriate time limits within which a submitted grievance is responded to. The GNs prepared by WB staff should address time frames in sufficient detail to avoid project-related work interferences and stoppages arising out of labor and working condition disputes so that workers are protected against losing unrecoverable income. The grievance mechanism should have a clear and predictable process from the moment a complaint is submitted. This means having clear timelines in terms of acknowledging and confirming that a complaint was submitted and filed, a timeline for determining the eligibility and merit of the complaint, a workplan and calendar for the dispute resolution or arbitration phase to negotiate a solution and agreed upon reparation program, etc.
- The same general deficits apply to the Standard’s references regarding “existing arbitration procedures”. Here, too, the GN should outline what the affected project workers need to supply to get the arbitration process underway and how minority groups, marginalized groups and those with less agency are enabled and supported to file their demands or claims^v. GN can tell Bank staff and clients to ensure that all project workers know their rights under the law and understand how to access various forms of remedy as necessary. The GN could mandate that this is discussed in worker orientation and that resources, such as information about contacting government health and safety inspectorates, is publicly posted on the project worksite.
- The representation and selection of the arbitrators themselves is of significance, ensuring that gender-sensitive arbitrators (both men and women) engage in decisions that are fair and equitable, and that give equal weight and attention not just to women’s testimony but also to their priorities and perspectives. The GN should recommend the use of arbitration in the design of grievance mechanisms, particularly as an appeal process when a worker feels that an unfair decision was made through the in-house procedures.

- While the “Occupational Health and Safety (OHS) provisions cover standard requirements to ensure project workers’ health and safety, they lack the needed institutional representation and capacity by those most exposed to work site dangers. To ensure that those tasked to ensure that healthy and safe working conditions exist can competently perform their duties, certified gender-sensitive training must be offered at regular intervals by competent training personnel, preferably by experienced personnel which have no professional links to the procured projects’ contractors to avoid any and all conflict of interest. GN should have explicit reference to and use of ILO standards [including ILO Convention 155](#) on OHS and the [Protocol on the Convention, Recommendation 175](#) on OHS in construction and [Recommendation 164](#). The ILO page on [gender and OHS](#) should be directly referenced by the GN. The GN needs to pay particular attention to gender sensitive OHS practices.
- Project workers must also have the right to elect or appoint peers to work alongside their management colleagues on work site safety committees with each party being equally represented. The GN should promote that Health and safety committees should reflect gender balance as well as representation by an equal numbers of workers and managers on committees.
- The GN should state and guide staff on the critically importance of ensuring requirements for gender-specific rest and hygiene locations at or near the projects’ work sites. Paragraph 28 is silent on such necessities, though all too often the absence of such facilities is often responsible for the lack of equitable representation of women at Bank-funded projects. The GN should also ensure that pregnant or breastfeeding women are reassigned from potentially hazardous work into work of an equal or greater level, and are protected from any form of discrimination.
- Last but not least, the provision of child labor and primary supply chain requires better clarity in the GNs. Independent experts from the ILO, which championed the conventions and recommendations on child labor, should be consulted with a view of making final determinations on such matters. This includes such considerations as the risks of child labor and forced labor in relation to primary suppliers. It is not sufficient to rely on borrowers’ abilities (or lack thereof) to identify those risks and exert their leverage (or lack thereof) to influence their respective primary suppliers’ ethics and work practices.

Guidance notes can require Project Leads to:



- ✓ Ensure that the project aligns with the ILO to honor and respect the latter's eight fundamental rights conventions and four core labor standards;
- ✓ Ensure that relevant norms contained in international human rights treaties, including the Convention on Protection of the Rights of All Migrant Workers and Members of their Families, are respected;
- ✓ Outline protocols and procedures for corrective action in response to incidences of non-compliance with ILO's conventions and labor standards, including the initiation of the World Bank's own grievance mechanism and, ultimately, calling on the World Bank's Inspection Panel to examine alleged violations of non-compliance; and
- ✓ Ensure that failure to take corrective action would result ultimately in loss of financial support.

ESS 3: Resource Efficiency and Pollution Prevention and Management

According to ESS 3, the main **objectives** are to “promote the sustainable use of resources, including energy, water and raw materials”, to “avoid or minimize adverse impacts on human health and the environment by avoiding or minimizing pollution from project activities”. They also seek to “avoid or minimize project-related emissions of climate pollutants”, as well as “hazardous and non-hazardous waste”, and minimizing and managing“ the risks and impacts associated with pesticide use”.

While ESS3 addresses potentially adverse project impacts on human health and the environment in the context of pollution, land use, projects’ proximity to areas of importance to biodiversity, the potential for cumulative impacts with uncertain and/or irreversible consequences, and impacts of climate change, it fails to differentiate gender-specific risks and impacts, nor does it spell out gender-specific contributions in the field of avoidance of negative impacts in, for example, the area of resource-efficient and environmentally-friendly land use practices, waste, recycling, water harvesting, reuse, recycling or recovering of waste.

ESS3 does not address gender-specific exposures to hazardous and non-hazardous materials and waste in tending to land and agribusiness (herbicides, pesticides) activities and in industrial-size work complexes, such as licensed hazardous disposal sites and chemical production and distribution work sites. Though the Standard states that WB-financed projects will not use any pesticides or pesticide products or formulations unless their use is in compliance with the WB’s Environmental, Health and Safety Guidelines (EHSGs) and applicable international conventions or their protocols, practice has shown over and over again that the enforcement of those Guidelines is not effective when the Borrower is responsible for reporting their use to the WB. Therefore, the GN should clearly require Bank staff to engage on frequent and unannounced spot checks by independent experts contracted by the WB or representatives of the relevant protocols are indispensable to ensure compliance. In the push to increase employment and income earning opportunities for women, the reality is that more women are potentially exposed to pesticide use as this is routinely part of tending to saplings or nurseries (in plantations for example).

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- ESS3 applies to efforts to reduce adverse climate change impacts. Investments have the potential to both reduce and increase the vulnerability of people and their resilience to change. While the WB demands that estimates of GHG emissions resulting from projects will be calculated, the reality is that Borrowers by and large don’t have the capacity to develop the estimate of GHG emissions, particularly at small-scale, community-driven projects where women are primarily engaged. And while precise measurements at project sites for various reasons is not always possible, it is possible to identify which part of society or group of people is more vulnerable to climate change.^{vi}
- ESS3 GN should require staff the screening of investments for their effect on vulnerable communities and the environmental resources they depend upon. The GNs can highlight the need for the WB to reduce vulnerability of project-affected people and communities by enabling staff to early-on identify investments that are maladaptive to climate change. This would require a



gender-sensitive screening that entails analysis of climate risks to the success of the investment itself, the well-being of people (men and women alike), and its harmful effects on ecosystems upon which particularly vulnerable people and communities depend especially women and girls. The aim would be to prevent investments that set society at large on a pathway toward greater climate vulnerabilities in the future and exacerbates gender disparities given the disproportionate impacts on women and girls.

ESS 4: Community Health and Safety

The main objectives **according to ESS 4** are to “anticipate and avoid adverse impacts on the health and safety of project-affected communities during project[s] life cycle”, to “promote quality and safety, and considerations relating to climate change, in the design and construction of infrastructure, including dams”, to “avoid or minimize community exposure to project-related traffic and road safety risks, diseases and hazardous materials”, and to “have in place effective measures to address emergency events” in a manner that “avoids or minimizes risk to project-affected communities”.

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- The GN should emphasize that those most negatively affected are the vulnerable. This is particularly the case in high and substantial risk projects like dams and extractives among others with direct and indirect impacts not only on the maintenance of ecosystem services which often directly impact women, but also on the wellbeing of women and girls due to potential social conflicts. The GN should have clear requirements for staff and borrowers to ensure the identification of these disproportionate impacts on women, and that mitigation efforts should be designed with their advice and consent before implementation.
- Water-borne, water-based, water-related, and vector-borne diseases as well as communicable and non-communicable diseases could result from project activities. It is not sufficient for the Borrower to “explore opportunities...to improve environmental conditions that could help minimize their incidence”. The GNs should require recruiting international and independent experts to analyze and devise a course of action that the Borrower is required to implement. This should be a *conditio sine qua non* to address the gender-differentiated health priorities of project stakeholders.
- The GN should reference and make available specialized tools for Gender impact assessments that can be applied according to specific sector contexts on an ongoing basis.^{vii}
- The GN should call for a grievance mechanism as envisioned in ESS1 and ESS10

ESS 5: Land Acquisition, Restrictions on Land Use and Involuntary Resettlement^{viii}

The main **objectives** are to “avoid involuntary resettlement or, when unavoidable, minimize involuntary resettlement by exploring project design alternatives”, to “avoid forced eviction”, to “mitigate unavoidable adverse social and economic impacts” by “providing timely compensation for loss of assets at replacement cost”, to “assisting displaced persons...to improve, or at least restore, their livelihoods and living standards...to pre-displacement levels”, to “improve living conditions of poor or vulnerable persons...through...security of tenure”, to ensure that “appropriate disclosure of information, meaningful consultation, and the informed participation of those affected” is provided.

In the context of this assignment, ‘security of tenure’ is critical. To the WB this “means that resettled individuals or communities are resettled to a site that they can legally occupy, where they are protected from the risk of eviction and where the tenure rights provided to them are socially and culturally appropriate. In no event will resettled persons be provided tenure rights that are in effect weaker than the rights they had to the land or assets from which they had been displaced.”

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Resettlement Framework is prepared when projects cause restrictions in access to natural resources, is

- These type of operations are often underestimated in their potential for significant negative impacts. For this reason it is important for the GN to highlight this gap and guide staff to pay special attention with this type of operation, especially in terms of promoting and safeguarding women’s land rights and ensure that these type of operations:
 - do not weaken but instead protect and secure a variety of tenure forms and arrangements, prioritizing the tenure of the most vulnerable groups, including women;
 - do not create or exacerbate conflict over land and natural resources with; and
 - do not exacerbate inequality in access to and control over land, housing and natural resources^x
- GNs interventions that address and respond to women’s land rights could be considered after a review of the following:
 - Areas where the ESS does NOT apply (points 5 – 9);
 - Eligibility classification of affected persons (point 10); Giving women a priority status for eligibility is critical. Women are most likely to lack formal legal rights to land or any asset and therefore not considered when the project is identifying beneficiaries for compensation or restoration. In addition, it is through the eligibility process and census that the identification of beneficiaries and people in need of assistance

<p>designated to define and clarify resettlement principles, organizational arrangements as well as the framework's design criteria</p>	<p>happens. So it is very important that the GN puts emphasis on women as default when identifying affected persons.</p> <ul style="list-style-type: none"> ▪ Project design relating to questions of feasible alternatives (point 11)...in this case ESS5 refers explicitly (for the first time) to gender impacts on the poor and vulnerable; therefore the GN should reinforce and strengthen the identification of women as project beneficiaries and guide Bank staff and government to pay especial considerations and protections to women's rights and land rights when discussing project alternatives. ▪ Displaced persons' livelihoods affected by Land-based activities, or where land is collectively owned (point 14); makes a reference to promote project benefit sharing. ^x GN should offer and explain options for benefit sharing for different types of projects, and wherever possible, benefits should be allocated to women members of affected households. <p>▶ Community engagement (point 17 - 18). GN should promote and encourage staff, and offer clear examples on how have a gender sensitive engagement particularly where women's perspectives on resettlement planning and implementation as well as gender-specific compensation measures (such as replacement land or alternative access to natural resources rather than case) are contemplated, and where impacts to their livelihoods are at stake - also where matters particularly critical to indigenous peoples/women are an issue;</p> <ul style="list-style-type: none"> ▪ Grievance and mediation/arbitration matters – The GN should require staff pay particular attention to ensure a safe and secure space for women to be able to freely express any particular and sensitive concerns or grievances. Especially when assessing and reviewing the applicability and utility of applying existing formal or informal grievance mechanisms (point 19); ▪ Planning and implementation (point 20), here ESS 5 states that a census is being considered to establish an inventory of land and assets of the affected population; also eligibility criteria for compensation and assistance will be determined. The GN should stress the critical importance of developing a framework establishing general principles and procedures in addition to a census survey and baseline socio-economic studies with gender-disaggregated data that reflect the spirit and letter of the ESS and relevant and applicable WB (gender) policies. Affected people, particularly women, need to be involved in this exercise, and guidance on how to proceed and reach out and disseminate information to affected communities in the appropriate formats (written, non-written, visual, theater-type play, etc.) will have to be given to assure maximum participation, input and voice;
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- ▶ Displacement (26-36). Given that women and their land rights will be affected by both political and economic displacement, putting the Borrower in charge of developing a plan that covers the requirements of the ESS is not sufficient. The GN should guide staff to require that affected communities (with assistance from independent and gender-aware resettlement experts) need to look at all possible options to avoid or mitigate resettlement risks. They need to be involved from the design stage of such plans, with the cost being borne by the project; as must be such vulnerable groups as women, indigenous people, ethnic minorities, and the landless by way of involvement in participatory community events;
- ▶ (point 27) states the requirements when displacement to another location has to happen. It mentions that new resettlement sites will be consistent with prevailing minimum codes or standards, whichever is higher. The GN should reinforce and guide staff to ensure that this minimum codes and standards be consistent with international human rights standards; that replacement housing will, at a minimum, be of sufficient quality to protect inhabitants from weather conditions and environmental hazards and provide for their physical safety. Housing structures will also provide adequate space and privacy, taking into account the household size and the number of women and children. Special needs for persons with disabilities and the elderly, for example, to make the housing physically accessible, will be addressed in the design of resettlement sites and housing. Resettlement sites and housing will be designed in a manner that is culturally appropriate to affected persons.
- The GN should require gender- differentiated data for Monitoring and evaluation (point 15 Annex 1 of ESS 5) to ensure that the relevant information/data for the purpose of this exercise will be ascertained and inform the appropriate remedy recourse. The GN should emphasize the critical importance of monitoring and supervision responsibilities of staff to ensure compliance with ESS5 (and other applicable ESSs). Resettlement monitoring and supervision requirements must be set out in the GN specific to involuntary resettlement in a manner that is gender sensitive.
- The GN should require staff to seek independent third-party verification of the Borrower’s monitoring reports. Otherwise, as the ESS alludes, the extent of monitoring may be limited to reviewing reports provided by the Borrower.
- (Point 23) states that for ”project with significant involuntary resettlement impacts, the borrower will retain competent resettlement professionals to monitor.....” the GN should identify this type of requirements throughout the ESS and emphasize that these experts should also be gender specialist

in addition of resettlement experts in this case. Actually, when significant involuntary resettlement impacts are expected, the GN should require staff to put together a panel of independent experts to assist during the design, implementation and monitoring of not only the project but also the resettlement process itself. We mentioned this in the ESS1 table for high and substantial risk, but this is particular to resettlement since this ESS5 deals with the most traumatic aspects of negative impacts of projects where women are affected in more significant and disproportionate manner.

- (Point 24) clarifies when implementation will be considered completed. And that for project with significant involuntary resettlement, the borrower will commission and external completion audit. The GN should particularly emphasize the importance to assess and confirm that living standards have been improved or at least restored to pre-displacement levels, and whether the objectives of ESS5 have been successfully realized and institute any corrective measures necessary to ensure their achievement. Special attention should be taken to ensure that women, as well as men, have gained full and equitable access to benefit sharing allocation, land tenure rights and security.
- Resettlement Framework (point 30 – 31), which is normally prepared when projects cause restrictions in access to natural resources, is the document designated to define and clarify resettlement principles, organizational arrangements as well as the framework’s design criteria. It is critically important that the views and voices and demands of women, of the disadvantaged and vulnerable are heard and recorded and given appropriate reference in the Resettlement Framework. While the ESS refers to affected communities’ participation, experience tells us that that more often than not means ‘men’ representing their communities. It must be made clear that affected women will be at the table on par with their male counterparts.

ESS6: Biodiversity Conservation and Sustainable Management of Living Natural Resources

ESS6 can be easily overlooked and yet is critical in terms of gender equity and women’s priorities and rural livelihoods as it directly addresses the immediate realities of small scale producers and local communities. Its main objective is to “protect and conserve biodiversity and habitats”, to “apply the precautionary approach in the design and implementation of projects that could have an impact on biodiversity”, and to both “promote the sustainable management of living natural resources” and “support livelihoods of local communities, including Indigenous Peoples, and inclusive economic development, through the adoption of practices that integrate conservation needs and development priorities”. It applies to “projects that involve primary production and/or harvesting of living natural resources” – a central concern for rural women.

Borrower is responsible for assessing, managing and monitoring environmental and social risks and impacts throughout the project cycle and conducting the Environmental and Social Impact Assessment (ESIA)

- ESS6(9) requires the Borrower to ensure that “competent biodiversity expertise is utilized to conduct the environmental and social assessment and verification of the effectiveness and feasibility of mitigation measures”. Rosters of expertise (international and national) need to make sure that biodiversity expertise balances both social and environmental concerns.
- ▶ The Standard proposes, inter alia, the introduction of ‘biodiversity offsets’ (16-17).^{xi} The GN should emphasize and require staff that any offset scheme should be approved only on condition that affected populations (women and indigenous peoples) are consulted about and consent to the terms of any offset agreement. (Refer to ESS10)
- The GN should clarify that where ESS6 refers to “legally protected and internationally recognized areas of high biodiversity value” (26-27, 31), stakeholder consultations will need to establish gender priorities and women’s perspectives as they represent a central concern for rural women, and relates to:
 - i. point 27c “consult and involve protected area sponsors and managers, project-affected parties including Indigenous Peoples, and other interested parties on planning, designing, implementing, monitoring, and evaluating the proposed project, as appropriate”;
 - ii. point 31 “The Borrower with projects involving primary production and harvesting of living natural resources will assess the overall sustainability of these activities, as well as their potential impacts on local, nearby or ecologically linked habitats, biodiversity and communities, including Indigenous Peoples”;
 - iii. point 36b “For projects involving forest harvesting conducted by small-scale producers, by local communities ... where such operations are not directly associated with an industrial-scale operation, the Borrower will ensure that they: (i) have achieved a standard of sustainable forest

development with the meaningful participation of project-affected parties including Indigenous Peoples.

- ESS6(33) is relevant to women’s rural production activities and requires the Borrower to ensure that ‘small-scale producers operate in a sustainable manner and to gradually improve their practices where such opportunities exist’. The GN should require staff and borrowers the need to be held to this standard and women producers made aware that they are entitled to this kind of support. The GN should be clear that when potential impacts are identified in terms of access to harvest areas of natural living resources, Bank staff need to have special attention to the specific differentiated impacts on women and identify measures to ensure their safety and protection of their rights, and specifically consider women’s role in the management and use of these resources. The GN should guide Bank staff and borrowers about the interlinkages between ESSs especially in cases of affecting access to land, source of income, natural living resources and safety for women.

- ESS6(34) specifies the following: “Where the project includes commercial agriculture and forestry plantations, the Borrower will locate such projects on land that is already converted or highly degraded”; this applies to projects involving land clearing or afforestation. This is a stipulation that can be called upon to prevent new conversion of lands for plantation production and to protect women’s existing land rights. The GN should make explicit reference to the need to protect and promote the tenure rights and arrangements of people and communities , especially women, with land and natural resource based livelihoods, including smallholder food producers, fisher folk, herders and forest dwellers in Bank supported agricultural operations

- ▶ ESS6(39) should not be overlooked by Borrowers – who are required to establish systems and verification practices to monitor the primary supply – the standard emphasizes environmental and biodiversity aspects therefore the GN should guide staff to ensure that the social (human ecology) aspects of monitoring primary supply are addressed. Sustainable modes of primary production often go hand in hand with equitable, non-discriminatory and safe eco-sensitive practices of production which will have long term benefits for women and men involved in those modes of production.



ESS 7: Indigenous Peoples / Sub-Saharan African Historically Underserved Traditional Local Communities

The main **objectives** of ESS7 are to ensure that the projects “ensure full respect for human rights, dignity, aspirations, identity, culture, and nature-based livelihoods of Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities”, that they “avoid adverse impacts on Indigenous Peoples/Sub-Saharan African Historically Underserved traditional Local Communities, or when avoidance is not possible, to minimize, mitigate and/or compensate for such impacts”, “promote sustainable development benefits and opportunities...in a manner that is accessible, culturally appropriate and inclusive”, and that “improve project design and promote local support...based on meaningful consultation with the Indigenous Peoples affected by projects”, and to “obtain the Free, Prior, and Informed Consent (FPIC) of affected Peoples”.

In recognition of some African governments’ reluctance to formally recognize certain ethnic groups as ‘indigenous’, ESS7 has extended protections traditionally reserved for indigenous peoples – including FPIC – to “Sub-Saharan African Historically Underserved Traditional Local Communities” possessing some of the defining features of indigenous peoples, including self-identification as members of a distinct social and cultural group and collective attachment to a distinct geographic area. This progressive provision will operate under a potentially undermining caveat: the ability of borrowers to allow their own laws, policies and regulations to supersede stronger WB policies so long as the two systems have “materially consistent objectives”.

ESS7 applies to forest dwellers, hunter-gatherers, pastoralists or other nomadic groups; all of whom have explicit gendered relationships with natural habitats and eco-system services. ESS7 recognizes Indigenous Peoples, their identities and aspirations and the fact that they are, often, marginalized and put in vulnerable predicaments not of their making. One could go so far as to argue that conventional economic development has not only undermined the cultures and systems of Indigenous Peoples, but has also undervalued their potential in terms of designing and delivering socio-ecological sustainability. Their overall societal status frequently compromises their priorities in favor of conventional development and further, limits their ability to defend their rights to, and interests in, land, territories, and natural and cultural resources.

Borrower is responsible for assessing, managing and monitoring environmental and social risks and impacts throughout the project cycle and conducting the

- GNs for ESS7 need to align with the WB’s gender policy while recognizing that the gendered relationships are highly contextualized to culture and belief systems. Working with agencies that can speak on behalf of the rights of all members of indigenous societies will be important.
- In most cases, it would be appropriate to call upon local gender experts knowledgeable and respectful of the delicate balance of gender relations in a collective/communal setting in an increasingly financialized and individualistic global culture.

Environmental and Social Impact Assessment (ESIA)

Borrower is required to prepare a **consultation strategy and to identify how underserved communities** will participate in project design and implementation

Free Prior and Informed Consent (FPIC)

- ▶ GNs will need to guide staff and government in considering how women in the affected indigenous communities are engaged as equal partners in developing and co-designing project plans with the project proponent and Borrower. Borrower is required to prepare a consultation strategy and to identify how underserved communities will participate in project design and implementation – this is an opportunity to ensure that indigenous women are not discriminated against; are able to participate and that their concerns and priorities are reflected in the project design, deliverables and measurable outcomes.
- ▶ GNs will also need to be explicit about how any compensation plans – whether collectively or individually based – are culturally appropriate while also addressing gender equity. Cross references to ESS10 from a gender perspective is needed here;
 - When the Borrower seeks to obtain the FPIC (24–28) of affected Indigenous communities, GNs will need to specify that women have a voice and a vote that carries as much weight as those of men in the community;^{xii}
- ▶ ESS7 (29) addresses land that is traditionally owned or under customary use of occupation and provides. The GNs need to align the gender policies of both WB and national governments so as to address ESS7 (30d) which makes special mention that “the assessment of land and natural resource use will be gender inclusive and specifically consider women’s role in the management and use of these resources”;
 - The GNs need also to address and clarify points 35 -36 of ESS7 (“Underserved Traditional Local Communities and Broader Development Planning”) by building on the existing descriptive initiatives to help strengthen the participation and voice of Indigenous Peoples/SSA communities. The recommendations made provide a sound basis for injecting women and women’s land rights desiderata, and the fact that gender relations are prominently mentioned should be considered a positive approach and step to bend the trajectory for women in this context in their favor. Point 30(iii) refers to equitably sharing in the benefits derived from the commercial development of the land or natural resources that are central to the identity and livelihood of affected Indigenous Peoples/ SSA communities. The GN need to make reference to instruments and tools like the “Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization” which is the instrument that aims to ensure the fair and equitable sharing of benefits arising from the utilization of genetic resources, most of which have been historically identified and exploited in latitudes 20 degrees north and south of the Equator – in other words areas primarily inhabited by



indigenous peoples/SSA communities, forest dwellers, hunter-gatherers, pastoralists, or other nomadic groups.

- The GNs needs to align with the Nagoya Protocol^{xiii} and the Gender Strategy of the Convention on Biological Diversity^{xiv} (CBD) on behalf of affected projected communities.

ESS 8: Cultural Heritage

The main **objective** of ESS8 spans the spectrum from protecting “cultural heritage from the adverse impacts of project activities to support its preservation”, addressing “cultural heritage as an integral aspect of sustainable development”, to promoting “meaningful consultation with stakeholders” and promoting “equitable sharing of benefits from the use of cultural heritage”. The right to housing, the right to grow and harvest food for consumption, the right to non-discrimination, the right to bury and honor the dead – these are all aspects of invaluable culture and belief systems and have gendered roles, responsibilities and rights.

Borrower is responsible for assessing, managing and monitoring environmental and social risks and impacts throughout the project cycle and conducting the Environmental and Social Impact Assessment (ESIA)

- ▶ Peoples whose tenure is governed by clan structures, lineage systems and other cultural systems, these need to be recognized, recorded and respected in the design of project and activities. Cultural belief systems can present obstacles to women’s voice, decision making and agency and GNs will need to address this (refer also to ESS7). Patronage and the right to privileges within culturally bound systems can exacerbate or diminish gender differences.
- Dispute resolution mechanisms and arbitration of land tenure conflicts need to be culturally appropriate, gender sensitive and respectful of local systems of resolving conflict. This also suggests that the conventional use of courts of justice may or may not be the preferred channel of women, and that negotiation around the terms of settlement facilitated by a respected member of the community is something the GNs should consider. Understanding that financial compensation might not be a key driver in some cultural systems, but rather that lands are used (as in treaties) and then returned to the community after use (in the case of mining for example), and that other forms of compensation to women and men in the community might be alternatives that conventional systems should consider.
- Full disclosure of project design, activities and social and environmental risks and benefits, project contract terms and what these will mean for both men and women in the community, should be made available in accessible languages, and explained in the preferred formats of the affected communities. Stakeholder consultation – refer to ESS10
- It is important that appropriate processes and procedures provide the framework within which the safeguarding of cultural heritage must take place. It is, therefore, important that the GN provide more clarity and guidance to ESS8. As has been pointed out in our assessment of ESS 2, 5, 7, and ESS10, respectively, fair and balanced – as well as sustainable - decisions can only be reached through a participatory and representative approach. Such an approach must include all relevant stakeholders, including women, and the process to determine if cultural



heritage is at risk should in all cases be undertaken early in the project-finding stage through, among others, scoping and assessment measures.^{xv}



ESS 9: Financial Intermediaries

FIs are essentially go-betweens, taking World Bank and IFC resources and investing them on behalf of national governments in infrastructure and social projects and local business investments.^{xvi} The WB argues that the delegated nature of FI lending gives the domestic financial institution almost complete responsibility over investments in subprojects^{xvii}. Those decisions extend to identifying, assessing, and mitigating the likely environmental and social impacts of subprojects. Because of the for-profit nature of the financial sector, the financing of subprojects through FIs can lead to a variety of environmental and social impacts associated with their operations.^{xviii} There is strong research and evidence linking FI financing to damaging projects where thousands of people were displaced from their homes and lands and have their livelihoods devastated.

The transfer of decision-making authority from the Bank to FIs affects the way in which environmental and social impacts are handled; e.g. the transfer of authority does not allow the WB to make as straight-forward an environmental assessment of FI projects as it can for direct investment lending projects. In addition, the actual beneficiaries of the WB funds or the subprojects are usually not identified when the FI project is appraised – meaning that the WB cannot conduct as detailed an assessment of FI operations as it can with direct investment lending projects. For FI projects, an environmental and social assessment is more a calculation of the FI project sponsor’s capacity to manage environmental and social risks associated with a particular project. As a result, assessments are limited to determine whether the FI has a sustainability statements or policies rather than actually capacity and track record conducting sound environmental and social risk assessments and manage risks. The WB perspective is that even if it were possible to review all subprojects on par with direct investment lending projects, it would defeat the purpose of channeling WB funds through FIs.^{xix}

The GN should clarify that Bank staff should individually appraise, categorize, disclose, and supervise all higher-risk sub-investments of financial sector clients. During the appraisal of high and substantial FI clients, the Bank should also assess the FI existing portfolio, competencies and track record to implement and manage environmental and social risks. It should require staff to promote and encourage all financial sector clients to adopt a human rights policy that is aligned with the United Nations Guiding Principles on Business and Human Rights.

In line with the Bank’s Access to Information Policy, the GN should clarify that staff should publicly disclose all higher risk financial intermediary sub-clients and their projects, sufficiently prior to appraisal to allow public comment, after obtaining consent of the client. It is also critical that the GN clarifies that staff should publicly disclose how the Bank monitors and tracks development impact of FI investments and ensures traceability for all FI investments that are directed to a specific purpose. The GN should also clarify that staff should pro-actively ensure that affected communities have knowledge of remedial options and access to an effective remedy to prevent and redress harms, including by ensuring clients/sub-clients inform communities from early stages about the availability of the Inspection Panel.

The GN should ensure that the Bank takes full ESS ownership where critical projects simply cannot be implemented by FIs without causing considerable harm to the environment and communities because of their lack of implementation and enforcement capacity. The GNs must find the right balance between aligning its FI sector lending priorities with its development mandate by ensuring that its FI investments strengthen the domestic financial markets by transferring strong standards and increasing the domestic capacity to account for and mitigate environmental and social risks.

<p>FIs are required to develop and maintain an Environmental and Social Management System (ESMS) effective systems, procedures and ESS capacity</p>	<ul style="list-style-type: none"> ■ According to the ESS^{xx} a heavy onus is placed on FIs to “<i>put in place and maintain an ESMS to identify, assess, manage, and monitor the environmental and social risks and impacts of FI subprojects on an ongoing basis. The ESMS will be commensurate with the nature and magnitude of environmental and social risks and impacts of FI subprojects, the types of financing, and the overall risk aggregated at the portfolio level. Where the FI can demonstrate that it already has an ESMS in place, it will provide adequate documented evidence of such an ESMS, indicating which elements (if any) will be enhanced or modified to meet the requirements of this ESS.</i>” ▶ The significance of the financial intermediaries’ role and the potential for reinforcing equity and gender values should not be underestimated especially in terms of its support to SMEs. The gender considerations outlined in ESS1 and ESS10 all apply to ESS9. Also refer to Oxfam’s 2015 study^{xxi} on the human cost of the IFC’s lending through financial intermediaries. ▶ Financial deepening through financial intermediaries. “Financial deepening” is one component of systemic financializing; placing increasing importance on financial markets, financial motives, financial institutions and financial elites relative to other measures of socio-economic progress. If financial profits remain the core measure of any economy’s success, social and environmental factors will continue to be measured primarily as risks relative to profits and not as investments to environmental and social sustainability in the overall development process. ■ FI projects must be held to the same standards as those for traditional investment lending projects because FIs administer WB funds and therefore must meet the WB’s ESS. It must also do so because their impact on the environment and communities is quite considerable. That has led EBRD, for example, to ensure the proper implementation of its environmental mandate in its FI projects while respecting the principle of delegated responsibility. ■ The WB can provide dedicated resources to build FI competencies, including the recruitment of E&S specialist to assist with FI policies and practice. The GN should guide Bank staff in this direction so they have the tools to engage with FI clients and make the argument and the business case for an ESMS and disclosure. ▶ Many FIs have limited capacity to manage environmental and social risks^{xxii}; this is both a risk and an opportunity. FIs provide a variety of financial products, and serve a multitude of sectors; the lack of transparency in decision making and the absence of institutional processes of disclosing information about FI projects to the public on an ongoing basis are gaps to be closed and should be address in the GN. FI environmental and social standards are not tailored to the needs of FI
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Project Appraisal Document
Environment and Social Commitment Plan
 forms part of the legal agreement (p.19)

projects but are written in response to direct investment lending projects; this, admittedly, poses difficulties with training and EMS design and implementation;

- ▶ FI risk screening procedures and assessments are less likely to consider social concerns or risks relative to environmental impacts – the latter are more standardized measurements relative to social risk impact assessments. FI screening procedures tend to be more narrowly focused on the immediate project investments (e.g. energy co-generation plant) and less concerned about monitoring primary supply chain (e.g. land use or agricultural labor) (See ESS6)
- ▶ The WB should put in place a transparent environmental and social risk rating (ESRR) tool and process, similar to the EIA process for WB’s direct investment lending. The ESRR would describe the capacity, categorization, and action plan for each FI. The ESRR should be created with public consultation, and before ‘investing’ in an FI, the ESRR should be open to public notice and comment. The ESRR – in contrast to what the IFC does – should be carried out before a decision is made to invest in an FI.
- ▶ If the ESRR determines a lack of FI capacity, a provision could determine that high and substantial risk investments^{xxiii} subprojects are categorically excluded from FI investments. New disclosure requirements for FIs would go into effect, resulting in the release to the public of the environmental and social standards applied to each subproject investment. Greater public transparency can be expected resulting in the creation of regulations affecting stakeholders.
- FI capacity for developing and screening for project risks and impacts may be weak, and ongoing project monitoring for ESS compliance and reporting may be next to non-existent, as few FI’s are concerned with measuring impact. FI project processes may be limited to ISO quality control mechanisms and financial audits with minimal experience in stakeholder consultation, engagement in FPIC processes or understanding and recognition of gender responsive development; If FIs lack the needed capacity to manage environmental and social risks associated with projects, staff members must be given appropriate training;
- ▶ FIs should develop or review their gender policy in light of their mandate and mission to ensure that their ESMS capacity integrates gender sensitivity throughout;
- FIs are required to submit annual Environmental and Social reports on the implementation of its ESMS to the Bank as well as the environmental and social performance of its portfolio and should make gender reporting integral to this requirement. The GN should emphasize the critical importance of third party verification, monitoring, audit of clients implementation of subprojects but as



well of implementation and integration of ESMS into its operations; from management to the board. FIs are required to engage in stakeholder consultations (ESS9, 24) and to respond to public enquiries and concerns in a timely manner.



ESS 10: Stakeholder Engagement and Information Disclosure

The main **objectives** are to put in place a systematic approach to stakeholder engagement between Borrowers and stakeholders, and to maintain a “constructive relationship”, to “assess the level of stakeholder interest and support for projects and to enable stakeholders’ views to be taken into account in project design and environmental and social performance”. It further strives to “promote and provide means for effective and inclusive engagement with project-affected parties on issues that could potentially affect them”, and it aims to ensure that appropriate and relevant “project information on environmental and social risks and impacts is disclosed to stakeholders in a timely, understandable, accessible and appropriate manner and format” and, finally, to “provide project-affected parties with accessible and inclusive means to raise issues and grievances, and to allow Borrowers to respond to and manage such grievances.”

Over the course of the past two decades, the WB has made undeniable improvements in transparency and engagement^{xiv}, which in no small measure have been the result of an ongoing dialogue between the WB’s management and civil society. The WB appears to accept that the lynchpin of participatory and results-driven stakeholder engagement is an appreciation and understanding of local contexts, which requires the voices of civil society and communities to be at the heart of project design and decisions.

While the WB has touted the unprecedented number of consultations the during the Safeguards’ overhaul, the critical question is how civil society’s inputs are/were effectively taken into account. The final version of the ESF, does not appear to have adopted the vast majority of the input provided by civil society, with the WB clearly still listening more to the voices of its shareholders.

Overall, the various ESS10 provisions provide the Borrower with proportionately more control and discretion relative to stakeholders – this does not bode well for the voices and perspectives of stakeholders who might have less to negotiate with, and might not consider gender differentials. The GNs will need to ensure that the implementation of the Standard is a truly participatory process between Borrower, the Bank, and affected stakeholders – with a gendered participatory, consultation and consent process mandated throughout. The Standard *raison d’être* must be to ensure that the borrower is a participant in the mechanism, and not the ultimate arbiter of rules, procedures, and outcomes.

Effective stakeholder engagement can improve the environmental and social sustainability of projects, enhance project acceptance and

- ▶ ESS10 applies to women and to women’s land rights (“point 5a speaks of stakeholders as individuals or groups who are affected or likely to be affected by the project (“project-affected parties”) and may have an interest in the project (“other interested parties”).
- Point 7 refers to the Borrower who will “provide stakeholders with timely, relevant, understandable and accessible information, consult with them in a culturally appropriate manner, which is free of manipulation, interference, coercion, discrimination and intimidation. The GN should ensure that the timing of

<p>make a significant contribution to successful project design and implementation.</p> <p>Borrowers are required to establish a Stakeholder Engagement Plan (SEP) and provide Information Disclosure</p>	<p>information disclosure is key to civil society’s ability to respond meaningfully to documents. Therefore the GN should ensure that disclosure of information should be tied to specific, time-bound, and monitorable benchmarks in the project cycle. The GN should ensure that borrower’s records of stakeholder engagement should be disclosed including preparation and implementation of stakeholder engagement plans. Inadequate timing can make information disclosure useless as a tool for participation and engagement. There is therefore a clear need in the GN to more clearly define what timely means. The setting of clear deadlines to deliver project-relevant documents to civil society before stakeholder meetings should be (come) a <i>conditio sine qua non</i>.</p> <ul style="list-style-type: none"> ▪ Furthermore, the GN should be clear that Bank staff and borrower should be required to disclose the existence and workings of the World Bank’s independent Inspection Panel. Not being aware of this critical redress seeking instrument makes it unlikely that civil society stakeholders will refer their complaints and grievances to the Inspection Panel. ▪ Point 10 mandates the borrower to identify the different stakeholders. Giving the borrower ‘carte blanche’ on deciding who will be at the table risks that those who would raise critical issues or dissents will be excluded in the interest of a speedy while non-representative as well less costly and more meaningless ‘consultation’ and ‘engagement’ process. Therefore, the GN should clarify the role of independent third parties on supporting the Bank to identify and convene affected stakeholders. <p>▶ Point 13 addresses the establishment and implementation of a Stakeholder Engagement Plan (SEP). To ensure that the affected parties who traditionally are more likely to be excluded from/unable to participate fully in such mainstream consultation processes and therefore require specific measures and/or assistance to do so, a culturally sensitive plan must be developed – from design to implementation, including a method of recourse if the SEP is not being properly designed and implemented - with the fullest participation by those affected (or their freely chosen representatives), including (proportionally) women to mirror the communities make up. It cannot be left to the Bank and the Borrower.</p> <ul style="list-style-type: none"> ▪ The GN should require and ensure that stakeholder engagement plans include measures to specifically identify and incorporate vulnerable and marginalized groups including women. <p>▶ To avoid that the Information Disclosure (point 19) and assessment of risks and impacts of the project will be prejudicial and skewed, it cannot be left to the two driving parties (Bank/Borrower) to assess those. An independent advisory</p>
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panel/independent experts should disclose their findings in the format of culturally-sensitive and gender-aware town hall-type meetings their findings.

- In addition, it should make mandatory the presentation of alternative project ideas, and comparing the alternatives to the current project proposal to show why they may be the better option. The borrower must seek stakeholder input on mitigation measures, and alternatives to harmful aspects of the project, and include the method of consultation and the stakeholder views in the report.
- That said, consultation is a means to an end, not an end in itself (point 21). To ensure that the voices of both project-affected parties and other interested parties are not only heard but will also find expression in the project design and recommendations on whether/how to proceed or, for that matter, to withdraw from the project, a formula needs to be devised that will assure those affected by the project that their objections and concerns have also found appropriate expression in the decision making process and plan.
- ▶ Meaningful consultation is important, but experience tells us that most consultation is interest-driven in the pursuit of objectives (“to get on with the project as soon as possible and keeping costs at a minimum”). External manipulation, interference, subtle coercion, corruptive actions (cash for votes), discrimination and intimidation are routinely used to gain consent. Therefore, the GN should require that staff engage impartial observers to be recruited to ensure that no foul play is taking place under the guise of ‘meaningful consultation’ and that women are not being coerced or threatened into silence.
- References to the good will of the Borrower abound (23–24) “will continue to engage”, “will seek feedback from stakeholders”, “encourages stakeholder feedback”, but what are the penalties when there is systematic failure to honor the promises? The GN should be clear and guide staff on how to engage when systematic failure occurs. The GN need to clarify that all consultations need to be documented and available on request, and Borrowers held to account for managing and responding to the stakeholder consultation process.
- ▶ Procedural and substantive issues relating to the Grievance Mechanisms (26 -28) need to be robust as follows: before seeking a judgement by the court, a mediation and arbitration process with firm timelines should be mandatory, with agreed repercussions if timelines are not met; (“promptly and effectively” is always up to interpretation and provides the seedbed for distrust and project-interrupting actions.) The grievance process provides too much discretion to the Borrower, it needs to be mutually designed and agreed upon by the Bank, the Borrower and the affected parties (or their chosen representatives) (refer to ESS2). Grievance proceedings should be open to the community/public. The option to address the WB’s Inspection Panel and through it the Executive Board of the WBG should be made available to the redress-seeking party.

End Notes

ⁱ ESS1 P.19 (28.b) identifies these groups thus: “disadvantaged or vulnerable refers to those 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 an individual/group is also more likely to be excluded from/unable to participate fully in the mainstream consultation process and as such may require specific measures and/or assistance to do so.”

ⁱⁱ See for example UN Women (2015) How to manage gender-responsive evaluation Handbook <http://www.unwomen.org/en/digital-library/publications/2015/4/un-women-evaluation-handbook-how-to-manage-gender-responsive-evaluation>

ⁱⁱⁱ ESS1

^{iv} <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx> is the body of independent experts that monitors implementation of the Convention on the Elimination of All Forms of Discrimination against Women

^v Includes: filing a notice of intention to proceed to arbitration, details of the grievance, statement of the issue in dispute, statement of the type of remedy sought from the arbitrator

^{vi} Refer for example to Oxfam’s work on climate change and women and recent report on climate change and displacement for specific considerations and recommendation for the GN in terms of the disproportionate impacts of climate change on women and girls

^{vii} For example see: Oxfam has created different tools for GIAs in different sectors:

GIA in Extractive sector: <https://oxfam.box.com/s/g8a4lpi1i1cclc1ebp8d8w31amuw2o2d>

GIA in the Hydroelectric sector:

<https://oxfam.box.com/s/ixtag4js7z05exkav5s3d3di02nmreny>

^{viii} Resettlement is considered involuntary when affected persons or communities do not have the right to refuse land acquisitions or restrictions on land use that result in displacement.

Displacement, if unmitigated, may trigger severe economic, social and environmental risks. Whenever possible, displacement should be avoided, and when unavoidable should be minimized and measure should be taken to mitigate the adverse impacts on those displaced.

Land refers to anything growing on or permanently affixed to land, such as crops, buildings and other improvements.

Acquisition refers to all methods of obtaining land for project purposes, which may include outright purchase, expropriation or property and acquisition of access rights or rights, such as rights of way.

Restrictions on land use refers to limitations or prohibitions on the use of agricultural, residential, commercial or other land that are directly put into effect as part of the project. These may include restrictions on access to parks, protected areas.

^{ix} Oxfam and IDI have previously submitted a proposal to the World Bank for safeguards on land, housing and natural resource tenure, which contains details on what such requirements should look like.

<https://oxfam.box.com/s/x3edbbu526zctu3qo7otfr996tto0wa>

^x Benefit sharing is one of the most sustainable methods for ensuring that those displaced are not made worse off and instead become beneficiaries of Bank assisted projects. For example, a share of revenues from a large hydropower dam could go to the people who invested their land to make the project possible. This would mean that ongoing dividends would be provided in a sustainable manner to affected people for as long as revenues are being generated. Benefit sharing is international best practice, which should have been a requirement of ESS5 whenever it is possible to structure a project in such a manner. The same for instance with extractive industry projects.

^{xi} The concept of offset has had mixed results, on the one hand been hailed as a ‘game changer’ by its proponents and as a ‘scam’ by its opponents.

^{xii} ESS (25d) states that “FPIC does not require unanimity...and that for the purpose of this ESS (26), consent refers to the collective support of affected Indigenous Peoples communities/SSA----communities for the project activities that affect them, reached through a culturally appropriate process. It may exist even if some individuals or groups object to such project activities...” That said and recognized, and being cognizant that cultural norms and processes are fluid and dynamic, consent for this purpose could also mean that it is not sufficient that a majority of men will ‘seal a deal’ if a majority of women in a community votes against a project proposal plan, the plan has failed and needs to be reworked or should be shelved. In such cases a ‘super majority’ comprised of a majority of votes ascertained by both men and women should be(come) the rule.

^{xiii} The Nagoya Protocol addresses traditional knowledge associated with genetic resources with provisions on access, benefit-sharing and compliance. It also addresses genetic resources where indigenous and local communities have the established right to grant access to them. And contracting Parties (countries) are to take measures to ensure these communities’ prior informed consent, and fair and equitable benefit-sharing, keeping in mind community laws and procedures as well as customary use and exchange.

^{xiv} See: COP 12 Decision XII/7. Mainstreaming gender considerations - <https://www.cbd.int/gender/action-plan/> which, among other points (i) Encourages Parties to give gender due consideration in their national biodiversity strategies and action plans and to integrate gender into the development of national indicators; (ii) *Recognizes* that important steps in gender monitoring, evaluation and indicators relevant to the Convention have already been taken by Parties and relevant organizations but that additional work is required, including with regard to collecting and using gender disaggregated data, and therefore, encourages Parties and relevant organizations to undertake further work in this respect; (iii) *Encourages* Parties to build capacity to integrate biodiversity considerations into national gender policies and action plans;

^{xv} Experience has shown that cultural heritage assessments are iterative rather than linear as circumstances commonly arise during an assessment of projects that require steps to be revisited. Under the supervision of cultural heritage experts, cultural heritage resources located on- and off-site which potentially could be affected by the project must be identified. Project site boundaries should remain flexible at least until all cultural resources have been identified and consensus among project team members has been satisfied. Once the geographical area and the significance of the resources have been identified, only then can the identification of site boundaries take place. When identifying spatial and temporal cultural heritage boundaries the cumulative environmental effects which could result from the project must be considered. Different boundaries may be appropriate for different cumulative environmental effects. For example, the boundaries selected for cumulative environmental effects on air quality might be quite different than those chosen for effects on cultural heritage resources. That said, spatial boundaries should extend beyond a project's immediate site to include the area likely to be affected, and temporal boundaries may extend beyond the timing of construction and operation to include the period of occurrence of the effects. Normally, the responsibility over heritage matters is shared by several jurisdictions and consultation with other government agencies is an essential aspect of the assessment. The public must also be consulted, preferably in the early planning stages of the project, to ensure that community values and concerns have been considered in an environmental assessment..

^{xvi} According to a 2015 [IFC Factsheet](#), working with local financial intermediaries allows IFC to support more micro, small, and medium enterprises. In FY13, IFC clients, directly or indirectly, provided 5.4 million loans to small businesses worth a total \$275 billion and 29 million microloans to individuals, worth \$28 billion. IFC works with about 700 financial institutions and 220 private equity funds around the world with products including investment and advisory support for microfinance, insurance, loans to SMEs and low and medium income mortgages. It’s work with financial intermediaries in more than 120 countries has helped strengthen financial institutions and overall financial systems, reinforcing responsible finance and introducing environmental and social standards for the first time. However, there are significant risk associated with FI lending. Oxfam has published several reports: Risky Business

in 2012 (<https://www.oxfam.org/en/research/risky-business>), 2015 report The Suffering of Others (<https://www.oxfam.org/en/research/suffering-others>) highlighting the risks with financial intermediaries lending for communities. Oxfam has been pushing the FI reform agenda with strong research and evidence linking IFC

through commercial banks to damaging projects where thousands of people were displaced from their homes and lands and have their livelihoods devastated. Our allies have also uncovered several more devastating cases that the IFC is linked to through FIs in a series of reports called Outsourcing Development (<http://www.inclusivedevelopment.net/what/campaigns/outsourcing-development/>).

Oxfam's latest report *Owning the Outcomes* in 2016 (<https://www.oxfam.org/en/research/owning-outcomes>) has challenged the main assumptions and arguments IFC has put forward to avoid responsibility of these risks. But also put forward 8 specific policy recommendation to address the impacts of FI investments. The GN of ESS9 should clearly require Bank staff to follow this recommendations.

^{xvii} FIs typically provide loans or equity financing to an entity like a local commercial bank or a private equity fund. The domestic financial institution in turn assumes the authority and responsibility for disbursing WB funds to various private companies and acts as a financial intermediary between the WB and the beneficiaries of the funds. The entire arrangement is referred to as a financial intermediary (FI) project, and the FIs investments using WB funds are referred to as subprojects. Subprojects vary also in size. They cover investments in SMEs in sectors such as manufacturing, textiles, and construction, to finance for larger companies in industrial sectors, including energy and infrastructure. Financial sector investments are moving away from credit lines to commercial banks and more toward equity investments in local commercial banks or funds. Such transactions comprise approximately half of total IFC FI operations.

^{xviii} For example, lending to highly polluting SMEs, such as tanneries and textiles, may result in the contamination not only of local streams and waterways but also in the exposure to chemical contamination of workers; particularly women workers who heavily populate the SME sector. Financing in the wood-processing industry may contribute to local deforestation if the wood is not harvested in a sustainable manner, and FI investments in fossil fuel-based energy development or larger hydropower infrastructure projects can lead to a significant increase in GHG emissions or displacement of local communities. And while the individual subprojects' impacts may be negligible and comply with local environmental standards, the cumulative impacts on common resources and communities may be quite substantial.

^{xix} WB does not have the resources and manpower necessary to serve SMEs directly because the individual loans are too small and the number of SMEs or subprojects is too large; and greater FI investments help develop capacity of financial markets in developing countries

^{xx} 2016. "World Bank Environmental and Social Framework." World Bank, Washington, DC p.92

^{xxi} <https://www.oxfam.org/en/research/suffering-others>

^{xxii} WB staff relies heavily on informal personal relationships with FI staff to influence FIs decisions and to ascertain whether subprojects are complying with environmental and social requirements. As a development institution, the WB is faced with many trade-offs regarding FIs. It is trying to develop and expand local financial markets. At the same time, it has made commitments to transparency and managing environmental and social risks. In order to meet its mission of poverty alleviation in the broadest sense, the WB must acknowledge that it will continue to rely on the collaboration and cooperation of FIs. But it must do so while minimizing risks to the environment and communities.

^{xxiii} Substantial risk and high risk projects - Any subproject that involves resettlement is required to be categorized as high or substantial risk (ESS9, 18) and adverse risks or impacts on Indigenous Peoples considered as part of the risk categorization

^{xxiv} The WB, for example, adopted its Access to Information Policy, which codified access to vital information for civil society and affected communities around the world. Sustained advocacy by civil society around these issues has now resulted in a Stakeholder Engagement safeguard policy, which requires borrower governments to engage with stakeholders throughout the investment project cycle, rather than just at the outset.

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The **Guidance Notes** provide guidance for the Borrower on the application of the Environmental and Social Standards (ESSs), which form part of the World Bank’s 2016 Environmental and Social Framework. The Guidance Notes help to explain the requirements of the ESSs; they are not Bank policy, nor are they mandatory. The Guidance Notes do not substitute for the need to exercise sound judgment in making project decisions. In case of any inconsistency or conflict between the Guidance Notes and the ESSs, the provisions of the ESSs prevail. Each paragraph of the Standard is highlighted in a box, followed by the corresponding guidance.

Commented [O11]: Gender equity is a valuable development outcome in itself that also contributes to wider development benefits. Specific targeting of women, community awareness in raising women’s rights and the value of their full participation, and the support for women to be part of decision making, all enable more gender equitable outcomes and hence better development interventions.

There hence needs to be explicit text in the GN to promote women’s participation and benefit, as well as integration of women and gender issues throughout the GN for ESS10, environmental and social assessments, action plans, stakeholder engagement and the ESCP.

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Introduction

1. *ESS1 sets out the Borrower's responsibilities for assessing, managing and monitoring environmental and social risks and impacts associated with each stage of a project supported by the Bank through Investment Project Financing, in order to achieve environmental and social outcomes consistent with the Environmental and Social Standards (ESSs).*

2. *The ESSs are designed to help Borrowers to manage the risks and impacts of a project, and improve their environmental and social performance, through a risk and outcomes based approach. The desired outcomes for the project are described in the objectives of each ESS, followed by specific requirements to help Borrowers achieve these objectives through means that are appropriate to the nature and scale of the project and proportionate to the level of environmental and social risks and impacts.*

GN2.2. "Appropriate to the nature and scale of the project and proportionate to the level of environmental and social risks and impacts" sets out expectations of the Borrower to be consistent with the Bank's risk classification of the project. High and Substantial Risk projects, for example, will warrant a full Environmental and Social Impact Assessment, and engage in an inclusive and transparent consultation process with project affected people and stakeholders consistent with the principle of community ownership as defined in ESS 10.

3. *Borrowers¹ will conduct environmental and social assessment of projects proposed for Bank financing to help ensure that projects are environmentally and socially sound and sustainable. The environmental and social assessment will be proportionate to the risks and impacts of the project. It will inform the design of the project, and be used to identify mitigation measures and actions and to improve decision making.*

Footnote 1. It is recognized that the Borrower may not be the entity directly implementing the project. Nevertheless, the Borrower is responsible for ensuring that the project is prepared and implemented so that it meets all applicable requirements of the ESSs in a manner and timeframe agreed with the Bank. The Borrower will ensure that any entity involved in implementing the project supports all obligations and commitments of the Borrower in accordance with the requirements of the ESSs and the specific conditions of the legal agreement, including the ESCP. Contractors retained by or acting on behalf of the Borrower or an implementing agency are considered to be under the direct control of the Borrower.

GN3.1 "socially sound and sustainable" means that all activities identified within the project should take a "do-no-harm" approach following the mitigation hierarchy laid out below, and avoid any violation of human rights. It also means that the project should maximize positive development impacts and inclusion of access to project benefits. Sustainability must be considered part of the project objectives and integrated into the success indicators/benchmarks for the project.

GN3.1 (footnote). In a "manner and timeframe agreed with the Bank" is defined as consistent with best practice in environmental and social sustainability with clear requirements for draft terms of reference, environmental and social assessments, mitigation plans, resettlement plans, environmental and social commitment plans and budgets to be prepared prior to project appraisal and made available in a manner accessible to affected persons, and in consultation with them prior to project approval. Note that environmental and social assessments will be requested by the Bank to be disclosed 120 days prior to Board approval for high and substantial risk projects.

Commented [OI2]: We think that giving this "heads up" to clients is important guidance to clearly set expectations. It is also important to reference these 120 days as best practice (previous WB policy and current ADB policy)

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4. Borrowers will manage environmental and social risks and impacts of the project throughout the project life-cycle in a systematic manner, proportionate to the nature and scale of the project and the potential risks and impacts.

5. In assessing, developing and implementing a project supported by Investment Project Financing, the Borrower may, where appropriate, agree with the Bank to use all or part of the Borrower's national environmental and social framework to address the risks and impacts of the project, providing such use will enable the project to achieve objectives materially consistent with the ESSs.

GN5.1 In order to identify whether to use all or parts of the Borrower's national environmental and social framework, the Bank will conduct an assessment of the Borrower's frameworks. Assessing Borrower Frameworks at the project level is an important and necessary first step to support and strengthen the Borrower's approach to managing environmental and social risks and impacts. Assessing the Borrower's framework is also important within the development process as it provides information that can inform projects and sectors throughout the borrowing country enhancing ownership and capacity, building and strengthen institutions over the long term, and provides opportunities for collaboration and learning. It also helps to avoid duplication of Borrower and Bank requirements.

GN 5.2. "Materially consistent with the ESSs" is defined as achieving all the substantive requirements and objectives of the ESSs. "Materially consistent with the ESSs" includes applying the mitigation hierarchy to avoid, minimize and address all the risks and impacts of the project necessary to meet the objectives of the ESSs.

6. ESS1 includes the following annexes, which form part of ESS1, and set out certain requirements in more detail:

- Annex 1: Environmental and Social Assessment;
- Annex 2: Environmental and Social Commitment Plan; and
- Annex 3: Management of Contractors.

Objectives

- To identify, evaluate and manage the environment and social risks and impacts of the project in a manner consistent with the ESSs.
- To adopt a mitigation hierarchy approach to:
 - (a) Anticipate and avoid risks and impacts;
 - (b) Where avoidance is not possible, minimize or reduce risks and impacts to acceptable levels;
 - (c) Once risks and impacts have been minimized or reduced, mitigate; and
 - (d) Where significant residual impacts remain, compensate for or offset them, where technically² and financially³ feasible.
- To adopt differentiated measures so that adverse impacts do not fall disproportionately on the disadvantaged or vulnerable, and they are not disadvantaged in sharing development benefits and opportunities resulting from the project.
- To utilize national environmental and social institutions, systems, laws, regulations and procedures in the assessment, development and implementation of projects, whenever appropriate.
- To promote improved environmental and social performance, in ways which recognize and enhance Borrower capacity.

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Footnote 2. 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.

Footnote 3. Financial feasibility is based on relevant 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, and on whether this incremental cost could make the project nonviable for the Borrower.

GN6.1 (Footnote 3). Technical and financial feasibility sets the expectation of the Borrower to follow the mitigation hierarchy and to perform a cost-benefit analysis that include the broader assessment of economic feasibility to include environmental and social externalities and costs of greenhouse gases as well as short-lived climate pollutants, including those from indirect emissions associated with the project, such as from land-use changes, forest degradation among others associated with the project. When compensation is required, as part of the mitigation hierarchy, all residual impacts should be fully compensated or demonstrate and document through a consultation process with project affected persons in accordance with ESS10 why it can only compensate partially, and get agreement of project affected persons on the extent of the compensation. Technical and financial feasibility issues are not generally acceptable as reasons for avoiding compensation of residual impacts. Failure to compensate for significant residual impacts or demonstrate agreement with project affected persons may require cancellation of a project or project activity, if such impacts equal or exceed expected benefits or improvement of livelihoods of project affected persons.

GN6.2. The significance of impacts could differ across subsets of environments and stakeholders, depending on their specific vulnerability to a given impact. The significance of impacts and severity of harm should draw from international sustainability standards, human rights norms, preventing human rights abuses and seeking to avoid adverse human rights impacts and providing specific attention to vulnerability--defined as a person or group of people's exposure to a risk or impact, and their resilience to that risk or impact. Significance of impacts should be define in terms of international best practice considering the scale (number of people affected), severity (gravity of harm), and remediability (ease or difficulty of restoring the person impacted to their original state).

Scope of Application

7. *ESS1 applies to all projects^{4, 5} supported by the Bank⁶ through Investment Project Financing.⁷*

Footnote 4. These are projects to which OP/BP 10.00 Investment Project Financing applies. The World Bank Environmental and Social Policy for Investment Project Financing and ESSs do not apply to operations supported by Development Policy lending (for which the environmental and social provisions are set out in OP/BP 8.60 Development Policy Lending), or those supported by Program-for-Results Financing (for which the environmental and social provisions are set out in OP/BP 9.00 Program-for-Results Financing).

Footnote 5. These projects may include technical assistance supported by the Bank through Investment Project Financing, whether provided through a stand-alone project or as part of a project. The requirements set out in paragraphs 14-18 of ESS1 will be applied to technical assistance activities as relevant and appropriate to the nature of the risks and impacts. The terms of reference, work plans or other documents defining the scope and outputs of technical assistance activities will be drafted so that the advice and other support provided is consistent with ESSs 1-10. Activities implemented by the Borrower following the completion of the project that are not financed by the

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Bank, or activities that are not directly related to the technical assistance, are not subject to the World Bank Environmental and Social Policy for Investment Project Financing.

Footnote 6. As set out in the World Bank Environmental and Social Policy for Investment Project Financing, paragraph 7, the Bank will only support projects that are consistent with, and within the boundaries of, the Bank's Articles of Agreement.

Footnote 7. Where the project involves the provision of a guarantee under OP 10.00, the scope of application of the ESSs will depend on the activities or commitments covered by the guarantee.

GN7.1 (Footnote 5). IPF may be used by Borrowers to finance technical assistance. Technical assistance is normally provided through consulting services may take different forms. For example, it can be used for preparing technical or engineering designs or feasibility studies relating to the construction of infrastructure, or for drafting policies, strategies, laws or regulations which may have environmental or social impacts.

GN7.2. How the ESSs apply to IPF technical assistance depends on its nature, purpose and risks. For example, an IPF might finance technical assistance to prepare a feasibility study for a water treatment plant that requires acquisition of land on which there are informal settlers. In such a case, ESS5 would be applicable. It is thus important for the Borrower to understand the environmental and social risks and impacts of the work that the technical assistance will support. This guides the use of the relevant ESSs and the development of the technical assistance terms of reference, work plans and outputs.

GN7.3. The ESF Policy does not replace OP/BP 4.03, *Performance Standards for Private Sector Activities* (see Footnote 1 of the ESF Policy). Consequently, unless the Borrower objects, projects or components of projects that meet the criteria set forth in OP 4.03 may be governed by the WB Performance Standards set forth in OP 4.03 instead of the ESF.

GN7.4. A Borrower's ability to achieve environmental or social outcomes may depend on the activities of other government agencies or third parties, such as a government agency acting as a regulator, or contractual party or the operator of an Associated Facility. The Borrower often has varying levels of control or influence over such parties. The environmental and social assessment of the project will identify and evaluate the potential limitations on the Borrower in this regard and put in place specific actions and measures to ensure the Borrower's proper communication and coordination with all the relevant government agencies, project contractors and operators, as well as contractors and/or operators of Associated Facilities and other third parties to comply with the substantial requirements and objectives of the ESSs and achieve the desired environmental and social outcomes. When the Borrower exercises control or influence, the Borrower is expected to exercise that influence to meet the substantial requirements and objectives of the ESSs.

8. The term "project" refers to the activities for which the Bank financing referred to in paragraph 7 is sought by a Borrower and as defined in the legal agreement between the Borrower and the Bank.⁸

Footnote 8. The scope of activities for which Investment Project Finance can be provided, together with the approval process, is set out in OP 10.00.

GN8.1. A clear description of the activities of the proposed IPF project provides the basis of the assessment of potential environmental and social risks and impacts and the application of the ESSs. The

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description of project activities may evolve during project preparation and this may affect the assessment of risks and impacts. The legal agreement between the Bank and Borrower describes the activities financed by the Bank.

9. Where the Bank is jointly financing a project with other multilateral or bilateral funding agencies,⁹ the Borrower will cooperate with the Bank and such agencies in order to agree on a common approach for the assessment and management of environmental and social risks and impacts of the project. A common approach will be acceptable, provided that such approach will enable the project to achieve objectives materially consistent with the ESSs.¹⁰ The Borrower will be required to apply the common approach to the project.

Footnote 9. Such agencies will include IFC and MIGA.

Footnote 10. In determining whether the common approach or the requirements referred to in paragraphs 9, 12 and 13 are acceptable, the Bank will take into account the policies, standards and implementation procedures of the multilateral or bilateral funding agencies. The measures and actions that have been agreed under the common approach will be included in the ESCP.

GN9.1. The concept of the *common approach* is commonly used when the Bank is Jointly financing a project with other donors and is a way to describe the approach and requirements agreed by funding agencies, the Borrower and affected stakeholders as defined in ESS 10 for the assessment and management of environmental and social risks and impacts of a proposed project. A common approach should adhere to national and international obligations, and the highest standards available in a manner consistent with environmental and social sustainability best practices. It aims to facilitate cooperation between the Borrower, the Bank and other financing agencies, engage and facilitate affected stakeholders participation, avoid duplication and encourage efficient use of resources for the project. The Environmental and Social Commitment Plan (ESCP) describes the use of the *common approach* so that those implementing the project clearly understand which measures and actions have been agreed to under the approach.

GN9.2. It is important for the Borrower to share with the Bank information on existing collaboration with other funding agencies on the projects for which it seeks IPF. This allows the Bank to determine whether an already agreed approach to assessment and management of environmental and social risks can enable the project to achieve objectives materially consistent with the ESSs.

10. ESS1 also applies to all Associated Facilities. Associated Facilities will meet the requirements of the ESSs, to the extent that the Borrower has control or influence over such Associated Facilities.¹¹

Footnote 11. The Borrower will be required to demonstrate the extent to which it cannot exercise control or influence over the Associated Facilities by providing details of the relevant considerations, which may include legal, regulatory and institutional factors.

GN10.1. The nature of control or influence is complex, and goes beyond a simple understanding of ownership, regulatory authority or whether the Associated Facilities are in a sovereign territory. As indicated by ESS1 Footnote 11, there may be many reasons why a Borrower cannot exercise control or influence. For example, regardless of the implementing agency, a particular ministry may have no control over an Associated Facility in another country, whereas a Ministry of Water and Sanitation could have influence over another sector in the same country.

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GN10.2. When the Borrower exercises control or influence, the Borrower is expected to exercise that influence to meet the substantial requirements and objectives of the ESSs. Where the Borrower anticipates that it has limited or no control or influence over other entities or third parties, the environmental and social assessment will identify these parties, their roles with respect to the Associated Facilities, demonstrate and document the extent to which the Borrower cannot exercise control or influence over the Associated Facilities.

The risks and impacts that the Associated Facilities, and such lack of control or influence, present to the project would be considered in the assessment of the environmental and social risks and impacts of the project. The environmental and social assessment will also identify the appropriate and specific actions and measures to address those risks and impacts as well as the perceived lack of control or influence by the Borrower. (as per paragraph 32 of ESS1).

11. For the purpose of this ESS, the term “Associated Facilities” means facilities or activities that are not funded as part of the project and are: (a) directly and significantly related to the project; and (b) carried out, or planned to be carried out, contemporaneously with the project; and (c) necessary for the project to be viable and would not have been constructed, expanded or conducted if the project did not exist.¹²

Footnote 12. For facilities or activities to be Associated Facilities, they must meet all three criteria.

GN11.1. There are many circumstances in which other facilities or activities are relevant for a project to function properly but are not necessarily funded as part of the project. In complex infrastructure projects, various facilities and activities may be required for the project to function fully, but not all of these may satisfy the definition of Associated Facilities. To be an Associated Facility, all 3 criteria of paragraph 11 of ESS1 should must be met. In any event, cumulative impact considerations—including but not limited to greenhouse gas emissions—should take into account the full scope of plans and activities required for the project to function fully, including any reasonably predicted future plans, regardless of project association.

GN11.2. “Directly and significantly related” means that the facilities or activities may be physically, geographically, or functionally related to the project in a direct and significant way. For example, a transmission line is directly and significantly related to a particular power plant.

GN11.3. Facilities or activities that are “carried out, or planned to be carried out, contemporaneously with the project,” do not need to exist or occur in precisely the same period of time as the proposed project. The most common period of time for consideration of Associated Facilities would be from project identification to the project completion and operation.

GN11.4. For the third criterion that the facilities or activities are “necessary for the project to be viable and would not have been constructed, expanded or conducted if the project did not exist”, the key consideration is whether current or future plans for the facilities or activities are either essential for the project or dependent on it.

12. Where:
(a) A common approach has been agreed for the project, the common approach will apply to the Associated Facilities;
(b) Associated Facilities are being funded by other multilateral or bilateral funding agencies, the Borrower may agree with the Bank to apply the requirements of such other agencies to the

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Associate Facilities, provided that such requirements will enable the project to achieve objectives materially consistent with the ESSs.

GN 12.1 The Bank will not agree to apply any requirements that violate national or international obligations, or any requirements that are weaker than the social and environmental standards in the ESSs.

13. *Where the Bank is financing a project involving a Financial Intermediary (FI), and other multilateral or bilateral funding agencies¹³ have already provided financing to the same FI, the Borrower may agree with the Bank to rely on the requirements of such other agencies for the assessment and management of environmental and social risks and impacts of the project, including the institutional arrangements already established by the FI, provided that, such requirements will enable the project to achieve objectives materially consistent with the ESSs.*
Footnote 13. Such agencies will include IFC and MIGA.

GN13.1. ESS9 sets out the approach of the ESF to financial intermediaries.

Requirements

14. *The Borrower will assess, manage and monitor the environmental and social risks and impacts of the project throughout the project life-cycle so as to meet the requirements of the ESSs in a manner and within a timeframe acceptable to the Bank.¹⁴*
Footnote 14. In establishing the manner and an acceptable timeframe, the Bank will take into account the nature and significance of the potential environmental and social risks and impacts, the timing for development and implementation of the project, the capacity of the Borrower and other entities involved in developing and implementing the project, and the specific measures and actions to be put in place or taken by the Borrower to address such risks and impacts.

GN14.1 Each ESS sets out specific requirements that can help the Borrower to assess, manage and monitor the environmental and social risks and impacts throughout the project life-cycle. The ways in which the requirements of the ESSs are met and the time frame for doing so differ for each project, reflecting a range of considerations, such as those set out in ESS1, Footnote 14. Based on these, the manner and timeframe of project risks and impact assessments as well as mitigation plans should be consistent with environmental and social sustainability and best practices with clear requirements for draft terms of reference, environmental and social impact assessments, mitigation plans, resettlement plans, environmental and social commitment plan, and budgets to be prepared prior project appraisal and made available in a manner accessible to affected persons, allowing them the opportunity to feed into analysis and plans, and provide informed comments prior to project approval. **Note that environmental and social assessments will be requested by the Bank to be disclosed 120 days prior to Board approval for high and substantial risk projects.**

Commented [OI4]: We think that giving this "heads up" to clients is important guidance to clearly set expectations. It is also important to reference these 120 days as best practice (previous WB policy and current ADB policy)

GN14.2 ESS10 sets out expectations of the Borrower and requirements to engage in an inclusive and transparent consultation process with project affected people and stakeholders in a manner consistent with the principle of community ownership. The consultation process should give particular consideration to vulnerable and marginalized groups such as people with disabilities and LGBTI, as well as to gender dynamics with special interest in women rights within the spirit of the Convention on the Elimination

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of all Forms of Discrimination Against Women (CEDAW), the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol), and other instruments to ensure a thorough discussion of findings, options and recommendations based on draft assessments and draft action plans. The type of project, the schedule for project implementation and the entities that may be involved in implementing the project are key factors in determining how the requirements of the ESSs will be met.

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15. The Borrower will:
- (a) Conduct an environmental and social assessment of the proposed project, including stakeholder engagement;
 - (b) Undertake stakeholder engagement and disclose appropriate information in accordance with ESS10;
 - (c) Develop an ESCP, and implement all measures and actions set out in the legal agreement including the ESCP; and
 - (d) Conduct monitoring and reporting on the environmental and social performance of the project against the ESSs.

GN15.1. Paragraph 15 summarizes the key responsibilities of the Borrower under ESSs:

- (a) **Environmental and social assessment** is the process of participatory and transparent analysis and planning used by the Borrower to identify, assess and manage the potential environmental and social risks and impacts of a project, including climate considerations, differential impacts on women, men, girls and boys, and impacts on gender roles and relations including LGBTI, and impacts on people with disabilities in project-affected areas. The gathering of data disaggregated (at a minimum) by gender and age for all projects from corporate investments to land titling initiatives is essential for identifying gender issues and for measuring progress towards greater gender equality. Mitigation measures are identified in accordance with the mitigation hierarchy. Paragraphs 23-35 of ESS1 and Annex 1 of ESS1 provide further information on environmental and social assessment.
- (b) **Stakeholder engagement** supports the principle of community ownership and is an important aspect of developing an environmentally and socially sustainable project. ESS10 emphasizes the importance of open engagement with stakeholders, and respecting stakeholders' rights and views in the project design and during implementation. Particular attention should be made to engagement with people in project-affected areas. Borrowers should demonstrate the use of specific measures to ensure consistency with participatory rights and supporting equitable participation of women, people with disabilities, LGBTI, indigenous peoples and other marginalized stakeholders in consultation and decision making processes. Further information on identifying stakeholders, preparing stakeholder engagement plans, information disclosure and consultation are provided in ESS10.
- (c) The **Environmental and Social Commitment Plan (ESCP)** is a summary developed by the Borrower in consultation with project affected parties and other relevant stakeholders in accordance with ESS10 which identifies all the material measures and actions, Borrower commitments and obligations, as well as the monitoring indicators that will be carried out in an agreed timeframe to ensure all risks are managed and budgeted for appropriately and to achieve the project's expected outcomes and benefits. The ESCP is part of the legal agreement between the Borrower and the Bank. Paragraphs 36-44 of ESS1 and Annex 2 of ESS1 provide further information on the ESCP.
- (d) **Monitoring and reporting** provide the basis for tracking performance of the project and verifying compliance with the ESCP and the requirements of the ESSs. They also help

Commented [O15]: Gender equity is a valuable development outcome in itself that also contributes to wider development benefits. Specific targeting of women, community awareness in raising women's rights and the value of their full participation, and the support for women to be part of decision making, all enable more gender equitable outcomes and hence better development interventions.

There hence needs to be explicit commitments in the GN to women's participation and benefit, as well as integration of women and gender issues throughout the environmental and social assessments, action plans, stakeholder engagement and the ESCP.

Commented [O16]: The GN should make available and clearly reference tools for Gender-responsive monitoring, accountability and reporting. The extent and mode of gender-based monitoring should be defined by the Bank and the Borrower with the support of experienced gender specialist including the establishment of institutional arrangements, systems, resources, timelines, and personnel to ensure that gender differences and women's rights are taken into account and are being observed/protected.

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identify actions or measures that may be needed to remedy or improve the environmental and social performance of a project. The extent and mode of monitoring and reporting reflect the nature of the project and the significance of its environmental and social risks and impacts. There is also need to provide for a participatory monitoring process with customized socially- and gender- sensitive indicators. This would allow tracking of progress at various stages of the ESCP's implementation and the raising of concerns in situations where agreed measurements are breached instead of waiting for the project impact evaluation upon completion of the project. Paragraphs 45-50 of ESS1 provide further information on monitoring and reporting.

16. Where the ESCP requires the Borrower to plan or take specific measures and actions over a specified timeframe to avoid, minimize, reduce or mitigate specific risks and impacts of the project, the Borrower will not carry out any activities in relation to the project that may cause material adverse environmental or social risks or impacts until the relevant plans, measures or actions have been completed in accordance with the ESCP.

17. If the project comprises or includes existing facilities or existing activities that do not meet the requirements of the ESSs at the time of Board approval, the Borrower will adopt and implement measures satisfactory to the Bank so that specific aspects of such facilities and activities meet the requirements of the ESSs in accordance with the ESCP.

GN17.1. When a project includes facilities or activities that already exist, measures may be needed to enable the facilities or activities to meet the ESS requirements. It is recommended in such cases to focus on aspects that present significant social and environmental risks. The environmental and social assessment of the project will identify and evaluate the potential risks and impacts as well as specific actions and measures to address them in accordance with the requirements and objectives of the ESSs. The environmental and social assessment will also identify the proper communication and coordination mechanism with any existing facilities and/or existing activities to comply with the substantial requirements and objectives of the ESSs and achieve the desired environmental and social outcomes. Measures to be implemented by the project are incorporated into the ESCP. The Borrower will not carry out any existing activities in relation to the project that have the potential to contribute to significant material adverse environmental or social risks or impacts, until the relevant mitigation measures or actions have been completed in accordance with the ESCP.

18. The project will apply the relevant requirements of the Environmental Health and Safety Guidelines (EHSGs). When host country requirements differ from the levels and measures presented in the EHSGs, the Borrower will be required to achieve or implement whichever is more stringent. If less stringent levels or measures than those provided in the EHSGs are appropriate in view of the Borrower's limited technical or financial constraints or other specific project circumstances, the Borrower will provide full and detailed justification for any proposed alternatives through the environmental and social assessment. This justification must demonstrate, to the satisfaction of the Bank, that the choice of any alternative performance level is consistent with the objectives of the ESSs and the applicable EHSGs, and is unlikely to result in any significant environmental or social harm.

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A. Use of Borrower's Environmental and Social Framework

19. When a project is proposed for Bank support, the Borrower and the Bank will consider whether to use all, or part, of the Borrower's ES Framework in the assessment, development and implementation of a project. Such use may be proposed provided this is likely to address the risks and impacts of the project, and enable the project to achieve objectives materially consistent with the ESSs.

20. If the Borrower and the Bank propose to use all, or part, of the Borrower's ES Framework, the Bank will review the Borrower's ES Framework¹⁵ in accordance with the requirement of paragraph 19. The Borrower will provide information to the Bank in connection with the assessment.¹⁶

Footnote 15. The Borrower's ES Framework will include those aspects of the country's policy, legal and institutional framework, consisting of its national, subnational, or sectoral implementing institutions and applicable laws, regulations, rules and procedures and implementation capacity relevant to the environmental and social risks and impacts of the project. Where there are inconsistencies or lack of clarity within the Borrower's ES Framework as to relevant authorities or jurisdiction, these will be identified and discussed with the Borrower. The aspects of the Borrower's existing ES Framework that are relevant will vary from project to project, depending on such factors as the type, scale, location and potential environmental and social risks and impacts of the project and the role and authority of different institutions.

Footnote 16. The information provided by the Borrower will assist in determining whether and to what extent the Borrower's ES Framework can be used to enable the project to address the risks and impacts of the project, and achieve objectives materially consistent with the ESSs. The Borrower will provide to the Bank recent studies and assessments conducted by the Borrower or reputable third parties, including on other projects developed in the country, to the extent these are relevant to the proposed project.

GN19.1. Use of a Borrower's environmental and social (ES) Framework aims to strengthen the Borrower's approach to managing environmental and social risks and impacts. Where environmental and social risks and impacts are assessed and managed through national processes and requirements, it enhances ownership and capacity, builds institutions over the long term, and provides opportunities for collaboration and learning. It also helps to avoid duplication of Borrower and Bank requirements.

GN20.1. If it is proposed to use the Borrower's ES Framework in part or in whole, the Bank conducts its own assessment of the relevant aspects of the Borrower's ES Framework. The assessment is conducted in reference to the proposed project and aims to measure a Borrower's social and environmental framework against the substantive requirements of the ESSs to ensure consistency with their objectives and requirements, and considers whether using the Borrower's ES Framework is likely to address the environmental and social risks and impacts, including gendered impacts, of the project and support the design and implementation of mitigation measures consistent with the mitigation hierarchy, and enable the project to achieve objectives materially consistent with the ESSs. Depending on the significance of specific risks and impacts of the project, the Bank's assessment may involve a more detailed analysis against the relevant specific requirements of the ESSs. The Bank discloses the key findings from its assessment on the bank's website.

GN20.2. The scope of assessment, and the aspects of the Borrower's ES Framework to be reviewed, vary from project to project, depending on relevant factors including the type, scale and complexity of the project and its potential environmental and social risks and impacts (including, but not limited to, those

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identified in the ESSs). There is no single, uniform approach to assessing Borrowers' ES Frameworks. Different country and project contexts call for different approaches. The assessment would consider the following, among other things, and based on information available to the Bank:

- (a) The country's policy, legal and institutional framework, including the enabling environment for civic space participation as these are relevant to the specific environmental and social risks and impacts of the project;
- (b) National environmental and social frameworks are key points of reference for such assessment, this includes national policies, laws, regulations, rules, procedures (including license, permits and approval requirements) and protocols relating to human rights; labor rights; women's rights and the rights of indigenous communities applicable to the project, including regional and local requirements that are relevant to the environmental and social risks and impacts of the project. Such assessment will also call into reference the various international conventions that countries are signatories to that are relevant to the project;
- (c) Borrower's demonstrated implementation and enforcement capacity defined in terms of environmental and social standards track record, including implementation practices in terms of good governance and adherence to the rule of law, anti-corruption mechanism, the existence of a functional judiciary system, and record of compliance with human rights norms relevant to the environmental and social risk factors present in the project, and enabling environment for civic space and public participation; including, but not limited to, as have been applied to similar previous projects.
- (d) Inconsistencies, lack of clarity or conflict as to relevant authorities or jurisdiction, including differences between national and regional/local authorities or jurisdictions;
- (e) Available experience with the Bank or other multilateral or bilateral financing agencies and the performance of the Borrower and the national, subnational, sectoral and local institutions involved in the preparation and/or implementation of similar previous projects and social and environmental standards; and
- (f) The environmental and social technical and institutional capacity of the Borrower and relevant national, subnational or sectoral implementing institutions or agencies defined in terms of political authority, adequate budget and environmental and social specialist staffing level, staff retention and experience record related to the preparation, implementation, and monitoring and conducting due diligence of the project and similar previous projects.

GN20.3. To inform the assessment as well as design of measures needed to address any identified gaps, the Bank will facilitate and engage in a consultation process with project affected people and civil society stakeholders as defined in ESS 10, as well as government officials and other development partners. The consultation process as well as any measures and activities to address any identified gaps will uphold the

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Bank's Directive on Vulnerable and Marginalized Groups and consider gender dynamics with special interest in women rights within the spirit of the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW), the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol), and other instruments to ensure a full picture of the Borrower's frameworks and how it is implemented.

GN20.4. While each assessment is specific to the proposed project, it also takes into account available information regarding the Borrower's ES Framework that is relevant to the proposed project, including assessments from previous projects or analytical work. Where the Bank has conducted an overview assessment of the Borrower's existing policy, legal and institutional framework for addressing environmental and social risks and impacts, the Bank may take the conclusions of such assessment into account, providing it is still applicable to the Borrower's ES Framework, pertinent to the project under preparation and the Bank is not aware of any material change to the conclusions reached.

21. *If the assessment identifies gaps in the Borrower's ES Framework, the Borrower will work with the Bank to identify measures and actions to address such gaps. Such measures and actions may be implemented during project preparation or project implementation and will include, where necessary, measures and actions to address any capacity development issues pertaining to the Borrower, any relevant national, subnational or sectoral implementing institution, and any implementing agency. The agreed measures and actions, together with the timeframes for their completion, will form part of the ESCP.*

22. *The Borrower will take all actions necessary to maintain the Borrower's ES Framework, as well as acceptable implementation practices, track record, and capacity, in accordance with the measures and actions identified in the ESCP, throughout the project life-cycle. The Borrower will notify and discuss with the Bank any significant changes in the Borrower's ES Framework that may affect the project.¹⁷ If the Borrower's ES Framework is changed in a manner inconsistent with the requirement of paragraph 19 and the ESCP, the Borrower will carry out, as appropriate, additional assessment and stakeholder engagement in accordance with the ESSs, and propose changes, for approval by the Bank, to the ESCP.*

Footnote 17. If, in the opinion of the Bank, such changes serve to improve the Borrower's ES Framework, the Borrower will apply such changes to the project.

GN21.1 The identification of any measures and actions to address any gaps within the Borrower's frameworks should be informed and discussed in a gender responsive consultation process with all relevant stakeholders including project affected people and civil society as defined in ESS 10.

B. Environmental and Social Assessment

23. *The Borrower will carry out an environmental and social assessment¹⁸ of the project to assess the environmental and social risks and impacts of the project throughout the project life-cycle.¹⁹ The assessment will be proportionate to the potential risks and impacts of the project, and will assess, in an integrated way, all relevant direct,²⁰ indirect²¹ and cumulative²² environmental and social risks and impacts throughout the project life-cycle, including those specifically identified in ESSs2–10.*

Footnote 18. The Borrower, in consultation with the Bank, will identify and use appropriate methods and tools, including scoping, environmental and social analyses, investigations, audits, surveys and studies, to identify and assess the potential environmental and social risks and impacts of the proposed project. These methods and tools

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will reflect the nature and scale of the project, and will include, as appropriate, a combination (or elements of) the following: environmental and social impact assessment (ESIA); environmental audit; hazard or risk assessment; social and conflict analysis; environmental and social management plan (ESMP); environmental and social management framework (ESMF); regional or sectoral EIA; strategic environmental and social assessment (SESA). Specific features of a project may require the Borrower to utilize specialized methods and tools for assessment, for example a Cultural Heritage Management Plan. Where the project is likely to have sectoral or regional impacts, a sectoral or regional EIA will be required.

Footnote 19. This may include preconstruction, construction, operation, decommissioning, closure and reinstatement/ restoration.

Footnote 20. A direct impact is an impact which is caused by the project, and occurs contemporaneously in the location of the project.

Footnote 21. An indirect impact is an impact which is caused by the project and is later in time or farther removed in distance than a direct impact, but is still reasonably foreseeable, and will not include induced impacts.

Footnote 22. The cumulative impact of the project is the incremental impact of the project when added to impacts from other relevant past, present and reasonably foreseeable developments as well as unplanned but 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. The environmental and social assessment will consider cumulative impacts that are recognized as important on the basis of scientific concerns and/or reflect the concerns of project-affected parties. The potential cumulative impacts will be determined as early as possible, ideally as part of project scoping.

GN23.1. The environmental and social assessment starts as early as possible during project identification and preparation. The assessment informs project design including the potential scenario for a no-project option.

GN23.2. Environmental and social risks and impacts may be different at different stages of the project, depending on the activities that are being conducted. The environmental and social assessment should be gender-sensitive and look at each stage, including at transition points between stages, and identify the related environmental and social risks and impacts including climate-related risks and their appropriate mitigation measures.

GN23.3. Different methods and tools can be used to identify and assess the environmental and social risks and impacts of a project. These can vary depending on the baseline data available and the nature and significance of the environmental and social risks and impacts. All methods and tools should be gender-sensitive as relevant. Footnote 18 and Annex 1 of ESS1 identify methods and tools that are commonly used.

GN23.4 (Footnote 21). Indirect impacts result from interactions of the project (through the project cycle and at different stages) with the social, economic, political and environmental context and factors of the larger geographical area where the project is part of including the interaction of local communities with influx of migrants, interaction between regional and local government and project personnel and users. Compared to direct impacts, indirect impacts often cover a larger geographical area often with unclear boundaries of responsibilities, lower predictability and higher complexity and scope of issues. Induced impacts are indirect economic impacts that may be generated by a project, both positive and negative, that are not associated with the physical footprint of the project, and not a direct result of the project's physical impact/activities.

Commented [O17]: It is important that the guidance note offers and explains where borrowers can look for these methods and tools, how to determine whether they are applicable, and how they have been carried out in practice.

Commented [O18]: The GN should offer resources and/or cases/examples by sector of relevant indirect and induced impacts that the borrower needs to consider or take into account from similar projects.

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24. *The environmental and social assessment will be based on current information, including an accurate description and delineation of the project and any associated aspects, and environmental and social baseline data at an appropriate level of detail sufficient to inform characterization and identification of risks and impacts and mitigation measures. The assessment will evaluate the project's potential environmental and social risks and impacts; examine project alternatives; identify ways of improving project selection, siting, planning, design and implementation in order to apply the mitigation hierarchy for adverse environmental and social impacts and seek opportunities to enhance the positive impacts of the project. The environmental and social assessment will include stakeholder engagement as an integral part of the assessment, in accordance with ESS10.*

GN24.1. In order to assess proper viability of a project, resettlement plans and budgets need to be prepared in consultation with project affected communities, upfront and as early as possible along with other project design aspects, while a range of designs are still being assessed and considered. This is crucial in determining whether or not there are appropriate resettlement sites and options and whether the social and/or financial cost of resettlement outweighs the expected benefit of the project. This also helps to ensure there is an adequate budget for resettlement built into the project cost should the project move forward with resettlement.

25. *The environmental and social assessment will be an adequate, accurate, and objective evaluation and presentation of the risks and impacts, prepared by qualified and experienced persons. For High and Substantial Risk projects, as well as situations in which the Borrower has limited capacity, the Borrower will retain independent specialists to carry out the environmental and social assessment.*

GN25.1. It is important when engaging independent specialists for the assessment that they have the relevant technical expertise, competency and substantive experience in projects with similar environmental and social risks and impacts, including gender expertise. It is also appropriate to engage independent specialists to undertake the parts of an assessment that address specific risks and impacts of concern, such as gender, biodiversity, resettlement and/or climate change.

GN25.2. 'Independent' means that the specialist is able to provide professional, objective and impartial advice, without consideration of future work, and avoiding conflicts with other assignments or their own business or personal interests. Such independence supports the objectivity of the environmental and social assessment, without regard to vested interests and without reason to influence the outcome of the assessment. In certain but rare circumstances, where the specialist has been involved in the preparation, design and implementation of the project (for example, early feasibility studies), they may be still engaged in conducting the assessment if the Borrower can document and demonstrate to the satisfaction of the Bank that there is no better option, there is no conflict of interest, and that to engage such a specialist would be of benefit for the assessment.

26. *The Borrower will ensure that the environmental and social assessment takes into account in an appropriate manner all issues relevant to the project, including: (a) the country's applicable policy framework, national laws and regulations, and institutional capabilities (including implementation) relating to environment and social issues; variations in country conditions and project context; country environmental or social studies; national environmental or social action plans; and obligations of the country directly applicable to the project under relevant international treaties and agreements; (b) applicable requirements under the ESSs; and (c) the*

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EHSGs, and other relevant Good International Industry Practice (GIIP).²³ The assessment of the project, and all proposals contained in the assessment, will be consistent with the requirements of this paragraph.

Footnote 23. Good International Industry Practice (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 exercise should be that the project employs the most appropriate technologies in the project-specific circumstances.

GN26.1. Consideration of national and international law requirements as they relate to the design and implementation of the project, and the identification of mitigation measures is particularly important. Where the Borrower has entered into international obligations or treaties that are directly applicable to the project, the assessment should consider the way in which these could inform project design and implementation.

GN26.2. Sometimes Borrowers have begun to prepare a project prior to the Bank's involvement, where environmental and social assessments have already been conducted and environmental and social risk management documents (such as an environmental management plan) have been prepared and approved by national authorities. In such cases, the Bank would review the environmental and social assessment process and related documents for consistency with the ESS requirements and would help the Borrower to address gaps, such as preparation of supplemental assessments, focused studies or additional environmental and social documentation. The Bank will also facilitate an inclusive, transparent and gender responsive consultation process as defined in ESS 10 to inform and discuss with project affected persons and other relevant stakeholders the review of the environmental and social assessments, findings and any measures to address identified gaps.

27. *The environmental and social assessment will apply a mitigation hierarchy,²⁴ which will:*

- (a) Anticipate and avoid risks and impacts;*
- (b) Where avoidance is not possible, minimize or reduce risks and impacts to acceptable levels;*
- (c) Once risks and impacts have been minimized or reduced, mitigate;²⁵ and*
- (d) Where significant residual impacts remain, compensate for or offset them, where technically and financially feasible.²⁶*

Footnote 24. The mitigation hierarchy is further discussed and specified in the context of ESSs2-10, where relevant.

Footnote 25. The requirement to mitigate impacts may include measures to assist affected parties to improve or at least restore their livelihoods as relevant in a particular project setting.

Footnote 26. The Borrower will make reasonable efforts to incorporate the costs of compensating and/or offsetting for the significant residual impacts as part of project costs. The environmental and social assessment will consider the significance of such residual impacts, the long-term effect of these on the environment and project-affected people, and the extent to which they are considered reasonable in the context of the project. Where it is determined that it is not technically or financially feasible to compensate or offset for such residual impacts, the rationale for this determination (including the options that were considered) will be set out in the environmental and social assessment.

GN27.1. The mitigation hierarchy represents a systematic and phased approach to addressing the risks and impacts of a proposed project including GHG emissions and climate related risks. The environmental and social assessment would use the hierarchy to manage environmental and social risks and impacts through early identification of possible mitigation measures.

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GN27.2. The mitigation hierarchy consists of a series of sequential steps that are applicable to risks and impacts including GHG emissions and climate related risks identified at any stage of the project. The steps are as follows:

- **Step 1. Anticipation and Avoidance:** Measures to anticipate and avoid impacts could include design and spatial or temporal placement of infrastructure. For example, this might involve changing the route of a road or the location of a wind farm to avoid a national park or the need to resettle people. Avoidance is often the most effective way of reducing potential adverse environmental and social impacts, though it might have additional costs and includes the potential scenario for a no-project option. However, it usually means considering risks and impacts in the early stages of project design.
- **Step 2. Minimization or reduction:** Measures would seek to reduce the size, duration, intensity or extent of impacts that cannot be avoided. For example, this could include reducing the physical footprint of a project or introducing energy efficiency measures. Resources efficiency measures minimize adverse impacts associated with activities across the entire production chain; upstream by reducing resources inputs, and downstream by reducing waste and pollutants. Selection of the type of infrastructure, equipment, technology and operations can also minimize impacts.
- **Step 3. Mitigation:** Measures to mitigate environmental and social risks and impacts, for example, in the case of a road project, could include building wildlife crossings, or in the case of resettlement, compensation and livelihood restoration to pre-displaced levels and improvement measures as described in ESS5. For economic displacement impacts that fall outside the scope of ESS5, mitigation measures should nonetheless aim to improve and, at minimum, restore people's livelihoods and living standards to pre-displacement levels to avoid leaving affected people in a poverty trap given that compensation alone does not prevent impoverishment. Borrowers should look to the provisions of ESS5 regarding economic displacement (paragraphs 33 to 36) for measures to restore livelihoods and incomes affected by the project in all cases.
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Steps 1 to 3 (avoidance, minimization and mitigation) are undertaken first to address the environmental and social risks and impacts of a project including GHG emission and climate-related risks. If significant residual impacts remain that cannot be mitigated, then Step 4 is taken. It is important to apply Steps 1-3 insofar as possible before proceeding to Step 4 – Compensation and/or Offset.

GN27.3. If, as part of the environmental and social assessment, a project site, design or technology is proposed that has higher environmental or social risks and impacts than other technically and/or financially feasible options, the rationale and decision is documented, which should include as a minimum an economic cost-benefit analysis, in the environmental and social assessment that has been consulted upon with project affected persons in a manner consistent with customary rights and international

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obligations as defined in ESS10, and has, in the case of indigenous peoples, secured Free and Informed Prior Consent (FPIC) and rights as defined in ESS7.

GN27.4. (Footnote 25). The general rule to follow is that where a person or persons have their livelihoods impacted negatively by the project, the Borrower should restore and improve their livelihoods. For economic displacement impacts that fall outside the scope of ESS5, mitigation measures should still aim to improve and, at minimum, restore people's livelihoods and living standards to pre-displacement levels to avoid leaving affected people in a poverty trap given that compensation alone does not prevent impoverishment. Borrowers should look to the provisions of ESS5 regarding economic displacement (paragraphs 33 to 36) for measures to restore livelihoods and incomes affected by the project in all cases. The Borrower should aim to improving livelihoods where affected communities are poor and/or vulnerable to poverty. This could mean supporting women to achieve their development goals and aspirations in male-dominated societies, and supporting other marginalized and vulnerable groups within the larger resettled community. In addition to opportunities to improve affected people's housing, access to basic services, employment and entrepreneurial opportunities, project benefit-sharing schemes can often be devised. For instance, schemes could be built into project design to ensure that affected households and other local communities receive electricity from a power generation or transmission project through household connections at subsidized rates, or an ongoing revenue stream to resettled households and communities from a project expected to derive revenues for the project owner.

GN27.4. (Footnote 26). Technical and financial feasibility sets the expectation of the Borrower to follow the mitigation hierarchy and to perform a cost-benefit analysis that include the broader assessment of economic feasibility to include environmental and social externalities and costs of greenhouse gases as well as short-lived climate pollutants, including those from indirect emissions associated with the project, such as from land-use changes, forest degradation among others associated with the project. When compensation is required, as part of the mitigation hierarchy, all residual impacts should be fully compensated or demonstrate and document through a consultation process with project affected persons in accordance with ESS10 why it can only compensate partially, and get agreement of project affected persons on the extent of the compensation. Technical and financial feasibility issues are not generally acceptable as reasons for avoiding compensation of residual impacts. Failure to compensate for significant residual impacts or demonstrate agreement with project affected persons may require cancellation of a project, if such impacts equal or exceed expected benefits or improvement of livelihoods of project affected persons.

28. *The environmental and social assessment, informed by the scoping of the issues, will take into account all relevant environmental and social risks and impacts of the project, including:*

- (a) Environmental risks and impacts, including: (i) those defined by the EHSs; (ii) those related to community safety (including dam safety and safe use of pesticides); (iii) those related to climate change and other transboundary or global risks and impacts; (iv) any material threat to the protection, conservation, maintenance and restoration of natural habitats and biodiversity; and (v) those related to ecosystem services²⁷ and the use of living natural resources, such as fisheries and forests;*
- (b) Social risks and impacts, including: (i) threats to human security through the escalation of personal, communal or inter-state conflict, crime or violence; (ii) risks that project impacts fall disproportionately on individuals and groups who, because of their particular circumstances,*

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may be disadvantaged or vulnerable;²⁸ (iii) any prejudice or discrimination toward individuals or groups in providing access to development resources and project benefits, particularly in the case of those who may be disadvantaged or vulnerable; (iv) negative economic and social impacts relating to the involuntary taking of land or restrictions on land use; (v) risks or impacts associated with land and natural resource tenure and use,²⁹ 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; (vi) impacts on the health, safety and well-being of workers and project-affected communities; and (vii) risks to cultural heritage.

Footnote 27. Ecosystem services are the benefits that people derive from ecosystems. Ecosystem services are organized into four types: (i) provisioning services, which are the products people obtain from ecosystems and which may include food, freshwater, timbers, fibers, medicinal plants; (ii) regulating services, which are the benefits people obtain from the regulation of ecosystem processes and which may include surface water purification, carbon storage and sequestration, climate regulation, protection from natural hazards; (iii) cultural services, which are the nonmaterial benefits people obtain from ecosystems and which may include natural areas that are sacred sites and areas of importance for recreations and aesthetic enjoyment; and (iv) supporting services, which are the natural processes that maintain the other services and which may include soil formation, nutrient cycling and primary production.

Footnote 28. Disadvantaged or vulnerable refers to those 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 an individual/group is also more likely to be excluded from/unable to participate fully in the mainstream consultation process and as such may require specific measures and/or assistance to do so. This will take into account considerations relating to age, including the elderly and minors, and including in circumstances where they may be separated from their family, the community or other individuals upon which they depend.

Footnote 29. Due to the complexity of tenure issues in many contexts, and the importance of secure tenure for livelihoods, careful assessment and design is needed to help ensure that projects do not inadvertently compromise existing legitimate rights (including collective rights, subsidiary rights and the rights of women) 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 to the Bank's satisfaction that applicable laws and procedures, along with project design features (a) provide clear and adequate rules for the recognition of relevant land tenure rights; (b) establish fair criteria and functioning, transparent and participatory processes for resolving competing tenure claims; and (c) include genuine efforts to inform affected people about their rights and provide access to impartial advice.

GN28.1. Risks and impacts identified in paragraph 28 of ESS1 and in ESSs2–10, while wide-ranging, can never be exhaustive. It is important to carefully scope the project for customary rights, environmental and social risks, and impacts including specific and differentiated risk and impacts to vulnerable and marginalized groups such as women, children, elders, people with disabilities and LGBTI, that are specific to it, and to identify risks and impacts that are not covered in ESS1-10. Annex 1 of ESS1 provides additional details on how to conduct the environmental and social assessment, and identifies methods and tools that may be used. It is also critical to disclose and make available in a manner accessible to all affected persons and other relevant stakeholders all relevant project information including draft terms of reference, environmental and social assessments, mitigation plans, resettlement plans and project budgets prior to appraisal and project approval allowing them the opportunity to feed into analysis and plans, and provide informed comments through an inclusive, transparent and gender responsive consultation process in accordance to ESS 10.

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GN28.2. Scoping of project issues means identifying the extent and complexity of potential national and international obligations, customary rights, environmental and social risks and impacts, including the socio-economic characteristics of vulnerable and marginalized groups and gender context (gender roles and power relationships) of people in the project area. For projects where the scoping indicates significant adverse environmental and social impacts, it is important for the environmental and social assessment to focus on identifying baseline indicators and available baseline data, identifying and analyzing projected impacts to the extent possible, fully apply the mitigation hierarchy which considers the no-project option, and developing appropriate mitigation measures. Baseline data describes relevant existing physical, biological, demographic and socio-economic conditions of the population including of vulnerable and marginalized groups, the gender context, and cultural heritage. It is important for baseline data to be up-to-date, as rapidly changing situations, such as in-migration of people in anticipation of a project or lack of data on disadvantaged and vulnerable groups within a community, can affect the success of social mitigation measures. Socio-economic and gender analysis should be used to: (a) understand the characteristics and dynamics of the project area; (b) establish the conditions of women, men, boys and girls including vulnerable and disadvantage groups that may be affected by the project; (c) identify events, including potential for conflict, that could affect project implementation; and (d) identify opportunities for enhancing project development benefits.

GN 28.3 “Social risk and impacts” (b) (ii) and (iii). The environmental and social assessment should ensure that gender assessment questions are considered and guide the identification of potential risk. The following list is not exhaustive:

- What possibility is there that the project might reduce or increase risk to women’s access to or control of resources, entitlements and benefits?
- What possibility is there that project can adversely affect men and women in marginalized or vulnerable communities?
- What is the possibility that the project might ignore gender roles and the abilities of women or men to participate in the decisions/designs of the project’s activities (such as lack of time, child care duties, low literacy or educational levels, societal discrimination)?
- What gender roles and abilities of women or men are recognized to benefit from the project’s activities (e.g. does the project criteria ensure that it includes minority groups or landless peoples) by this project?
- Might the Project potentially further deepen gender discrimination or the exclusion of minority and powerless groups?
- Would the Project potentially limit women’s ability to use, develop and protect natural resources, considering their different roles and priorities in accessing and managing environmental goods and services?
- Is there scope within the project to benefit women specifically through investment in social infrastructure such as women’s organizations, social protection, etc.?
- Is there a likelihood that the proposed Project would expose women and girls to further risks or hazards, including gender-based violence?
- The Project shall not directly or indirectly lead to/contribute to adverse impacts on gender equality and/or the situation of women. Specifically, this shall include (not exhaustive):
 - (i) Sexual harassment and/or any forms of violence against women - address the multiple risks of gender-based violence, including sexual exploitation or human trafficking;

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- (ii) Slavery, imprisonment, physical and mental drudgery, punishment or coercion of women and girls;
- (iii) Restriction of women’s rights or access to resources (natural or economic) including undocumented rights;
- (iv) Recognize women’s ownership rights regardless of marital status - adopt project measures where possible to support to women’s access to inherit and own land, homes, and other assets or natural resources.

29. *Where the environmental and social assessment of the project identifies specific individuals or groups as disadvantaged or vulnerable, the Borrower will propose and implement differentiated measures so that adverse impacts do not fall disproportionately on the disadvantaged or vulnerable, and they are not disadvantaged in sharing any development benefits and opportunities resulting from the project.*

GN29.1. Several of the ESSs address specific issues that may be relevant to individuals or groups, and suggest ways in which the risks and impacts may be mitigated. For example, community health and safety is addressed in ESS4 and land acquisition and involuntary resettlement in ESS5. Disadvantaged or vulnerable refers to those individuals or groups who, by virtue of, for example, their age, gender, ethnicity, religion, physical, mental or other disability, social, civic or health status, sexual orientation, gender identity, economic disadvantages or indigenous status, and/or dependence on unique natural resources, 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 an individual/group is also more likely to be excluded from/unable to participate fully in the mainstream consultation process and as such may require specific measures and/or assistance to do so. This will take into account considerations relating to age, including the elderly and minors, and including in circumstances where they may be separated from their family, the community or other individuals upon whom they depend.

30. *For projects involving multiple small subprojects,³⁰ that are identified, prepared and implemented during the course of the project, the Borrower will carry out appropriate environmental and social assessment of subprojects, and prepare and implement such subprojects, as follows:*

- (a) *High Risk subprojects, in accordance with the ESSs;*
- (b) *Substantial Risk, Moderate Risk and Low Risk subprojects, in accordance with national law and any requirements of the ESSs that the Bank deems relevant to such subprojects.³¹*

Footnote 30. Paragraphs 30 to 31 apply to a Bank-supported project with multiple small subprojects, as in the case of community-driven development projects, projects involving matching grant schemes, or similar projects designated by the Bank. These provisions do not apply to FI subprojects which are addressed in ESS9.

Footnote 31. Where subprojects are likely to have minimal or no adverse environmental or social risks and impacts, such subprojects do not require further environmental and social assessment following the initial scoping.

31. *If the risk rating of a subproject increases to a higher risk rating, the Borrower will apply the relevant requirements of the ESSs³² and the ESCP will be updated as appropriate.*

Footnote 32. The ‘requirements of the ESSs’ will relate to the reasons for which the risk rating has increased.

Commented [O19]: The GN should offer a definition to help borrowers to understand and properly identify groups or individuals that may be in a disadvantage or vulnerable situation in order to properly identify and implement adequate mitigation measures that not only protect these groups but more importantly enhance their access to equitable project benefits.

The GN should also include reference to sources of international law that should be considered, including core international human rights treaties, particularly when pertaining to equality and non-discrimination, regional human rights treaties, and relevant regional court and commission decisions, and relevant international environmental treaties and agreements to ensure consistency across the standards such as:

- International Convention on the Elimination of All Forms of Racial Discrimination (ICERD),
- International Covenant on Civil and Political Rights (ICCPR), - International Covenant on Economic, Social and Cultural Rights (ICESCR),
- Convention on the Elimination of All Forms of Discrimination against Women (CEDAW),
- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT),
- Convention on the Rights of the Child (CRC),
- International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICMW),
- International Convention for the Protection of All Persons from Enforced Disappearance (CPED),
- Convention on the Rights of Persons with Disabilities (CPRD).

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32. *The environmental and social assessment will also identify and assess, to the extent appropriate, the potential environmental and social risks and impacts of Associated Facilities. The Borrower will address the risks and impacts of Associated Facilities in a manner proportionate to its control or influence over the Associated Facilities. To the extent that the Borrower cannot control or influence the Associated Activities to meet the requirements of the ESSs, the environmental and social assessment will also identify the risks and impacts the Associated Facilities may present to the project.*

GN32.1. When the Borrower exercises control or influence, the Borrower is expected to exercise that influence to meet the substantial requirements and objectives of the ESSs. Where the Borrower anticipates that it has limited or no control or influence over other entities or third parties, the environmental and social assessment will identify these parties, their roles with respect to the Associated Facilities, demonstrate and document the extent to which the Borrower cannot exercise control or influence over the Associated Facilities. The risks and impacts that the Associated Facilities, and such lack of control or influence, present to the project would be considered in the assessment of the environmental and social risks and impacts of the project. The environmental and social assessment will also identify the appropriate and specific actions and measures to address those risks and impacts as well as the perceived lack of control or influence by the Borrower.

33. *For projects that are High Risk or contentious, or that involve serious multidimensional environmental or social risks or impacts, the Borrower may be required to engage one or more internationally recognized independent experts. Such experts may, depending on the project, form part of an advisory panel or be otherwise employed by the Borrower, and will provide independent advice and oversight to the project.³³*

Footnote 33. This requirement relates to independent advice and oversight of such projects, and is not related to circumstances in which the Borrower will be required to retain independent specialists to carry out environmental and social assessment, set out in paragraph 25.

GN 33.1. Paragraph 33 refers to the engagement of internationally recognized independent experts in circumstances in which there is a need for a higher degree of independent advice to a project. The Bank and the Borrower work together to agree on the appropriate form that such independent advice and oversight could take the terms of reference for the assignment and the expertise and qualifications needed. It is important that the terms of reference for the assignment, and the expertise and qualifications needed are also discussed with all affected persons and other relevant stakeholders within a consultation process that is inclusive, transparent and gender responsive in accordance to ESS 10. It is important that project affected persons have unrestricted access to the selected international recognized independent experts, and that the independent experts' reports are publicly disclosed in a manner accessible to project affected person.

34. *The environmental and social assessment will also consider risks and impacts associated with the primary suppliers³⁴ as required by ESS2 and ESS6. The Borrower will address such risks and impacts in a manner proportionate to the Borrower's control or influence over its primary suppliers as set out in ESS2 and ESS6.*

Footnote 34. Primary suppliers are those suppliers who, on an ongoing basis, provide directly to the project goods or materials essential for the core functions of the project. Core functions of a project constitute those production and/or service processes essential for a specific project activity without which the project cannot continue.

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GN34.1. The requirements in paragraph 34 regarding primary suppliers apply when there is an ongoing, extended contractual relationship between the project and the supplier, through which the Borrower has the potential to influence the supplier's operational practices. The environmental and social assessment should consider the nature and potential sources of goods or materials that are required for critical project activities. This may include, for example, timber for railroad ties, gravel and asphalt for road construction.

GN34.2. Primary suppliers in relation to labor and biodiversity, are discussed in ESS2 (paragraphs 27 through 29) and its accompanying Guidance Note 2, and ESS6 (paragraph 30) and its accompanying Guidance Note 6.

35. *The environmental and social assessment will consider potentially significant project related transboundary and global risks and impacts, such as impacts from effluents and emissions, increased use or contamination of international waterways, emissions of short- and long-lived climate pollutants,³⁵ climate change mitigation, adaptation and resilience issues, and impacts on threatened or depleted migratory species and their habitats.*

Footnote 35. This includes all greenhouse gases (GHGs) and black carbon (BC).

GN35.1. Transboundary impacts are impacts that extend to multiple countries, beyond the country in which the project is located, but are not global in nature. Examples include air pollution extending to surrounding countries and pollution of international waterways.

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C. Environmental and Social Commitment Plan

36. *The Borrower will develop and implement an ESCP, which will set out measures and actions required for the project to achieve compliance with the ESSs over a specified timeframe.³⁶ The ESCP will be agreed with the Bank and will form part of the legal agreement. The draft ESCP will be disclosed as early as possible, and before project appraisal.*

Footnote 36. The Bank will assist the Borrower in identifying appropriate methods and tools to assess and manage the potential environmental and social risks and impacts of the project, and developing the ESCP.

37. *The ESCP will take into account the findings of the environmental and social assessment, the Bank's environmental and social due diligence, and the results of engagement with stakeholders. It will be an accurate summary of the material measures and actions required to avoid, minimize, reduce or otherwise mitigate the potential environmental and social risks and impacts of the project.³⁷ A completion date for each action will be specified in the ESCP.*

Footnote 37. This will include any mitigation and performance improvement measures and actions already developed; actions that may be completed prior to approval by the Bank Board of Directors; actions required by national law and regulation that satisfy the requirements of the ESSs; actions to address gaps in the Borrower's ES Framework; and any other actions that are considered necessary for the project to achieve compliance with the ESSs. The gaps will be assessed by reference to what would be required in the relevant ESS.

38. *Where a common approach³⁸ has been agreed, the ESCP will include all measures and actions that have been agreed by the Borrower to enable the project to meet the common approach.*

Footnote 38. See paragraph 9.

GN38.1. Annex 2 of ESS1 provides details of the recommended content of the ESCP, such as plans and measures, together with their costs and financing sources, timelines, and roles and responsibilities.

39. *The ESCP will set out a process that allows for adaptive management of proposed project changes or unforeseen circumstances. The process will set out how such changes or circumstances will be managed and reported and any necessary changes will be made to the ESCP and relevant management tools.*

GN39.1. Environmental and social assessments are expected to be conducted and mitigation measures proposed based on national and international obligations, the ESSs and other Bank policies, scoping and analysis of the project and its potential environmental and social risks and impacts as well as thorough consultation processes with project affected persons and relevant stakeholders. Throughout the project, changes can occur due to the variability of the natural or social environment, unforeseen project implementation challenges (for example, a mitigation measure may not work as envisaged), new information or new risks and impacts that occur during implementation.

GN39.2. Adaptive management is a systematic approach for improving management by learning from continuous and regular monitoring of the project's risks and impacts, and feedback from project affected persons, especially marginalized and vulnerable groups, and other relevant stakeholders, outcomes and new information throughout the project life-cycle. It focuses on learning and adapting and can be applied to timely and effectively respond to project changes or unforeseen circumstances or risks. For example, an adaptive management approach incorporates processes to regularly and continuously monitor

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environmental and social mitigation measures compared to expected outcomes and benefits throughout the project life-cycle, to detect and learn from changes to those outcomes, and to make decisions to realign project outcomes with ESS objectives in a timely manner to avoid further negative impacts and enhance positive ones. Adaptive management processes are by design flexible and iterative, and highly dependent on strong, systematic monitoring and feedback from project affected persons and other stakeholders for timely modifications. It is useful to define such learning and adaptation mechanisms through an inclusive, transparent and gender responsive consultation process with project affected persons and other relevant stakeholders during project preparation and then outline them in the ESCP.

40. *The Borrower will implement diligently the measures and actions identified in the ESCP in accordance with the timeframes specified, and will review the status of implementation of the ESCP as part of its monitoring and reporting.*³⁹

Footnote 39. See Section D.

41. *The ESCP will describe the different management tools⁴⁰ that the Borrower will use to develop and implement the agreed measures and actions. These management tools will include, as appropriate, environmental and social management plans, environmental and social management frameworks, operational policies, operational manuals, management systems, procedures, practices and capital investments. All management tools will apply the mitigation hierarchy, and incorporate measures so that the project will meet the requirements of applicable laws and regulations and the ESSs⁴¹ in accordance with the ESCP throughout the project life-cycle.*

Footnote 40. *The level of detail and complexity of the management tools will be proportionate to the project's risks and impacts, and the measures and actions identified to address such risks and impacts. They will take into account the experience and capacity of the parties involved with the project, including the implementing agencies, project-affected communities and other interested parties, and aim to support improved environmental and social performance.*

Footnote 41. Including relevant GIIP.

42. *The management tools will define desired outcomes in measurable terms (for example, against baseline conditions) to the extent possible, with elements such as targets and performance indicators that can be tracked over defined time periods.*

GN42.1. See paragraphs 45-50 of ESS1 on Project Monitoring and Reporting.

43. *Recognizing the dynamic nature of the project development and implementation process, the management tools will take a long-term and phased approach, and be designed to be responsive to changes in project circumstances, unforeseen events, regulatory changes and the results of monitoring and review.*

44. *The Borrower will notify the Bank promptly of any proposed changes to the scope, design, implementation or operation of the project that are likely to cause an adverse change in the environmental or social risks or impacts of the project. The Borrower will carry out, as appropriate, additional assessment and stakeholder engagement in accordance with the ESSs, and propose changes, for approval by the Bank, to the ESCP and relevant management tools, as appropriate, in accordance with the findings of such assessments and consultation. The updated ESCP will be disclosed.*

GN44.1. This paragraph refers to situations where changes in the project may cause additional adverse impacts, and is different to the process of adaptive management which is described in paragraph 39. For

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example, the Borrower may wish to acquire more land entailing resettlement, or to increase the capacity of a power station. In such circumstances, the Borrower may be required to conduct additional stakeholder engagement as set out in paragraph 53 and notify the Bank.

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D. Project Monitoring and Reporting

45. *The Borrower will monitor the environmental and social performance of the project in accordance with the legal agreement (including the ESCP). The extent and mode of monitoring will be agreed upon with the Bank, and will be proportionate to the nature of the project, the project's environmental and social risks and impacts, and compliance requirements. The Borrower will ensure that adequate institutional arrangements, systems, resources and personnel are in place to carry out monitoring. Where appropriate and as set out in the ESCP, the Borrower will engage stakeholders and third parties, such as independent experts, local communities or NGOs, to complement or verify its own monitoring activities. Where other agencies or third parties are responsible for managing specific risks and impacts and implementing mitigation measures, the Borrower will collaborate with such agencies and third parties to establish and monitor such mitigation measures.*

GN45.1. Monitoring and reporting are critical for an adaptive management system that helps track the environmental and social performance of the project, to see whether it is achieving its outcomes and meeting various environmental and social requirements, whether additional measures need to be implemented, and to efficiently learn, adapt and in a timely manner respond to project changes or unforeseen circumstances. It is important to document the monitoring of mitigation measures set out in the ESCP. Paragraphs 45 to 50 of ESS1 describe the key elements of monitoring and reporting to the Bank on the monitoring results in accordance with the project's legal agreement, the ESCP and the ESSs. ESS10 provides information on how the monitoring program results can be communicated and defined through an inclusive, transparent and gender-responsive consultation process with project affected persons and other relevant stakeholders during project preparation.

GN45.2. The project's environmental and social management plan (either a stand-alone document in the case of high and substantial risk projects or as captured in the ESCP) sets out the monitoring objectives and types of monitoring for the project's environmental and social impacts and mitigation measures. Establishing monitoring systems, resources and personnel, and collecting baseline data early in project preparation, are an important requirement for effective monitoring, reporting and managing environmental and social performance throughout the project. Indicators selected for monitoring are based on the project's baseline data and expected project and mitigation activities, outputs and benefits.

GN45.3. It is a good practice to engage with stakeholders and especially with project affected parties to assist in participatory monitoring activities. When stakeholders and third parties (such as project-affected parties) are engaged to assist in monitoring activities, it is important and good practice to provide guidance and training as needed to enhance their capacity for such participatory monitoring. Guidance and training should be in accordance with ESS 10.

46. *Monitoring will normally include recording information to track performance, and establishing relevant operational controls to verify and compare compliance and progress. Monitoring will be adjusted according to performance experience, as well as actions requested by relevant regulatory authorities and feedback from stakeholders such as community members. The Borrower will document monitoring results.*

47. *The Borrower will provide regular reports as set out in the ESCP (in any event, no less than annually) to the Bank of the results of the monitoring. Such reports will provide an accurate and objective record of project implementation, including compliance with the ESCP and the requirements of the ESSs. Such reports will include*

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information on stakeholder engagement conducted during project implementation in accordance with ESS10. The Borrower, and the agencies implementing the project, will designate senior officials to be responsible for reviewing the reports.

GN47.1. Informed and discussed through an inclusive, transparent and gender responsive consultation process, the Borrower and Bank agree on the format, content and frequency of the reports, which can vary depending on the nature of the project and the significance of the environmental and social risks, impacts and mitigation measures. Monitoring results will be made available to third parties involved in implementing the project and project affected parties.

48. Based on the results of the monitoring, the Borrower will identify any necessary corrective and preventive actions, and will incorporate these in an amended ESCP or the relevant management tool, in a manner acceptable to the Bank. The Borrower will implement the agreed corrective and preventive actions in accordance with the amended ESCP or relevant management tool, and monitor and report on these actions.

49. The Borrower will facilitate site visits by Bank staff or consultants acting on the Bank's behalf.

GN 49.1 As part of the Bank's due diligence, the Bank will engage and consult with project affected parties and other relevant stakeholders whenever it considers appropriate and at its own discretion. Project affected parties will be able to contact and engage with the Bank directly at any time during the project life-cycle, including in cases where Borrower systems are used in part or in whole.

50. The Borrower will notify the Bank promptly of any incident or accident relating to the project which has, or is likely to have, a significant adverse effect on the environment, the affected communities, the public or workers. The notification will provide sufficient detail regarding such incident or accident, including any fatalities or serious injuries. The Borrower will take immediate measures to address the incident or accident and to prevent any recurrence, in accordance with national law and the ESSs.

E. Stakeholder Engagement and Information Disclosure

51. As set out in ESS10, the Borrower will continue to engage with, and provide sufficient information to stakeholders throughout the life-cycle of the project, in a manner appropriate to the nature of their interests and the potential environmental and social risks and impacts of the project.

52. For High Risk and Substantial Risk projects, the Borrower will provide to the Bank and disclose documentation, as agreed with the Bank, relating to the environmental and social risks and impacts of the project prior to project appraisal⁴². The documentation will address, in an adequate manner, the key risks and impacts of the project, and will provide sufficient detail to inform stakeholder engagement and Bank decision-making. The Borrower will provide to the Bank and disclose final or updated documentation as specified in the ESCP.

Footnote 42. In agreeing with the Borrower the documentation to be provided and disclosed prior to project appraisal and following Board approval, the Bank will take into account paragraphs 51 and 52 of the Policy.

GN 51.2 It is important and a good practice that the Borrower publicly discloses all draft terms of reference, environmental and social assessments, mitigation plans, resettlement plans and project budgets prepared prior to project appraisal in a gender-responsive manner accessible and culturally appropriate

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to affected persons (online, printed copies, infographics, newspaper, radio broadcast, etc.) allowing them the opportunity to feed into analysis and plans, and provide informed comments prior to project approval. The Borrower should also disclose on a regular basis and in a manner accessible to project affected persons all project monitoring reports including the ESCP.

53. *If there are significant changes to the project that result in additional risks and impacts, particularly where these will impact project-affected parties, the Borrower will provide information on such risks and impacts and consult with project-affected parties as to how these risks and impacts will be mitigated. The Borrower will disclose an updated ESCP, setting out the mitigation measures.*

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ESS1-ANNEX 1. Environmental and Social Assessment

A. General

1. *The Borrower will undertake an environmental and social assessment to assess the environmental and social risks and impacts of a project throughout the project life-cycle. The term 'environmental and social assessment' is a generic term that describes the process of analysis and planning used by the Borrower to ensure the environmental and social impacts and risks of a project are identified, avoided, minimized, reduced or mitigated.*

GN 1. This includes an assessment of direct and indirect climate impacts and adaptation-related considerations. For projects with a life span beyond 5 years, this should include an assessment of how future climate impacts will affect project operations as well as the cumulative climate impacts from greenhouse gas emissions over the life cycle of the project.

2. *The environmental and social assessment is the primary means of ensuring projects are environmentally and socially sound and sustainable, and will be used to inform decision making. The environmental and social assessment is a flexible process, that can use different tools and methods depending on the details of the project and the circumstances of the Borrower (see paragraph 5 below).*

3. *The environmental and social assessment will be conducted in accordance with ESS1, and will consider, in an integrated way, all relevant direct, indirect and cumulative environmental and social risks and impacts of the project, including those specifically identified in ESS1-10. The breadth, depth, and type of analysis undertaken as part of the environmental and social assessment will depend on the nature and scale of the project, and the potential environmental and social risks and impacts that could result. The Borrower will undertake the environmental and social assessment at the scale and level of detail appropriate to the potential risks and impacts.¹*

Footnote 1. See ESS1 Section B.

GN3.1 In preparing an environmental and social assessment and all respective mitigations plans or frameworks including resettlement plans, livelihood restoration plans, indigenous peoples plans, it is important to engage in an inclusive and transparent consultation process with project affected people and stakeholders. The consultation process should also be gender responsive and consider gender dynamics as well as consider vulnerable and marginalized groups to ensure a thorough discussion of findings, options and recommendations based on draft assessments and draft action plans.

4. *The manner in which the environmental and social assessment will be conducted and the issues to be addressed will vary for each project. The Borrower will consult with the Bank to determine the process to be used, taking into account a number of activities, including scoping, stakeholder engagement, potential environmental and social issues and any specific issues raised between the Bank and Borrower. The environmental and social assessment will include and take into account coordination and consultation with affected people and other interested parties, particularly at an early stage, to ensure that all potentially significant environmental and social risks and impacts are identified and addressed.*

GN4.1 In preparing an environmental and social assessment and all respective mitigations plans or frameworks including resettlement plans, livelihood restoration plans, indigenous peoples plans it is important to develop a baseline and establish institutional arrangements, systems, resources (including human and financial), timelines, and personnel to ensure functional monitoring and reporting systems to

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track the project environmental and social performance and compliance with the respective action plans including the ESSs and the ESCP. There is also a need to provide for a monitoring process with customized gender sensitive indicators.

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5. *The different methods and tools used by the Borrower to carry out the environmental and social assessment and to document the results of such assessment, including the mitigation measures to be implemented, will reflect the nature and scale of the project². As specified in ESS1³, these will include, as appropriate, a combination or elements of the following:*
- a. *Environmental and Social Impact Assessment (ESIA)*
Environmental and social impact assessment (ESIA) is an instrument to identify and assess the potential environmental and social impacts of a proposed project, evaluate alternatives, and design appropriate mitigation, management, and monitoring measures.
 - b. *Environmental and Social Audit*
Environmental and social audit is an instrument to determine the nature and extent of all environmental and social areas of concern at an existing project or activities. The audit identifies and justifies appropriate measures and actions to mitigate the areas of concern, estimates the cost of the measures and actions, and recommends a schedule for implementing them. For certain projects, the environmental and social assessment may consist of an environmental or social audit alone; in other cases, the audit forms part of the environmental and social assessment.
 - c. *Hazard or Risk Assessment*
Hazard or risk assessment is an instrument for identifying, analyzing, and controlling hazards associated with the presence of dangerous materials and conditions at a project site. The Bank requires a hazard or risk assessment for projects involving certain inflammable, explosive, reactive, and toxic materials when they are present in quantities above a specified threshold level. For certain projects, the environmental and social assessment may consist of the hazard or risk assessment alone; in other cases, the hazard or risk assessment forms part of the environmental and social assessment.
 - d. *Cumulative Impact Assessment*
Cumulative Impact Assessment is an instrument to consider cumulative impacts of the project in combination with 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.
 - e. *Social and Conflict Analysis*
Social and conflict analysis is an instrument that assesses the degree to which the project may (a) exacerbate existing tensions and inequality within society (both within the communities affected by the project and between these communities and others); (b) have a negative effect on stability and human security; (c) be negatively affected by existing tensions, conflict and instability, particularly in circumstances of war, insurrection and civil unrest.
 - f. *Environmental and Social Management Plan (ESMP)*
Environmental and social management plan (ESMP) is an instrument that details (a) the measures to be taken during the implementation and operation of a project to eliminate or offset adverse environmental and social impacts, or to reduce them to acceptable levels; and (b) the actions needed to implement these measures.
 - g. *Environmental and Social Management Framework (ESMF)*
Environmental and social management framework (ESMF) is an instrument that examines the risks and impacts when a project consists of a program and/or series of sub-projects, and the risks and impacts cannot be determined until the program or sub-project details have been identified. The ESMF sets out the principles, rules, guidelines and procedures to assess the environmental and social risks and impacts. It contains measures and plans to reduce, mitigate and/or offset adverse risks and impacts, provisions for estimating and budgeting the costs of

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such measures, and information on the agency or agencies responsible for addressing project risks and impacts, including on its capacity to manage environmental and social risks and impacts. It includes adequate information on the area in which subprojects are expected to be sited, including any potential environmental and social vulnerabilities of the area; and on the potential impacts that may occur and mitigation measures that might be expected to be used.

h. **Regional ESIA**

Regional ESIA examines environmental and social risks and impacts, and issues, associated with a particular strategy, policy, plan, or program, or with a series of projects, for a particular region (e.g., an urban area, a watershed, or a coastal zone); evaluates and compares the impacts against those of alternative options; assesses legal and institutional aspects relevant to the risks, impacts and issues; and recommends broad measures to strengthen environmental and social management in the region. Regional ESIA pays particular attention to potential cumulative risks and impacts of multiple activities in a region but may not include the site-specific analyses of a specific project, in which case the Borrower must develop supplemental information.

i. **Sectoral ESIA**

Sectoral ESIA examines environmental and social risks and impacts, and issues, associated with a particular sector in a region or across a nation; evaluates and compares the impacts against those of alternative options; assesses legal and institutional aspects relevant to the risks and impacts; and recommends broad measures to strengthen environmental and social management in the region. Sectoral ESIA also pays particular attention to potential cumulative risks and impacts of multiple activities. A Sectoral ESIA may need to be supplemented with project- and site-specific information.

j. **Strategic Environmental and Social Assessment (SESA)**

Strategic environmental and social assessment (SESA) is a systematic examination of environmental and social risks and impacts, and issues, associated with a policy, plan or program, typically at the national level but also in smaller areas. The examination of environmental and social risks and impacts will include consideration of the full range of environmental and social risks and impacts incorporated in ESS 1 through 10. SESAs are typically not location-specific. They are therefore prepared in conjunction with project and site -specific studies that assess the risks and impacts of the project.

Footnote 2. These will also reflect national regulatory requirements, which may be relied on by the Borrower to the extent they meet the requirements of the ESSs.

Footnote 3. See ESS1, paragraph 23.

GN5.1 (Footnote) The different methods and tools used by the Borrower should also reflect international legal obligations as they relate to the design and implementation of the project and therefore to the identification of mitigation measures. Where the Borrower has entered into international obligations or treaties that are directly applicable to the project, the assessment should consider the way in which these could inform the project's environmental and social assessment, design and implementation.

6. *Specific features of a project may require the Borrower to utilize specialized methods and tools for assessment, such as a Resettlement Plan, Livelihood Restoration Plan, Indigenous Peoples Plan, Biodiversity Action Plan, Cultural Heritage Management Plan, and other plans as agreed with the Bank.*

GN6.1 Other specialized methods and tools for assessments include a **Gender Impact Assessment** and a **Human Rights Impact Assessment**.

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7. *Borrowers should initiate the environmental and social assessment as early as possible in project processing. Borrowers will consult with the Bank as early as possible so the environmental and social assessment is designed from the outset to meet the requirements of the ESSs.*

GN7.1 It is important and a good practice that the Borrower discloses publicly all draft terms of reference, environmental and social assessments, mitigation plans, indigenous peoples' plans, resettlement plans, livelihood restoration plans and project budgets prepared prior to project appraisal in a gender-responsive manner, accessible and culturally appropriate to affected persons (online, printed copies, infographics, newspaper, radio broadcast, etc.) allowing them the opportunity to feed into analysis and plans, and provide informed comments prior to project approval.

8. *The environmental and social assessment will be closely integrated with the project's economic, financial, institutional, social, and technical analyses so that environmental and social considerations are taken into consideration in project selection, siting, and design decisions. The Borrower will take measures to ensure that when individuals or entities are engaged to carry out environmental and social assessment, any conflict of interest is avoided. The environmental and social assessment will not be carried out by the consultants who prepare the engineering design, unless the Borrower can demonstrate that no conflict of interest exists and such consultants include qualified environmental and social specialists.*

GN8.1 In order to ensure total independence and neutral identification of risks and impacts, it is a good practice that the consultants preparing the environmental and social assessments are not the same ones or have any type of relationship with the consultants preparing the engineering design.

9. *When the Borrower has completed or partially completed environmental and social assessment prior to the Bank's involvement in a project, the environmental and social assessment is subject to the Bank's review to ensure that it meets the requirements of the ESSs. If appropriate, the Borrower is required to conduct additional work, including public consultation and disclosure.*

B. Institutional Capacity

10. *Environmental and social assessment can provide opportunities for coordinating environmental and social-related responsibilities and actions in the host country in a way that goes beyond project boundaries/responsibilities and, as a result, where feasible should be linked to other environmental and social strategies and action plans, and free-standing projects. The environmental and social assessment for a specific project can thereby help strengthen environmental and social management capability in the country and both Borrowers and the Bank are encouraged to take advantage of opportunities to use it for that purpose.*

GN10.1 In order to identify and take advantage of the opportunities to strengthen environmental and social institutional capacities and capabilities, and as part of promoting the use of Borrower's environmental and social frameworks, the Bank will conduct its own assessment of the Borrower's frameworks. Assessing Borrower Frameworks at the project level is an important and necessary step to support and strengthen the Borrower's approach to managing environmental and social risks and impacts. Assessing the Borrower's frameworks is also important within the development process as it provides

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information that can inform projects and sectors throughout the borrowing country enhancing ownership and capacity, building and strengthen institutions over the long term, and provides opportunities for collaboration and learning. It also helps to avoid duplication of Borrower and Bank requirements.

11. *The Borrower may include components in the project to strengthen its legal or technical capacity to carry out key environmental and social assessment functions. If the Bank concludes that the Borrower has inadequate legal or technical capacity to carry out such functions, the Bank may require strengthening programs to be included as part of the project. If the project includes one or more elements of capacity strengthening, these elements will be subject to periodic monitoring and evaluation as required by ESS1.*

GN11.1 The specific strengthening programs will be identified through the Bank's assessment of the Borrower's environmental and social framework. The assessment is conducted in reference to the proposed project and aims to measure a Borrower's social and environmental framework against the substantive requirements of the ESSs to ensure consistency with their objectives and requirements and considers whether using the Borrower's ES Framework is likely to address the environmental and social risks and impacts of the project and support the design and implementation of mitigation measures consistent with the mitigation hierarchy, and enable the project to achieve objectives materially consistent with the ESSs.

C. Other requirements for certain projects

12. *Where relevant, the environmental and social assessment will take into account the requirements of OP 7.50 for projects on international waterways and OP 7.60 for projects in disputed areas.*

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D. Indicative Outline of ESIA

13. Where an environmental and social impact assessment is prepared as part of the environmental and social assessment, it will include the following:

- (a) Executive summary
 - Concisely discusses significant findings and recommended actions.
- (b) Legal and institutional framework
 - Analyzes the legal and institutional framework for the project, within which the environmental and social assessment is carried out, including the issues set out in ESS1, paragraph 26 4.
 - Compare the Borrower's existing environmental and social framework and the ESSs and identify the gaps between them.
 - Identifies and assesses the environmental and social requirements of any co-financiers.
- (c) Project description
 - Concisely describes the proposed project and its geographic, environmental, social, and temporal context, including any offsite investments that may be required (e.g., dedicated pipelines, access roads, power supply, water supply, housing, and raw material and product storage facilities), as well as the project's primary suppliers.
 - Through consideration of the details of the project, indicates the need for any plan to meet the requirements of ESS 1 through 10.
 - Includes a map of sufficient detail, showing the project site and the area that may be affected by the project's direct, indirect, and cumulative impacts.
- (d) Baseline data
 - Sets out in detail the baseline data that is relevant to decisions about project location, design, operation, or mitigation measures. This should include a discussion of the accuracy, reliability, and sources of the data as well as information about dates surrounding project identification, planning and implementation.
 - Identifies and estimates the extent and quality of available data, key data gaps, and uncertainties associated with predictions;
 - Based on current information, assesses the scope of the area to be studied and describes relevant physical, biological, and socioeconomic conditions, including any changes anticipated before the project commences.
 - Takes into account current and proposed development activities within the project area but not directly connected to the project.
- (e) Environmental and social risks and impacts
 - Takes into account all relevant environmental and social risks and impacts of the project. This will include the environmental and social risks and impacts specifically identified in ESS2 – 8, and any other environmental and social risks and impacts arising as a consequence of the specific nature and context of the project, including the risks and impacts identified in ESS1, paragraph 28.
- (f) Mitigation measures
 - Identifies mitigation measures and significant residual negative impacts that cannot be mitigated and, to the extent possible, assesses the acceptability of those residual negative impacts.
 - Identifies differentiated measures so that adverse impacts do not fall disproportionately on the disadvantaged or vulnerable.
 - assesses the feasibility of mitigating the environmental and social impacts; the capital and recurrent costs of proposed mitigation measures, and their suitability under local

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conditions; the institutional, training, and monitoring requirements for the proposed mitigation measures.

- specifies issues that do not require further attention, providing the basis for this determination.

(g) Analysis of alternatives

- systematically compares feasible alternatives to the proposed project site, technology, design, and operation—including the "without project" situation—in terms of their potential environmental and social impacts;
- assesses the alternatives' feasibility of mitigating the environmental and social impacts; the capital and recurrent costs of alternative mitigation measures, and their suitability under local conditions; the institutional, training, and monitoring requirements for the alternative mitigation measures.
- For each of the alternatives, quantifies the environmental and social impacts to the extent possible, and attaches economic values where feasible.

(h) Design measures

- sets out the basis for selecting the particular project design proposed and specifies the applicable ESHGs or if the ESHGs are determined to be inapplicable, justifies recommended emission levels and approaches to pollution prevention and abatement that are consistent with GIIP.

(i) Key measures and actions for the Environmental and Social Commitment Plan (ESCP)

- Summarizes key measures and actions and the timeframe required for the project to meet the requirements of the ESSs. This will be used in developing the Environmental and Social Commitment Plan (ESCP).

(j) Appendices

- List of the individuals or organizations that prepared or contributed to the environmental and social assessment.
- References—setting out the written materials both published and unpublished, that have been used.
- Record of meetings, consultations and surveys with stakeholders, including those with affected people and other interested parties. The record specifies the means of such stakeholder engagement that were used to obtain the views of affected people and other interested parties.
- Tables presenting the relevant data referred to or summarized in the main text.
- List of associated reports or plans.

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Footnote 4. ESS1, paragraph 26, states that the environmental and social assessment takes into account in an appropriate manner all issues relevant to the project, including: (a) the country's applicable policy framework, national laws and regulations, and institutional capabilities (including implementation) relating to environment and social issues; variations in country conditions and project context; country environmental or social studies; national environmental or social action plans; and obligations of the country directly applicable to the project under relevant international treaties and agreements; (b) applicable requirements under the ESSs; and (c) the EHSs, and other relevant GIIP.

GN13.1 In preparing an environmental and social impact assessment and all respective mitigation measures, it is important to engage in an inclusive and transparent consultation process with project affected people and stakeholders. The consultation process should also be gender responsive and consider gender dynamics as well as consider vulnerable and marginalized groups to ensure a thorough discussion of findings, options and recommendations based on draft assessments and draft action plans.

GN13.2 In preparing an environmental and social assessment baseline data, it is important to gather gender-disaggregated data in all projects from corporate investments to land titling initiatives. Gender-disaggregated data is essential to encourage attention to gender issues and to measure progress on achieving greater gender equality. When establishing a baseline data it is also important to establish institutional arrangements, systems, resources, timelines, and personnel to ensure functional monitoring and reporting systems to track the project environmental and social performance and compliance with the respective action plans including the ESSs and the ESCP.

GN13.3 In preparing the Environmental and social legal and institutional framework, it is important to consider international law requirements as they relate to the design and implementation of the project and therefore to the identification of mitigation measures. Where the Borrower has entered into international obligations or treaties that are directly applicable to the project, the assessment should consider the way in which these could inform project environmental and social assessment, design and implementation.

GN13.4 It is important and a good practice that the Borrower discloses publicly all draft terms of reference, environmental and social assessments, mitigation plans, resettlement plans and project budgets prepared prior to project appraisal in a gender-responsive manner, accessible and culturally appropriate to affected persons (online, printed copies, infographics, newspaper, radio broadcast, etc.) allowing them the opportunity to feed into analysis and plans, and provide informed comments prior to project approval.

E. Indicative Outline of ESMP

14. An ESMP consists of the set of mitigation, monitoring, and institutional measures to be taken during implementation and operation of a project to eliminate adverse environmental and social risks and impacts, offset them, or reduce them to acceptable levels. The ESMP also includes the measures and actions needed to implement these measures. The Borrower will (a) identify the set of responses to potentially adverse impacts; (b) determine

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requirements for ensuring that those responses are made effectively and in a timely manner; and (c) describe the means for meeting those requirements.

15. Depending on the project, an ESMP may be prepared as a stand-alone document⁵ or the content may be incorporated directly into the ESCP. The content of the ESMP will include the following:

(a) Mitigation

- The ESMP identifies measures and actions in accordance with the mitigation hierarchy that reduce potentially adverse environmental and social impacts to acceptable levels. The plan will include compensatory measures, if applicable. Specifically, the ESMP:
 - (i) identifies and summarizes all anticipated adverse environmental and social impacts (including those involving indigenous people or involuntary resettlement);
 - (ii) describes--with technical details--each mitigation measure, including the type of impact to which it relates and the conditions under which it is required (e.g., continuously or in the event of contingencies), together with designs, equipment descriptions, and operating procedures, as appropriate;
 - (iii) estimates any potential environmental and social impacts of these measures; and
 - (iv) takes into account, and is consistent with, other mitigation plans required for the project (e.g., for involuntary resettlement, indigenous peoples, or cultural heritage).

(b) Monitoring

- The ESMP identifies monitoring objectives and specifies the type of monitoring, with linkages to the impacts assessed in the environmental and social assessment and the mitigation measures described in the ESMP 6. Specifically, the monitoring section of the ESMP provides (a) a specific description, and technical details, of monitoring measures, including the parameters to be measured, methods to be used, sampling locations, frequency of measurements, detection limits (where appropriate), and definition of thresholds that will signal the need for corrective actions; and (b) monitoring and reporting procedures to (i) ensure early detection of conditions that necessitate particular mitigation measures, and (ii) furnish information on the progress and results of mitigation.

(c) Capacity development and training

- To support timely and effective implementation of environmental and social project components and mitigation measures, the ESMP draws on the environmental and social assessment of the existence, role, and capability of responsible parties on site or at the agency and ministry level.
- Specifically, the ESMP provides a specific description of institutional arrangements, identifying which party is responsible for carrying out the mitigation and monitoring measures (e.g. for operation, supervision, enforcement, monitoring of implementation, remedial action, financing, reporting, and staff training).
- To strengthen environmental and social management capability in the agencies responsible for implementation, the ESMP recommends the establishment or expansion of the parties responsible, the training of staff and any additional measures that may be necessary to support implementation of mitigation measures and any other recommendations of the environmental and social assessment.

(d) Implementation schedule and cost estimates

- For all three aspects (mitigation, monitoring, and capacity development), the ESMP provides (a) an implementation schedule for measures that must be carried out as part of the project, showing phasing and coordination with overall project implementation plans; and (b) the capital and recurrent cost estimates and sources of funds for implementing the ESMP. These figures are also integrated into the total project cost tables.

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(e) Integration of ESMP with project

- *The Borrower's decision to proceed with a project, and the Bank's decision to support it, are predicated in part on the expectation that the ESMP (either stand alone or as incorporated into the ESCP) will be executed effectively. Consequently, each of the measures and actions to be implemented will be clearly specified, including the individual mitigation and monitoring measures and actions and the institutional responsibilities relating to each, and the costs of so doing will be integrated into the project's overall planning, design, budget, and implementation.*

Footnote 5. This may be particularly relevant where the Borrower is engaging contractors, and the ESMP sets out the requirements to be followed by contractors. In this case the ESMP should be incorporated as part of the contract between the Borrower and the contractor, together with appropriate monitoring and enforcement provisions.

Footnote 6. Monitoring during project implementation provides information about key environmental and social aspects of the project, particularly the environmental and social impacts of the project and the effectiveness of mitigation measures. Such information enables the Borrower and the Bank to evaluate the success of mitigation as part of project supervision, and allows corrective action to be taken when needed.

GN15.1 In preparing an environmental and social mitigation and management plan, it is important to engage in an inclusive and transparent consultation process with project affected people and stakeholders. The consultation process should also be gender responsive and consider gender dynamics as well as consider vulnerable and marginalized groups to ensure a thorough discussion of mitigation measures and options.

GN15.2 In preparing an environmental and social mitigation and management plan, it is important to consider gender dynamics in all mitigation measures to ensure women's interests are considered in various aspects of their social and environmental life including livelihoods options and gender roles and power relations. It is also important to establish institutional arrangements, systems, resources, timelines, and personnel to ensure functional monitoring and reporting systems to track the project environmental and social performance and compliance with the respective action plans including the ESSs and the ESCP.

GN15.3 In preparing the environmental and social mitigation and management plan, it is important to consider international law requirements as they relate to the design and implementation of the project and therefore to the identification of mitigation measures. Where the Borrower has entered into international obligations or treaties that are directly applicable to the project, the assessment should consider the way in which these could inform project environmental and social assessment, design and implementation.

GN15.4 It is important and a good practice that the Borrower discloses publicly all draft ESMPs and respective budgets prior to project appraisal in a gender-responsive manner, accessible and culturally appropriate to affected persons (online, printed copies, infographics, newspaper, radio broadcast, etc.) allowing them the opportunity to feed into analysis and plans, and provide informed comments prior to project approval.

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F. Indicative Outline of Environmental and Social Audit

16. The aim of the audit is to identify significant environmental and social issues in the existing project or activities, and assess their current status, specifically in terms of meeting the requirements of the ESSs.

(a) Executive summary

- Concisely discusses significant findings and set out recommended measures and actions and timeframes.

(b) Legal and institutional framework

- Analyzes the legal and institutional framework for the existing project or activities, including the issues set out in ESS1, paragraph 26, and (where relevant) any applicable environmental and social requirements of existing financiers.

(c) Project description

- Concisely describes the existing project or activities, and the geographic, environmental, social, and temporal context and any Associated Facilities.
- Identifies the existence of any plans already developed to address specific environmental and social risks and impacts (e.g. land acquisition or resettlement plan, cultural heritage plan, biodiversity plan)
- Includes a map of sufficient detail, showing the site of the existing project or activities and the proposed site for the proposed project.

(d) Environmental and social Issues associated with the existing project or activities

- The review will consider the key risks and impacts relating to the existing project or activities. This will cover the risks and impacts identified in ESSs1-10, as relevant to the existing project or activities. The audit will also review issues not covered by the ESSs, to the extent that they represent key risks and impacts in the circumstances of the project.

(e) Environmental and social analysis

- The audit will also assess (i) the potential impacts of the proposed project (taking into account the findings of the audit with regard to the existing project or activities); and (ii) the ability of the proposed project to meet the requirements of the ESSs.

(f) Proposed environmental and social measures

- Based on the findings of the audit, this section will set out the suggested measures to address such findings. These measures will be included in the Environmental and Social Commitment Plan (ESCP) for the proposed Project. Measures typically covered under this section include the following:
 - specific actions required to meet the requirements of the ESSs
 - corrective measures and actions to mitigate potentially significant environmental and/or social risks and impacts associated with the existing project or activities
 - measures to avoid or mitigate any potential adverse environmental and social risks or impacts associated with the proposed project

GN16.1 In preparing an environmental and social audit, it is important to engage in an inclusive and transparent consultation process with project affected people and stakeholders. The consultation process should also be gender responsive and consider gender dynamics as well as consider vulnerable and marginalized groups to ensure a thorough discussion of mitigation measures and options.

GN15.2 In preparing an environmental and social audit, it is important to consider gender dynamics to ensure women interests are consider in various aspects of their social and environmental life including

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livelihoods options, and gender roles and power relations. It is also important to establish institutional arrangements, systems, resources, timelines, and personnel to ensure functional monitoring and reporting systems to track the project environmental and social performance and compliance with the respective action plans including the ESSs and the ESCP.

GN15.3 In preparing the environmental and social audit, it is important to consider international law requirements as they relate to the design and implementation of the project and therefore to the identification of mitigation measures. Where the Borrower has entered into international obligations or treaties that are directly applicable to the project, the assessment should consider the way in which these could inform project environmental and social assessment, design and implementation.

GN15.4 It is important and a good practice that the Borrower discloses publicly all draft environmental and social audits and respective mitigation measures and budgets prior project appraisal in a gender-responsive manner, accessible and culturally appropriate to affected persons (online, printed copies, infographics, newspaper, radio broadcast, etc.) allowing them the opportunity to feed into analysis and plans, and provide informed comments prior to project approval.

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ESS1-ANNEX 2. Environmental and Social Commitment Plan

A. Introduction

1. *The Borrower will agree on an Environmental and Social Commitment Plan (ESCP) with the Bank. The ESCP forms part of the legal agreement. It is designed to consolidate into one summary document the material measures and actions that are required for the project to achieve compliance with the ESSs over a specified timeframe in a manner satisfactory to the Bank.*

2. *The Borrower will agree on an Environmental and Social Commitment Plan (ESCP) with the Bank. The ESCP forms part of the legal agreement. It is designed to consolidate into one summary document the material measures and actions that are required for the project to achieve compliance with the ESSs over a specified timeframe in a manner satisfactory to the Bank.*

B. Content of an ESCP

3. *The ESCP will be an accurate summary of the material measures and actions to address the potential environmental and social risks and impacts of the project in accordance with the mitigation hierarchy. It will form the basis for monitoring the environmental and social performance of the project. All requirements will be set out clearly, so that there is no ambiguity around compliance, timing and monitoring. Depending on the project, the ESCP may specify funding to be made available for completion of a measure or action, and include other details relevant to completion.*

4. *The ESCP will also include a process that allows for adaptive management of proposed project changes or unforeseen circumstances. The process will set out how such changes or circumstances will be managed and reported and any necessary changes will be made to the ESCP and relevant management tools.*

GN4.1 Adaptive management is a systematic approach for improving management by learning from continuous and regular monitoring of the project's risks and impacts, and feedback from project affected persons, especially marginalized and vulnerable groups, and other relevant stakeholders, outcomes and new information throughout the project life-cycle. It focuses on learning and adapting and can be applied to timely and effectively respond to project changes or unforeseen circumstances or risks. For example, an adaptive management approach incorporates processes to regularly and continuously monitor environmental and social mitigation measures compared to expected outcomes and benefits throughout the project life-cycle, to detect and learn from changes to those outcomes, and to make decisions to realign project outcomes with ESS objectives in a timely manner to avoid further negative impacts and enhance positive ones. Adaptive management processes are by design flexible and iterative, and highly dependent on strong, systematic monitoring and feedback from project affected persons and other stakeholders for timely modifications. It is useful to define such learning and adaptation mechanisms through an inclusive, transparent and gender responsive consultation process with project affected persons and other relevant stakeholders during project preparation and then outline them in the ESCP.

5. *The ESCP will also set out a summary of the organizational structure that the Borrower will establish and maintain to implement the actions agreed in the ESCP. The organizational structure will take into account the*

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different roles and responsibilities of the Borrower and the agencies responsible for implementing the project, and identify specific personnel with clear lines of responsibility and authority.

6. *The ESCP will set out a summary of the training that the Borrower will provide to address the specific actions required under the ESCP, identifying the recipients of such training and the required human and financial resources.*

GN6.1 When stakeholders and third parties (such as project-affected parties) are engaged to assist in monitoring activities, it is important and good practice to provide guidance and training as needed to enhance their capacity for such participatory monitoring. Such training and capacity building should be gender-responsive.

7. *The ESCP will set out the systems, resources and personnel that the Borrower will put in place to carry out monitoring, and will identify any third parties that will be used to complement or verify the Borrower's monitoring activities.*

GN7.1 As part of the establishment of systems, resources and personnel to carry out monitoring, collecting baseline data is an important requirement for effective monitoring, reporting and managing of environmental and social performance throughout the project. Indicators selected for monitoring are based on the project's baseline data and expected project and mitigation activities, outputs and benefits. Monitoring and reporting are critical elements for ESCP compliance and for an adaptive management system that helps track the environmental and social performance of the project and determine whether it is achieving its expected outcomes and meeting various environmental and social requirements, whether additional measures need to be implemented, and to efficiently learn, adapt and in a timely manner respond to project changes or unforeseen circumstances. It is important that the monitoring system and resources allow for monitoring reports to be publicly available in an accessible manner to project affected persons.

8. *The content of an ESCP will differ from project to project. For some projects, the ESCP will capture all relevant obligations of the Borrower, and there will be no requirement for additional plans. For other projects, the ESCP will refer to other plans, either plans that already exist or plans to be prepared (e.g. an ESMP, a resettlement plan, a hazardous waste plan) which set out detailed project requirements. In such circumstances, the ESCP will summarize key aspects of the plans. Where plans are to be developed, the ESCP will set out timeframes for completion of such plans.*

9. *Where, and to the extent that, the project is relying on use of the Borrower's existing environmental and social framework, the ESCP will identify the specific aspects of the national framework with reference to the relevant ESSs.*

C. Implementation of ESCP

10. *The Borrower will implement diligently the measures and actions identified in the ESCP in accordance with the timeframes specified, and will review the status of implementation of the ESCP as part of its monitoring and reporting.¹*

Footnote 1. See ESS1 Section D.

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11. *The Borrower will maintain, and strengthen as necessary throughout the project life-cycle, the organizational structure established to oversee environmental and social aspects of the project. Key social and environmental responsibilities will be well-defined, and communicated to all personnel involved. Sufficient high-level commitment, and human and financial resources, will be provided on an ongoing basis to implement the ESCP.*

12. *The Borrower will ensure that persons with direct responsibility for activities relevant to the implementation of the ESCP are adequately qualified and trained so that they have the knowledge and skills necessary to perform their work. The Borrower, either directly or through agencies responsible for implementing the project, will provide training to address the specific measures and actions required by the ESCP, and to support effective and continuous social and environmental performance.*

13. *The Borrower will notify the Bank promptly of any proposed changes to the scope, design, implementation or operation of the project that are likely to cause an adverse change in the environmental or social risks or impacts of the project. The Borrower will carry out, as appropriate, additional assessment and stakeholder engagement in accordance with the ESSs, and propose changes, for approval by the Bank, to the ESCP and relevant management tools, as appropriate, in accordance with the findings of such assessments and consultation. The updated ESCP will be disclosed.*

D. Timing for conducting project activities

14. *If the Borrower is required to plan or take specific measures and actions over a specified timeframe to avoid, minimize, reduce or mitigate specific risks and impacts of the project, the Borrower may not carry out any activities in relation to the project that may cause material adverse environmental or social risks or impacts, until the relevant plans, measures or actions have been completed in accordance with the ESCP, including satisfying applicable requirements on consultation and disclosure.*

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ESS1-ANNEX 3. Management of Contractors

The Borrower will require that all contractors engaged on the project operate in a manner consistent with the requirements of the ESSs, including the specific requirements set out in the ESCP. The Borrower will manage all contractors in an effective manner, including:

- (a) Assessing the environmental and social risks and impacts associated with such contracts;*
- (b) Ascertaining that contractors engaged in connection with the project are legitimate and reliable enterprises, and have knowledge and skills to perform their project tasks in accordance with their contractual commitments;*
- (c) Incorporating all relevant aspects of the ESCP into tender documents;*
- (d) Contractually requiring contractors to apply the relevant aspects of the ESCP and the relevant management tools, and including appropriate and effective non-compliance remedies;*
- (e) Monitoring contractor compliance with their contractual commitments; and*
- (f) In the case of subcontracting, requiring contractors to have equivalent arrangements with their subcontractors.*

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Resource Efficiency and Pollution Prevention and Management

The Guidance Notes provide guidance for the Borrower on the application of the Environmental and Social Standards (ESSs), which form part of the World Bank’s 2016 Environmental and Social Framework. The Guidance Notes help to explain the requirements of the ESSs; they are not Bank policy, nor are they mandatory. The Guidance Notes do not substitute for the need to exercise sound judgment in making project decisions. In case of any inconsistency or conflict between the Guidance Notes and the ESSs, the provisions of the ESSs prevail. Each paragraph of the Standard is highlighted in a box, followed by the corresponding guidance.

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Introduction

1. ESS3 recognizes that economic activity and urbanization often generate pollution to air, water, and land, and consume finite resources that may threaten people, ecosystem services and the environment at the local, regional, and global levels. The current and projected atmospheric concentration of greenhouse gases (GHG) threatens the welfare of current and future generations. At the same time, more efficient and effective resource use, pollution prevention and GHG emission avoidance, and mitigation technologies and practices have become more accessible and achievable.

2. This ESS sets out the requirements to address resource efficiency and pollution¹ prevention and management² throughout the project life-cycle consistent with GIIP.

Footnote 1. The term "pollution" is used to refer to both hazardous and non-hazardous chemical pollutants in the solid, liquid, or gaseous phases, and includes other components such as thermal discharge to water, emissions of short- and long-lived climate pollutants, nuisance odors, noise, vibration, radiation, electromagnetic energy, and the creation of potential visual impacts including light.

Footnote 2. Unless otherwise noted in this ESS, "pollution management" includes measures designed to avoid or minimize emissions of pollutants, including short- and long-lived climate pollutants, given that measures which tend to encourage reduction in energy and raw material use, as well as emissions of local pollutants, also generally result in encouraging a reduction of emissions of short- and long-lived climate pollutants.

Objectives

- To promote the sustainable use of resources, including energy, water and raw materials.
- To avoid or minimize adverse impacts on human health and the environment by avoiding or minimizing pollution from project activities.
- To avoid or minimize project-related emissions of short and long-lived climate pollutants³.
- To avoid or minimize generation of hazardous and non-hazardous waste.
- To minimize and manage the risks and impacts associated with pesticide use.

Footnote 3. This includes all GHGs and black carbon (BC).

Scope of Application

3. The applicability of this ESS is established during the environmental and social assessment described in ESS1.

Requirements

4. The Borrower will consider ambient conditions and apply technically and financially feasible resource efficiency and pollution prevention measures in accordance with the mitigation hierarchy. The measures will be proportionate to the risks and impacts associated with the project and consistent with GIIP, in the first instance the EHSs.

Commented [OI1]: This needs a definition somewhere as it's referenced throughout; otherwise it's open to broad interpretation.

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Resource Efficiency

5. *The Borrower will implement technically and financially feasible measures for improving efficient consumption of energy, water and raw materials, as well as other resources. Such measures will integrate the principles of cleaner production into product design and production processes to conserve raw materials, energy and water, as well as other resources. Where benchmarking data are available, the Borrower will make a comparison to establish the relative level of efficiency.*

GN5.1. What constitutes the efficient usage of resources, including energy, water and raw materials, is project, context- and country-specific, with the goal of being informed by the best-available technology. Resource efficiency measures are frontline avoidance strategy. They minimize adverse impacts associated with activities across the entire production chain: they avoid impacts upstream by reducing resource inputs, and downstream by reducing waste and pollutants. In accordance with ESS1 resource efficiency measures should be prioritized at the top of the mitigation hierarchy with other avoidance strategies wherever possible.

GN5.2. Beyond selecting low-emitting technologies for new energy generation sources, end-use efficiency is a critical strategy for expanding and improving energy service delivery, while facilitating the transition to sustainable, low-emissions energy systems at least cost and risk. From a development perspective, systemic improvements in end-use efficiency can do more, faster, cleaner and at lower (often negative) cost to help countries meet their energy demands. From a climate mitigation perspective, end-use efficiency improvements offer considerable benefits and lowest opportunity costs. McKinsey Global Institute and others have identified a number of efficiency initiatives that save money and can reduce emissions almost immediately. Borrowers should prioritize an end-use efficiency oriented approach to the delivery of utility services over expanding energy or water supply where the same services could be more advantageously delivered through improved end-use efficiency.

GN5.3. In many industrial and commercial activities, where the unit of output can be readily defined, widely accepted benchmarks that describe performance in quantitative terms are available. For example, process energy use per ton of product is often an accepted benchmark. Similarly, building benchmarks may refer to energy or water use per guest-night in a hotel, or energy use per unit area, in other building types, with corrections for climatic variations. When these benchmarks are available and in accordance with GIIP, they can be used to evaluate project performance on the resource efficiency or pollution intensity requirements of ESS3. If such benchmarks have been demonstrably shown to be not available, using a best-available-techniques approach may be appropriate to benchmark one engineering approach against another. However, there may be certain industrial and commercial operations that do not readily lend themselves to benchmarking. In order to identify and capture opportunities for resource use reductions and efficiency improvements, all resources and energy intensive projects should undertake efficiency audits.

A. Energy Use

6. *The efficient use of energy is an important way in which the Borrower can contribute to sustainable development. When the project is a potentially significant user of energy, in addition to applying the resource*

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efficiency requirements of this ESS, the Borrower will adopt measures specified in the EHSs to optimize energy usage, to the extent technically and financially feasible.

GN6.1. Sectors that typically make significant use of energy include, for example, industrial production, water pumping or transport. However, projects in other sectors may also be significant users of energy; these include waste management, agriculture, education, and health.

GN6.2. Ways to identify technically and financially feasible measures to optimize energy usage include:

- Conducting mandatory energy audits as part of the environmental and social assessment, or as a stand-alone study, and
- Benchmarking against comparable energy users and GIIP to help identify relative performance with respect to anticipated energy use of the project and identifying appropriate solutions.

B. Water Use

7. When the project is a potentially significant user of water or will have potentially significant impacts on water quality, in addition to applying the resource efficiency requirements of this ESS, the Borrower will adopt measures, to the extent technically and financially feasible, that avoid or minimize water usage so that the project's water use does not have significant adverse impacts on communities, other users and the environment. These measures include, but are not limited to, the use of additional technically feasible water conservation measures within the Borrower's operations, the use of alternative water supplies, water consumption offsets to maintain total demand for water resources within the available supply, and evaluation of alternative project locations.

GN7.1. For purposes of paragraph 7, the significance of water use is determined on a case-by-case basis. This includes consideration of water availability (including seasonal and multi-year variations in water tables but also water precipitation), as well as water resource demand. The significance of water use needs to also factor in climate modeling and variability.

GN7.2. When identifying measures related to water consumption, it is important to consider water quality as well as quantity. Water quality can be affected by contaminated wastewater and refuse associated with projects involving construction, agriculture, and industry, among others. Suggested measures include eliminating on-site and post-project runoff, controlling and containing sources of pollutants, and treating contaminated water before discharge into drainage systems or receiving waters to minimize impacts on water quality, in a manner consistent with GIIP or other compatible good practices. Mitigation measures to reduce impacts on water quality and quantity include avoiding the impacts by re-siting the project, applying resource efficiency and/or secondary and tertiary treatment measures such as reverse osmosis-based water recovery or dry cooling, or minimizing evaporation/evapotranspiration.

8. For projects with a high water demand that have potentially significant adverse impacts on communities, other users or the environment, the following will apply:

- *A detailed water balance will be developed, maintained, monitored and reported periodically;*
- *Opportunities for improvement in water use efficiency will be identified and implemented;*

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- *Specific water use (measured by volume of water used per unit production) will be assessed; and*
- *Operations must be benchmarked to available industry standards of water use efficiency.*

GN8.1. For the purposes of paragraph 8, high water demand is determined based on local and national context, considering both water availability (including seasonal and multi-year variations) and water quality. High water demand projects need to factor in climate variability and modelling.

GN8.2. A detailed water balance factors in climate variability and incorporates measurements relating to: (a) all inputs, such as precipitation, external inflow of rivers and groundwater and returned water from users to a hydrological unit, for example, a river catchment or river basin, (b) all outputs from a hydrological unit, for example, water abstraction from surface/groundwater resources, outflow of rivers and groundwater to the sea or neighboring territories, or by evapotranspiration, and (c) cumulative impact assessment and changes in water storage over a defined period of time, for example, during a month or a year. In preparing the water balance, estimates of future water availability are included, which can vary based on anticipated changes in water demands or other factors, such as climate change. A detailed water balance supports management of water allocation among water users. It is also supports river basin management planning since it provides information on water availability and demand and can indicate potential for water conservation.

GN8.3. Various options exist to improve water use efficiency. For example, urban water use efficiency can be increased through use of water-saving technology, repairing water distribution systems to reduce leakage, promoting water use, and increasing storm water capture. Water use in agriculture, the largest consumer of water, can be made more efficient through irrigation system improvements, irrigation scheduling, improving water conveyance efficiency and leakage losses, managing soils to reduce run off and reusing water on-farm. To understand the significance of the project's potential impacts on communities, other users or the environment, and to identify appropriate solutions to improve water use efficiency it is important to include an assessment of the volume of water used per unit of production in the project's environmental and social assessment.

9. The Borrower will assess, as part of the environmental and social assessment, the potential cumulative impacts of water use upon communities, other users and the environment and will identify and implement appropriate mitigation measures.

GN9.1. Cumulative impacts of projects are defined in ESS1, Footnote 22. The environmental and social assessment includes impacts on surface and groundwater, and impacts on water quality and quantity and factors in climate variability and modelling.

C. Raw Material Use

10. When the project is a potentially significant user of raw materials, in addition to applying the resource efficiency requirements of this ESS, the Borrower will adopt measures⁴ specified in the EHSs and other GIIP to support efficient use of raw materials, to the extent technically and financially feasible.

Footnote 4. These measures can include reuse or recycling of materials. The Borrower will seek to reduce or eliminate the use of toxic or hazardous raw materials.

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GN10.1. Efficiency in use of raw materials can be achieved by minimizing their use in the project, selecting the most appropriate raw materials possible, and reducing and recycling wastes. Projects that usually make significant use of raw materials include road construction, housing and urban development, logging, mining and chemical processing.

Pollution Prevention and Management

11. *The Borrower will avoid the release of pollutants or, when avoidance is not feasible, minimize and control the concentration and mass flow of their release using the performance levels and measures specified in national law or the EHSs, whichever is most stringent. This applies to the release of pollutants to air, water and land due to routine, non-routine, and accidental circumstances, and with the potential for local, regional, and transboundary impacts.*

GN11.1. When pollution avoidance is not feasible, best available technologies and processes should be used to mitigate pollution impacts. It is good practice to undertake a thorough analysis that includes consideration of the source, nature and magnitude of the emission or discharge, its interaction with the ecosystem, and the ambient pollution problem to be addressed. Based on this analysis, appropriate technologies and processes that are in line with GIIP should be selected.

GN11.2. Monitoring frequency is determined by the nature, scale and variability of the potential emissions and may range from continuous monitoring to daily, monthly, annually, or less frequently, depending on the nature of the project emissions. In some cases, end-of-pipe emission flows can be diluted to meet emission standards while maintaining the same aggregate emission of pollutants into the environment. Therefore, it is important to monitor both emission flows and aggregate emissions using international best practices for the specific project type. If there are substantive changes to the project that modify the emissions, monitoring needs will also change. Monitoring is particularly important for projects with impacts that are uncertain and/or potentially irreversible. These projects consequently may call for more frequent or more detailed evaluation of emission levels and ambient quality.

12. *Where the project involves historical pollution,⁵ the Borrower will establish a process to identify the responsible party. If the historical pollution could pose a significant risk to human health or the environment, the Borrower will undertake a health and safety risk assessment⁶ of the existing pollution which may affect communities, workers and the environment. Any remediation of the site will be appropriately undertaken in accordance with national law and GIIP, whichever is most stringent.⁷*

Footnote 5. In this context historical pollution is defined as pollution from past activities affecting land and water resources for which no party has assumed or been assigned responsibility to address and carry out the required remediation.

Footnote 6. Such assessment will follow a risk-based approach consistent with GIIP, in the first instance the EHSs.

Footnote 7. If one or more third parties are responsible for the historical pollution, the Borrower will consider seeking recourse from such parties so that such pollution is appropriately remediated. The Borrower will implement adequate measures so that historical pollution at the site does not pose a significant risk to the health and safety of workers and communities.

GN12.1. The project's health and safety risk assessment is proportionate to the potential risks and impacts of the historical pollution of land and water resources, among others, and should be conducted as part of

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the environmental and social assessment. Appropriate mitigation measures are developed and implemented either as part of the project or through other means. Contamination management options, based on the outcome of the health and safety risk assessment, are site-specific and may include containment or isolation as well as mitigation. It is important to consult with project stakeholders (in accordance to ESS 10) when developing such options and mitigation measures.

GN12.2 (Footnote 7). Measures would be considered adequate where they address significant health and safety risks to project workers and communities.

13. To address potential adverse project impacts on human health and the environment,⁸ the Borrower will consider relevant factors, including, for example: (a) existing ambient conditions; (b) in areas already impacted by pollution, the remaining assimilative capacity⁹ of the environment; (c) existing and future land use; (d) the project's proximity to areas of importance to biodiversity; (e) the potential for cumulative impacts with uncertain and/or irreversible consequences; and (f) impacts of climate change.

Footnote 8. Such as air, surface and groundwater and soils.

Footnote 9. Assimilative capacity refers to 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.

GN13.1. The assimilative capacity of the environment includes the nature of the receiving environment, such as the existence of water bodies, soils, airsheds, forests, as well as temporal and seasonal factors.

GN13.2. The assimilative capacity of receiving water bodies may depend on numerous factors, including, for example, the total volume of water, flow and flushing rates, and the loading of pollutants from other effluent sources in the area or region. The assimilative capacity of soil may depend on the characteristics of both the received discharge and the soil, as well as the type of microbial, chemical and physical reactions that take place in the soil layer, and climatic conditions. Waste may include sewage sludge, municipal solid waste, municipal wastewater, industrial waste, agricultural waste, and leachates of manure disposed on land or used as a fertilizer. To determine the assimilative capacity of an airshed, emission levels, ambient air quality standards and prevailing meteorological conditions are taken into account. Appropriate air quality modeling or similar tools are necessary to determine critical emission loads.

GN13.3. When developing a project that is expected to produce potentially significant emissions of pollutants, the existing background ambient levels are evaluated in the environmental and social assessment to determine if they comply with the relevant ambient quality guidelines and/or standards. It is important to develop mitigation measures to minimize emissions of pollutants into sensitive or already degraded water, air or soil environments.

GN13.4. Where a project involving the modernization or retrofit of an existing facility is expected to produce potentially significant emissions of pollutants, the current ambient conditions are evaluated to determine if they meet the relevant ambient quality standards. If they exceed the standards, and the existing facility is a major source of emissions, the feasibility of reducing emissions is considered with the aim of developing and implementing measures that improve current ambient conditions. This is undertaken as part of the project's environmental and social assessment.

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Commented [O12]: Overall and throughout the GN it is important that the guidance note offers and explains where borrowers can look for these benchmarks/methodologies/standards and how to determine whether they are applicable, and how they have been carried out in practice.

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GN13.5. For projects that may discharge effluents into receiving water bodies that lack assimilative capacity, the borrower should consider use of zero discharge systems.

14. *In addition to applying resource efficiency and pollution control measures as required in this ESS, 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 minimize negative effects. These strategies include, but are not limited to, evaluation of project location alternatives.*

A. Management of Air Pollution¹⁰

15. *In addition to the resource efficiency measures described above, the Borrower will consider alternatives and implement technically and financially feasible and cost-effective¹¹ options¹² to avoid or minimize project-related air emissions during the design, construction and operation of the project.*

Footnote 10. 'Air pollution' refers to the release of air pollutants (often associated with the combustion of fossil fuels), such as nitrogen oxides (NOx), sulfur dioxide (SO₂), carbon monoxide(CO), particulate matter (PM), as well as other contaminants including GHGs.

Footnote 11. Cost-effectiveness is determined according to the capital and operational cost and financial benefits of the options considered over the life of the project.

Footnote 12. The options for reducing or preventing air pollution may include a combination of approaches such as: enhancing energy efficiency, process modification, selection of fuels or other materials with less polluting emissions, and application of emissions control techniques. Options for reducing GHG emissions may include alternative project locations; adoption of renewable or low carbon energy sources; alternatives to refrigerants with high global warming potential; more sustainable agricultural, forestry and livestock management practices; the reduction of fugitive emissions and gas flaring; and carbon sequestration and storage; sustainable transport alternatives; and proper waste management practices.

GN 15.1 In accordance with ESS 1, the mitigation hierarchy will fully apply to the management of air pollution including GHGs. The mitigation hierarchy looks first to anticipating and avoiding any risks and impacts of air pollution including GHGs.

GN15.1 (Footnote 10). GHGs include carbon dioxide (CO₂), methane (CH₄), nitrous oxide (N₂O), hydrofluorocarbons (HFCs), perfluorocarbons (PFCs), nitrogen trifluoride (NF₃), and sulphur hexafluoride (SF₆).

GN15.2 (Footnote 12). Examples of energy efficiency measures include cogeneration of heat and power, tri-generation of heat, power and cooling, heat recovery, process changes, enhanced process control, leak elimination, insulation, and the use of more energy-efficient demand-side equipment (for example, electric motors, compressors, fans, pumps, heaters, and lighting fixtures).

GN15.3 (Footnote 12). Examples of renewable energy sources include solar power or heat generation, small scale hydro, wind, certain types of geothermal, and sustainable biomass. Biomass-based renewable energy systems can often be combined with pollution control devices (for example, anaerobic digestion of liquid effluents) and can create useful energy from organic waste. This can allow the carbon contained in this waste to be released to the atmosphere as carbon dioxide rather than as methane, a more potent GHG.

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16. As part of the environmental and social assessment of the project, the Borrower will characterize and estimate sources of air pollution related to the project.¹³ This will include an estimate of gross GHG emissions resulting from the project, providing that such estimation is technically and financially feasible. Where the Borrower does not have the capacity to develop the estimate of GHG emissions, the Bank will provide assistance to the Borrower.¹⁴ For projects that have diverse and small sources of emissions (for example, community-driven development projects) or where emissions are not likely to be significant (for example, projects in education and social protection), GHG estimations will not be required.

Footnote 13. For the purposes of such estimate, the Borrower may utilize national methodologies accepted in the context of international agreements on climate change, with the agreement of the Bank.

Footnote 14. Depending on the capacity of the Borrower, the type of the project and the basis on which financing is being provided to the Borrower, this assistance may involve the Bank carrying out the GHG estimation on behalf of the Borrower, for example relating to IDA or FCS projects, working with Borrower counterparts and using project information provided by the Borrower. The Bank can also provide technical assistance to the Borrower in the use of the methodologies established by the Bank so that Borrower competency is strengthened in this respect.

GN16.1. The environmental and social assessment includes an estimate of the gross GHG emissions related to the project. For projects producing significant GHG emissions, including non-energy related sources such as methane and nitrous oxide, among others - the Borrower will quantify direct emissions from the facilities owned or controlled within the physical project boundary, as well as indirect emissions associated with off-site production of energy used by the project (for example, GHG emissions from purchased electricity, heat or cooling) For some projects designed to produce GHG savings, in addition to gross GHG emission estimates, net emissions calculations may be considered to inform project design.

GN16.2. Quantification of GHG emissions will be conducted by the Borrower annually in accordance with internationally recognized methodologies and good practice. National methodologies for estimating GHG emissions accepted in the context of international agreements on climate change or other methodologies may be used to make the estimate, provided such methodology is acceptable to both the Borrower and the Bank.

GN16.3. When determining whether a project produces significant emissions and in quantifying the emissions, sector-specific methodologies aligned with GIIP are utilized to estimate GHG emissions. Examples of such sectors include energy, transport, heavy industry, building materials, agriculture, forest products and waste management.

B. Management of Hazardous and Non-hazardous Wastes

17. The Borrower will avoid the generation of hazardous and non-hazardous waste.¹⁵ Where waste generation cannot be avoided, the Borrower will minimize the generation of waste, and reuse, recycle and recover waste in a manner that is safe for human health and the environment. Where waste cannot be reused, recycled or recovered, the Borrower will treat, destroy, or dispose of it in an environmentally sound and safe manner that includes the appropriate control of emissions and residues resulting from the handling and processing of the waste material.

Footnote 15. These wastes may include municipal waste, e-waste and animal waste.

GN17.1. It is important to apply the mitigation hierarchy as set out in Paragraph 27 of ESS1 to the management of wastes during all phases of a project, including design, construction, operation, closure

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For instance, IPCC is the standard for national GHG accounting, but the Greenhouse Gas Protocol is a likely go-to for project accounting - <http://www.ghgprotocol.org/standards/project-protocol>, but there are other standards out there (for example, The Gold Standard, VCS).

Commented [O15]: It is important that the guidance note offers and explains where borrowers can look for these methodologies, how to determine whether they are applicable, and how they have been carried out in practice.

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and decommissioning. The environmental and social assessment determines the source, type, quantity and risks associated with the waste likely to be generated by the project and, if such waste cannot be avoided, proposes appropriate measures to minimize, reduce and, where not possible, mitigate the risks associated with the waste. Environmentally sound and safe management of wastes and the obligations to manage such waste are included in relevant contractual arrangements of the project, particularly the technical design and construction contracts.

18. *If the generated waste is considered hazardous,¹⁶ the Borrower will comply with existing requirements for management (including storage, transportation and disposal) of hazardous wastes including national legislation and applicable international conventions, including those relating to transboundary movement. Where such requirements are absent, the Borrower will adopt GIIP alternatives for its environmentally sound and safe management and disposal. When hazardous waste management is conducted by third parties, the Borrower will use contractors that are reputable and legitimate enterprises licensed by the relevant government regulatory agencies and, with respect to transportation and disposal, obtain chain of custody documentation to the final destination. The Borrower will ascertain whether licensed disposal sites are being operated to acceptable standards and where they are, the Borrower will use these sites. Where licensed sites are not being operated to acceptable standards, the Borrower will minimize waste sent to such sites and consider alternative disposal options, including the possibility of developing its own recovery or disposal facilities at the project site or elsewhere.*

Footnote 16. As defined by the EHSs and relevant national law.

GN18.1. Hazardous wastes present a risk to human health, property and the environment due to their physical or chemical characteristics. Hazardous waste may include: explosives; compressed gases, including toxic or flammable gases; flammable liquids; flammable solids; oxidizing substances; toxic materials; radioactive material, including radioactive medical waste; corrosive substances; chemical fertilizers; soil amendments; chemicals, oils and other hydrocarbons; paints; pesticides; herbicides; fungicides; asbestos; metal waste; hospital waste; used batteries; fluorescent light bulbs and ballasts; byproducts of plastic incineration at low temperatures; and PCBs in electrical equipment.

GN18.2. The project's environmental and social assessment identifies the hazardous waste that may be generated or managed by the project, taking into account national law, GIIP, and the EHSs. It is good practice to conduct a hazard analysis, where a project has the potential to release hazardous material, or where project operations could result in injury to project workers or the public. A hazard analysis allows for systematic identification of systems and procedures that could result in accidental release of hazardous materials and associated risks. Standard tools for hazard analysis include Hazard Identification (HAZID), Hazard and Operability studies (HAZOP), Process Safety Management (PSM) and Quantitative Risk Analysis (QRA). Where there is risk of a spill of uncontrolled hazardous materials, a spill control, prevention, and countermeasure response plan is prepared as part of the environmental and social assessment. Information related to the project's management measures for hazardous materials is disclosed to stakeholders, including project workers.

GN18.3. The generation of hazardous waste is minimized. Where generation of hazardous waste cannot be avoided, different types of waste are segregated for appropriate disposal and management. Disposal is carried out in accordance with GIIP. It is also important to ensure that waste containers designated for off-site shipment of hazardous waste be secured and labeled, properly loaded on transport vehicles before leaving the site, and accompanied by appropriate shipping documents.

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GN18.4. If no suitable disposal method is available, the Borrower is encouraged to consider developing its own treatment or disposal facilities. Where this is not feasible, or where disposal outside the host country is restricted or prohibited by relevant international conventions, then consideration may be given to constructing facilities for long-term storage of waste on-site or at an alternative location until appropriate disposal options become available. It is important that both options – treatment/disposal facility or long-term storage – be managed in an environmentally sound and safe manner, consistent with GIIP.

GN18.5. Information obtained as part of the process to contract third parties for hazardous waste management helps to ascertain the reputability and legitimacy of the third party. Depending on the nature of the project and the potential risks and impacts, information provided by the third party or otherwise obtained may include:

- information in public records, for example, corporate registers;
- current business licenses, registrations, permits and approvals;
- documents relating to hazardous waste management systems;
- safety records; and
- copies of relevant previous contracts.

C. Management of Chemicals and Hazardous Materials

19. The Borrower will avoid the manufacture, trade and use of chemicals and hazardous materials subject to international bans, restrictions or phase-outs unless for an acceptable purpose as defined by the conventions or protocols or if an exemption has been obtained by the Borrower, consistent with Borrower government commitments under the applicable international agreements.

GN19.1. Chemicals and hazardous materials to be avoided are identified in relevant international conventions, such as: the Stockholm Convention on Persistent Organic Pollutants; the Rotterdam Convention of Prior Informed Consent for Certain Hazardous Chemicals and Pesticides in International Trade; the Montreal Protocol on Substances that Deplete the Ozone Layer, including the Kigali Amendment to phase down the production and usage of hydrofluorocarbons (HFCs), and the Minamata Convention on Mercury. The relevant international obligations are considered in the environmental and social assessment as they relate to the project, regardless of whether the Borrower is a registered party to those conventions. The requirements of these conventions, protocols, and agreements are reflected in any proposed activities and mitigation measures.

GN 19.2. The Stockholm Convention Annexes A and B contain the list of chemicals to be eliminated or restricted. Registered parties to the Convention may obtain specific exemptions for applicable production and use as outlined in the Convention annexes (for example, the use of DDT for malaria control). Where projects involve existing stockpiles of obsolete Persistent Organic Pollutants, the environmental and social assessment addresses phase-out within a reasonable timeframe. It is also important to minimize the unintentional production and release of chemicals, which are listed in Annex C of the Convention. Guidance on how to identify, quantify and reduce emissions of Annex C chemicals from potentially significant sources is included in the publications that support the Convention.

Commented [OI6]: Really welcome this type of resources for Borrowers!! This has the potential to be the most helpful aspect of the GNs, to guide Borrowers where to look for.

All ESS/GNs should offer this type of resources/tools with an explanation to help Borrowers understand whether and how they apply as best practices regardless they are signatories or not.

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GN19.3. The Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade, Annex III contains the list of chemicals for which manufacture, trade and use are to be avoided.

GN19.4. The Montreal Protocol on Substances that Deplete the Ozone Layer, Annexes A and B list the compounds—chlorofluorocarbons (CFCs), halons, carbon tetrachloride and 1,1,1-trichloroethane—the manufacture and consumption of which are to be avoided. Continued use of certain CFC refrigerants already present within refrigeration machinery is permitted, although in these circumstances it is good practice to minimize refrigerant leakage. While the Montreal Protocol does not anticipate complete phase out of hydrochlorofluorocarbon (HCFC) refrigerants until January 1, 2040 in Article 5 countries, in many such countries zero ozone depletion proven alternatives are already in use, have supporting service infrastructure and are preferred to HCFCs.

GN19.5. The Minamata Convention on Mercury addresses the avoidance of mercury production, and measures regarding its intentional use in products and processes, unintentional release from industrial activity, and trade. It is important to ensure the application of environmentally sound management and handling of mercury throughout its life cycle, including in waste-contaminated sites and long-term storage. In this regard, the Minamata Convention contains important requirements and guidance on the best available technologies and practices for reducing and controlling emissions of mercury from various sectors and sources, including combustion of fossil fuels, processing of mineral materials, use of solid incineration residues in road pavements, construction applications, and the re-marketing of recycled mercury, among others.

GN19.6. The Cartagena Protocol promotes biosafety by establishing rules and procedures for the safe transfer, handling, and use of Living Modified Organisms (LMOs), also referred to as Genetically Modified Organisms (GMOs). There is a specific focus on transboundary movements of LMOs. These rules are designed to protect ecosystems from the release of LMOs that are potentially detrimental to human health or the environment.

20. *The Borrower will minimize and control the release and use of hazardous materials.¹⁷ The production, transportation, handling, storage, and use of hazardous materials for project activities will be assessed through the environmental and social assessment. The Borrower will consider less hazardous substitutes where hazardous materials are intended to be used in manufacturing processes or other operations.*

Footnote 17. These materials may include chemical fertilizer, soil amendments and chemicals other than pesticides.

GN20.1. Opportunities to use non-hazardous substitutes are considered throughout the life of the project, especially when the hazards of the materials cannot be easily prevented under normal use or disposal. The effectiveness, compatibility and cost of the substitute, and existing measures to adequately control its use and disposal, are considered when determining its suitability for use under the project.

GN20.2. Nutrient pollution is a challenging environmental, health and economic problem. Nitrogen and phosphorus occur naturally and play a major role in the health of aquatic and other ecosystems. However,

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when these elements enter the environment (air and water bodies) in excessive amounts through runoff or various other human activities, they have the potential to pollute the air, groundwater and waterways causing serious environmental, health and economic problems, further worsened by climate change. The primary sources of nutrient pollution are agriculture (fertilizer and animal manure), runoff from storm and wastewater, use of disinfectants and home cleaning products and use of fossil fuels, all of which should be considered in social and environmental assessments, particularly for activities occurring at the industrial scale. Good agricultural and effluent management practices help reduce potential nutrient pollution and promote efficient use of plant nutrients (for example, nutrient management, conservation tillage, cover crops, buffers, water treatment, drainage management and watershed management).

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D. Management of Pesticides

21. Where projects involve recourse to pest management measures, the Borrower will give preference to integrated pest management (IPM)¹⁸ or integrated vector management (IVM)¹⁹ approaches using combined or multiple tactics.

Footnote 18. IPM refers to a mix of farmer-driven, ecologically based pest control practices that seeks to reduce reliance on synthetic chemical pesticides. It involves: (a) managing pests (keeping them below economically damaging levels) rather than seeking to eradicate them; (b) integrating multiple methods (relying, to the extent possible, on nonchemical measures) to keep pest populations low; and (c) selecting and applying pesticides, when they have to be used, in a way that minimizes adverse effects on beneficial organisms, humans, and the environment.

Footnote 19. IVM is a rational decision-making process for the optimal use of resources for vector control. The approach seeks to improve the efficacy, cost-effectiveness, ecological soundness and sustainability of disease-vector control.

GN21.1 (Footnote 19). Vector control is a key component of vector-borne disease management. IVM approaches integrate both chemical and non-chemical interventions to manage disease vectors in a cost-effective and environmentally sound manner. IVM approaches limit reliance on chemical pesticides and reduce the selection pressure for insecticide resistance.

22. In the procurement of any pesticide the Borrower will assess the nature and degree of associated risks, taking into account the proposed use and the intended users.²⁰ The Borrower will not use any pesticides or pesticide products or formulations unless such use is in compliance with the EHSGs. In addition, the Borrower will also not use any pesticide products that contain active ingredients that are restricted under applicable international conventions or their protocols or that are listed in, or meeting, the criteria of their annexes, unless for an acceptable purpose as defined by such conventions, their protocols or annexes, or if an exemption has been obtained by the Borrower under such conventions, their protocol or annexes, consistent with Borrower commitments under these and other applicable international agreements. The Borrower will also not use any formulated pesticide products that meet the criteria of carcinogenicity, mutagenicity, or reproductive toxicity as set forth by relevant international agencies. For any other pesticide products that poses other potentially serious risk to human health or the environment and that are identified in internationally recognized classification and labelling systems, the Borrower will not use pesticide formulations of products if: (a) the country lacks restrictions on their distribution, management and use; or (b) they are likely to be used by, or be accessible to, lay personnel, farmers, or others without training, equipment, and facilities to handle, store, and apply these products properly.

Footnote 20. This assessment is made in the context of the environmental and social impact assessment.

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GN22.1. The Borrower checks the list of pesticides proposed for procurement under the project against the criteria of carcinogenicity, mutagenicity, or reproductive toxicity, as set forth by relevant international agencies and outlined in the Globally Harmonized System of Classification and Labelling of Chemicals (GHS). The relevant international conventions are considered in the environmental and social assessment as they relate to the project, regardless of whether the Borrower is a registered party to those conventions. The requirements of these conventions, protocols, and agreements are reflected in any proposed mitigation measures.

23. *The following additional criteria apply to the selection and use of such pesticides: (a) they will have negligible adverse human health effects; (b) they will be shown to be effective against the target species; (c) they will have minimal effect on non-target species and the natural environment. The methods, timing, and frequency of pesticide application are aimed to minimize damage to natural enemies. Pesticides used in public health programs will be demonstrated to be safe for inhabitants and domestic animals in the treated areas, as well as for personnel applying them; (d) their use will take into account the need to prevent the development of resistance in pests; (e) where registration is required, all pesticides will be registered or otherwise authorized for use on the crops and livestock, or for the use patterns, for which they are intended under the project.*

24. *The Borrower will ensure that all pesticides used will be manufactured, formulated, packaged, labelled, handled, stored, disposed of, and applied according to relevant international standards and codes of conduct, as well as the EHSGs.*

25. *For any project involving significant pest management issues²¹ or any project contemplating activities that may lead to significant pest and pesticide management issues,²² the Borrower will prepare a Pest Management Plan (PMP).²³ A pest management plan will also be prepared when proposed financing of pest control products represents a large component of the project.²⁴*

Footnote 21. Such issues would include: (a) migratory locust control; (b) mosquito or other disease vector control; (c) bird control; (d) rodent control, etc.

Footnote 22. Such as: (a) new land-use development or changed cultivation practices in an area; (b) significant expansion into new areas; (c) diversification into new crops in agriculture; (d) intensification of existing low-technology systems; (e) proposed procurement of relatively hazardous pest control products or methods; or (f) specific environmental or health concerns (e.g., proximity of protected areas or important aquatic resources; worker safety).

Footnote 23. Depending on the nature and the scale of the risks and impacts of the project, the elements of a PMP may be included as part of the ESCP and preparation of a stand-alone PMP may not be necessary.

Footnote 24. This is when financing of substantial quantities of pesticides is envisaged. A pest management plan is not required for the procurement or use of impregnated bednets for malaria control, or of insecticides for intradomiliary spraying for malaria control identified in internationally recognized classification systems.

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The Guidance Notes provide guidance for the Borrower on the application of the Environmental and Social Standards (ESSs), which form part of the World Bank's 2016 Environmental and Social Framework. The Guidance Notes help to explain the requirements of the ESSs; they are not Bank policy, nor are they mandatory. The Guidance Notes do not substitute for the need to exercise sound judgment in making project decisions. In case of any inconsistency or conflict between the Guidance Notes and the ESSs, the provisions of the ESSs prevail. Each paragraph of the Standard is highlighted in a box, followed by the corresponding guidance.

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Land Acquisition, Restrictions on Land Use and Involuntary Resettlement

Introduction

1. ESS5 recognizes that project-related land acquisition and restrictions on land use can have adverse impacts on communities and persons. Project-related land acquisition¹ or restrictions on land use² may cause physical displacement (relocation, loss of residential land or loss of shelter), economic displacement (loss of land, assets or access to assets, leading to loss of income sources or other means of livelihood)³, or both. The term “involuntary resettlement” refers to these impacts. Resettlement is considered involuntary when affected persons or communities do not have the right to refuse land acquisition or restrictions on land use that result in displacement.

Footnote 1. “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: (a) acquisition of unoccupied or unutilized land whether or not the landholder relies upon such land for income or livelihood purposes;

(b) repossession of public land that is used or occupied by individuals or households; and (c) 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 water bodies.

Footnote 2. “Restrictions on land use” refers to 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, restrictions on land use within utility easements or safety zones.

Footnote 3. “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.

2. Experience and research indicate that physical and economic displacement, if unmitigated, may give rise to severe economic, social and environmental risks: production systems may be dismantled; people face impoverishment if their productive resources or other income sources are lost; people may be relocated to environments where their productive skills are less applicable and the competition for resources greater; community institutions and social networks may be weakened; kin groups may be dispersed; and cultural identity, traditional authority, and the potential for mutual help may be diminished or lost. For these reasons, involuntary resettlement should be avoided.⁴ Where involuntary resettlement is unavoidable, it will be minimized and appropriate measures to mitigate adverse impacts on displaced persons (and on host communities receiving displaced persons) will be carefully planned and implemented.

Footnote 4. Avoidance is the preferred approach in accordance with the mitigation hierarchy in ESS1. It is especially important to avoid physical or economic displacement of those socially or economically vulnerable to hardship as a result. However, avoidance may not be the preferred approach in situations where public health or safety would be adversely affected as a result. There may also be situations where resettlement can provide direct development opportunities for households or communities, including improved housing and public health conditions, strengthened security of tenure or other improvements to local living standards.

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GN 2.1 Borrowers should assess whether the displacement impacts and risks are reasonable and proportionate to the public good that will be achieved through the project in accordance to the UN Basic Principles and Guidelines on Development-Based Evictions and Displacement. When the possibility of involuntary displacement is in consideration, an analysis of whether the risks on communities outweigh the gains of the project should be performed. The analysis should measure and assess benefits and risks, including, but not limited to, economic measurements of public benefits as compared to costs of displacement to households and communities (eg. aggregate economic losses) and costs of mitigating the risks and impacts. This analysis should be the basis on continuity of the project, if the displacement risks outweigh the expected benefits, the project design is not justifiable and should not proceed.

Objectives

- To avoid involuntary resettlement or, when unavoidable, minimize involuntary resettlement by exploring project design alternatives.
- To avoid forced eviction.⁵
- To mitigate unavoidable adverse social and economic impacts from land acquisition or restrictions on land use by: (a) providing timely compensation for loss of assets at replacement cost⁶ and (b) assisting displaced persons in their efforts to improve, or at least restore, their livelihoods and living standards, in real terms, to pre-displacement levels or to levels prevailing prior to the beginning of project implementation, whichever is higher.
- To improve living conditions of poor or vulnerable persons who are physically displaced, through provision of adequate housing, access to services and facilities, and security of tenure.⁷
- To conceive and execute resettlement activities as sustainable development programs, providing sufficient investment resources to enable displaced persons to benefit directly from the project, as the nature of the project may warrant.
- To ensure that resettlement activities are planned and implemented with appropriate disclosure of information, meaningful consultation, and the informed participation of those affected.

Footnote 5. See paragraph 31.

Footnote 6. "Replacement cost" is defined as a method of valuation yielding compensation sufficient to replace assets, plus necessary transaction costs associated with asset replacement. Where functioning markets exist, replacement cost is the market value as established through independent and competent real estate valuation, plus transaction costs. Where functioning markets do not exist, replacement cost may be determined through alternative means, such as calculation of output value for land or productive assets, or the undepreciated value of replacement material and labor for construction of structures or other fixed assets, plus transaction costs. In all instances where physical displacement results in loss of shelter, replacement cost must at least be sufficient to enable purchase or construction of housing that meets acceptable minimum community standards of quality and safety. The valuation method for determining replacement cost should be documented and included in relevant resettlement planning documents. Transaction costs include administrative charges, registration or title fees, reasonable moving expenses, and any similar costs imposed on affected persons. To ensure compensation at replacement cost, planned compensation rates may require updating in project areas where inflation is high or the period of time between calculation of compensation rates and delivery of compensation is extensive.

Footnote 7. "Security of tenure" means that resettled individuals or communities are resettled to a site that they can legally occupy, where they are protected from the risk of eviction and where the tenure rights provided to them are socially and culturally appropriate. In no event will resettled persons be provided tenure rights that are in effect weaker than the rights they had to the land or assets from which they have been displaced.

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GN (Objective). These type of operations are often underestimated in their potential for significant negative impacts especially among the most vulnerable and disadvantaged groups. For this reason it is important that Borrowers should pay special attention with this type of operation, especially in terms of promoting and safeguarding women's land rights and ensure that these type of operations:

- do not weaken but instead protect and secure a variety of tenure forms and arrangements, prioritizing the tenure of the most vulnerable groups, including women;
- do not create or exacerbate conflict over land and natural resources with; and
- do not exacerbate inequality in access to and control over land, housing and natural resources

GN (To improve living conditions). A resettlement process, in addition to improving affected people's housing, access to basic services, income, employment and entrepreneurial opportunities, it should also consider the implementation of project benefit-sharing schemes. For instance, schemes could be built into project design to ensure that affected households and other local communities receive electricity from a power generation or transmission project through household connections at subsidized rates, or an ongoing revenue stream to resettled households and communities from a project expected to derive revenues for the project owner.

GN (forced eviction). Borrowers should avoid completely any situation that involves forced eviction. Forced evictions should only be carried out in exceptional circumstances, solely for the purpose of promoting the general welfare, after all feasible alternatives have been exhausted and in accordance with the UN Basic Principles and Guidelines on Development-Based Evictions and Displacement and The Right to housing.

GN (footnote 6). The definition of replacement cost should go beyond financial costs to other benefits that ensure that communities livelihoods are improved. Additionally, replacement cost must factor in the different relationship that women and men have on land and must not assume an automatic head of household scenario.

Scope of Application

3. *The applicability of ESS5 is established during the environmental and social assessment described in ESS1.*

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4. This ESS applies to permanent or temporary physical and economic displacement resulting from the following types of land acquisition or restrictions on land use undertaken or imposed in connection with project implementation:

- (a) Land rights or land use rights acquired or restricted through expropriation or other compulsory procedures in accordance with national law;
- (b) Land rights or land use rights acquired or restricted 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;⁸
- (c) Restrictions on land use and access to natural resources that cause a community or groups within a community to lose access to resource usage where they have traditional or customary tenure, or recognizable usage rights. This may include situations where legally designated protected areas, forests, biodiversity areas or buffer zones are established in connection with the project;⁹
- (d) Relocation of people without formal, traditional, or recognizable usage rights, who are occupying or utilizing land prior to a project-specific cut-off date;
- (e) Displacement of people as a result of project impacts that render their land unusable or inaccessible;
- (f) 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, fresh water, medicinal plants, hunting and gathering grounds and grazing and cropping areas;
- (g) Land rights or claims to land or resources relinquished by individuals or communities without full payment of compensation;¹⁰ and
- (h) Land acquisition or land use restrictions occurring prior to the project, but which were undertaken or initiated in anticipation of, or in preparation for, the project.

Footnote 8. Notwithstanding the application of this ESS to such situations, the Borrower is encouraged to seek negotiated settlements with affected persons in a manner meeting the requirements of this ESS in order to help avoid administrative or judicial delays associated with formal expropriation, and to the extent possible to reduce the impacts on affected persons associated with formal expropriation.

Footnote 9. In such situations, affected persons frequently do not have formal ownership. This may include freshwater and marine environments. This ESS does not apply to restrictions of access to natural resources under community-based natural resource management projects, i.e., where the community using the resources collectively decides to restrict access to these resources, provided that an assessment satisfactory to the Bank establishes that the community decision-making process is adequate and reflects voluntary, informed consensus, and that appropriate measures have been agreed and put in place to mitigate adverse impacts, if any, on the vulnerable members of the community.

Footnote 10. In some circumstances, it may be proposed that part or all of the land to be used by the project is donated on a voluntary basis without payment of full compensation. Subject to prior Bank approval, this may be acceptable providing the Borrower demonstrates that: (a) the potential donor or donors have been appropriately informed and consulted about the project and the choices available to them; (b) potential donors are aware that refusal is an option, and have confirmed in writing their willingness to proceed with the donation; (c) the amount of land being donated is minor and will not reduce the donor's remaining land area below that required to maintain the donor's livelihood at current levels; (d) no household relocation is involved; (e) the donor is expected to benefit directly from the project; and (f) for community or collective land, donation can only occur with the consent of individuals using or occupying the land. The Borrower will maintain a transparent record of all consultations and agreements reached.

GN4.1. Definitions of “land acquisition” practices or “restrictions on land use,” set out in Paragraph 1 and Footnotes 1 and 2 of ESS5, include important clarifications that help to determine whether ESS5 applies in a specific project. While “land acquisition” refers to any method by which land is acquired for a project, it is typically understood to mean expropriation or some form of negotiated transfer for project purposes. Footnote 1 notes that actions that may not be generally understood to fall under “land acquisition” are

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also covered by the term. For example, when the government displaces occupants from state land for purposes of a project, even though the state is the owner, the act of repossessing the land from the occupants is considered land acquisition for purposes of ESS5.

GN4.2. Paragraph 4 spells out the various types of land acquisition and restrictions on access that are covered by ESS5. These are both wide-ranging and specific. They are discussed in detail in the following paragraphs.

GN4.3. Footnote 1 and Paragraph 4(e) refer to project impacts that cause land to be submerged or otherwise render it unusable or inaccessible. Such situations constitute “de facto” land acquisition and are covered by ESS5, even though no formal steps have been taken to acquire the land.

GN4.4. The “*restrictions on land use*” that are defined in Footnote 2 and further explained in Paragraphs 4(c) and (f) concern, for example, the creation of project-related buffer or safety zones, or an extension of a protected area that limit or prohibit use of the land for other purposes. This may also include project support for enforcement of land use restrictions that were already formally “on the books” but not fully enforced, leading to impacts on people’s livelihoods. Another common example of a restriction on land use is the creation of an easement or servitude over land for construction and stringing of transmission lines. While people may be able to continue using the land, use may be restricted by the term of easement or servitude in a way that negatively affects their livelihoods.

GN4.5. It is important to note that these “*restrictions on land use*” are only those that are “*directly introduced and put into effect as part of a project.*” This means that if a project has an impact on neighboring land that does not result from a specific prohibition or restriction imposed by the project – for example, if a dam alters downstream water flows in a way that affects the productivity of the land of some farmers – the impact is analyzed and addressed under ESS1, not ESS5 (see Paragraph 5).

GN4.6. The term “*Negotiated settlements*” refers to situations where the Borrower needs to acquire specific land or restrict its use for project purposes, but rather than doing so through an expropriation proceeding, the Borrower first tries to arrive at a mutually agreeable negotiated settlement with the land owner/user. As explained in Footnote 8, in many cases, both parties might find it advantageous to reach a negotiated settlement to avoid the delays and transaction costs associated with the full judicial or administrative process of expropriation or compulsory acquisition. In fact, many national laws require governments to first explore this more consensual approach. In case of a negotiated settlement, disclosure of material information to both parties should be done to facilitate making of informed decisions in the negotiation process. The Borrower should also ensure that all members of the affected households, including women, are informed about the entitlements and protections contained in ESS5, and that these are used as a baseline for negotiations. Vulnerable groups especially women must be part of the negotiation.

GN4.7. It is important to note that “*negotiated settlement*” is not the same as the voluntary market transactions, described in Paragraph 6 of ESS5, to which ESS5 does not apply. For land acquisition to be considered a voluntary “*willing buyer/willing seller*” arrangement, the owners of the land must be able to refuse to sell, without the threat of compulsory acquisition. In a “*negotiated settlement,*” on the other hand, it is already known (through legal notice or other means) that the Borrower will proceed with

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expropriation or other compulsory mechanism if negotiations fail – in other words, the owner does not have the option to retain the land. Borrowers need to ensure -and to demonstrate- that all members of the households, including women, were fully aware of the entitlements and protections that they were entitled to under ESS5 prior to entering into the settlement agreement. Informed consent should be sought from women members of the household where the household head is male.

GN4.8. Paragraph 4(c), which concerns loss of usage rights to resources, and 4(f), which concerns loss of access to communal land and resources, are inter-related. For example, project-imposed buffer zones might restrict access to fishing areas around ports, docks or shipping lanes. The creation of safety zones around mines, quarries or blasting zones or green spaces around industrial plants may also result in significant restrictions on access. Such restrictions on the use of land or freshwater/marine resources may cause physical and/or economic displacement which is indistinguishable from that associated with land acquisition transactions, which is why they are covered under ESS5.

GN4.9. The loss of access to communal property and natural resources noted in Paragraph 4(f) is an important consideration when evaluating a project's impacts on livelihoods. The types of assets to which access may be lost could include pasture, fruit trees, medicinal plants, fiber, firewood, and other non-timber forest resources, croplands, fallow lands, woodlots, and fish stocks. While these resources, being common property, are not owned by individuals or households, lack of access may result in the same type of economic displacement as noted above. An important exception to application of ESS5, as noted in Footnote 9, concerns restrictions introduced as part of a community-based natural resource management project. In such a case, a community agrees to self-impose certain restrictions to enhance the sustainability of the resources on which it depends (for example, a community forestry project).

GN4.10. Paragraph 4(d) affirms the central principle that ESS5 applies not only to those who own or have formal legal rights to the land from which they are being displaced, but also to those who – as of a cut-off date –occupy the land informally, use or without clear legal rights to do so. Further information regarding cut-off dates is provided in Paragraph 20.

GN4.11. Voluntary land donation, as referred to in footnote 10, is defined as the ceding of a property by an owner who is: a) appropriately informed; and b) can exercise free will, i.e., can refuse to donate. There are situations in which people are willing to donate a portion of their land for project purposes for no compensation or reduced compensation. Voluntary land donations may involve some monetary or non-monetary benefits or incentives provided to the land donor by the project or by community members benefiting from a project. Both can be broadly classified as a “voluntary land donation,” because the transfer of assets takes place without payment of compensation at replacement value. “Appropriately informed” means that all members of the affected households, including women, are informed about the entitlements and protections contained in ESS5 (including but not limited to compensation), that they have all available information regarding the proposed activity and its impacts, its land requirements and its alternate activity sites, as well as his or her rights to compensation. All members of the affected households, including women, have also been provided with sufficient time to consider his or her disposition of the property, and has knowingly rejected the right to renege on his or her decision. “Free will” means that the owner can reject the proposal to give up his or her land, because, for example, there are viable alternatives available to the project (such as rerouting a water main if an owner refuses access to his or her property), or where no viable alternatives are available, the donation is to the benefit of the owner (such as a community-based investment project that benefits the owner of land to be donated).

Commented [O11]: In many tenure systems, user rights are key to certain groups in the community such as women who may not necessarily have ownership rights but user rights

Commented [O12]: In voluntary land donation, indirect land users (such as women) should have a say in the donation to avoid cases where a head of household donates late in disregard of the implication to other household members who have been using and benefiting from the land.

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(See GN 6.1-6.2 for distinction between “voluntary donation” and “voluntary purchase.”)

GN4.12. In some cases, however, donations may be induced through informal pressure or in extreme cases coercion. In other cases, people may agree to donate land because they are not aware that they are entitled to compensation and they have not been given sufficient information to make an informed choice. To address these risks, it is important to conduct due diligence, as described in Footnote 10. In this regard, it is also important to confirm that donated land is free of occupancy or use by people other than the donor. Where land is donated ‘voluntarily’ by the owner, other users and occupiers of the land beyond the legal owner who will be physically or economically displaced as a result of the donation should equally be consulted and entitled to the full range of protections in ESS5. In cases in which any degree of pressure or coercion contributed to the land donation, the land must be returned without delay, or if not feasible, the full compensation and entitlements under ESS5 must be provided, in addition to compensation for associated losses and any non-pecuniary harms caused by the coercive acts.

GN4.13. Voluntary land donations are documented. This calls for (a) written notification indicating the location and amount of land that is sought and its intended use; and (ii) a formal statement of donation, establishing informed consent, confirming that there is no disputed ownership and that there are no claims by renters, users, squatters or encroachers, and signed by each owner or user involved. Any taxes or fees owed for processing or registration of the land transfer, if applicable, are paid in full by the Borrower, who maintains the records of donations, including documentation. Documentation is made available for review in any grievance that may arise.

GN4.14. As with any other activity involving project affected people, a grievance mechanism is in place to allow consideration of, and timely response to, grievances raised by land donors (and other persons affected by the transfer of land). In terms of vulnerable people or communities, women users of land to be donated, or in the case of collective or community lands to be donated, users of those lands may be at risk of being passed over in the decision-making process, unless they are consulted.

GN4.15. Resettlement for project purposes under ESS5 may begin before a project is approved for Bank financing and the loan agreement is finalized. If the resettlement takes place before approval of a loan but after project identification, ESS5 applies retroactively to the resettlement. Borrowers should approach resettlement as a standalone project by itself and as an opportunity for promoting sustainable development through improvements to the economic and social well-being of affected people. Resettlement processes should achieve the objective of conceiving and executing resettlement activities as sustainable development programs and providing sufficient investment resources to enable displaced persons to benefit directly from the project in accordance to the UN Basic Principles and Guidelines on Development-Based Evictions and Displacement and The Right to Housing.

GN4.16. The ESS5 may also apply even to displacement that took place prior to project identification, as noted in Paragraph 4(h), if the land acquisition or restriction on land use was directly linked to the eventual project and was done in anticipation of or in preparation for the project. (See also ESS1, Paragraphs 10-12 and related GN that sets out the scope of application of the Bank’s ESSs.) This does not mean that all prior displacement that may have occurred at the site of a Bank-supported project is covered; the intention is to cover prior displacement that took place reasonably close in time to development of the Bank-financed project. Retroactive application of ESS5 would likely not be practical or appropriate for activities that preceded Bank engagement by a significant period of time. For example, a Borrower may have had long-

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standing but unrealized plans to develop an area, well before discussions with the Bank about the project, and may have engaged in land acquisition sporadically over the span of many years to assemble the needed land. In such cases, it may no longer be possible to identify all affected people, or the extent and value of their rights to the acquired land; land values and livelihoods may have changed significantly; and national legal processes may have long been completed. Determining whether Paragraph 4(h) applies to a specific situation thus calls for case-by-case analysis and discussions between the Borrower and the Bank.

GN4.17. When Paragraph 4(h) applies, a due diligence review (sometimes referred to as an audit) (as appropriate) is undertaken by the Borrower to: (i) document and assess the adequacy of prior mitigation measures to address the environmental and social impacts of the past resettlement; (ii) assess compliance with national legislation; (iii) identify gaps in meeting the requirements of ESS5; (iv) identify any complaints, grievances or other outstanding issues; and (v) determine measures to close identified gaps and address complaints. This due diligence is undertaken within an agreed timeframe that takes into account the context of the project and significance of the prior resettlement. It may not be possible to retroactively satisfy certain aspects of ESS5, such as consultation and disclosure. The due diligence may include review of relevant documents, field visits, interviews and consultations held with affected persons and other key stakeholders. If activities resulting in displacement are ongoing at the time of project identification, they would normally need to stop until the due diligence review has been undertaken, and/or the requirements of ESS5 are being followed. The assessment/audit should seek and confirm that living standards have been restored to pre-displacement levels or improved, and whether the objectives of ESS5 have been successfully realized and institute any corrective measures necessary to ensure their achievement. Special measures should be taken to women in terms of whether they have gained full access to benefit sharing allocation, land tenure and security, among other things.

GN (Footnote 10). In all these cases where the Borrower is required to conduct due diligence to demonstrate or confirm conditions have been met, such due diligence should be conducted by an independent third party contracted by the Borrower and approved by the Bank. The reviews and findings should be disclosed to and made open to comment prior to finalization.

Commented [O13]: In many aspects the Borrower has a vested interest in the outcome of the due diligence reviews and may have been involved in different aspects associated with the processes.

5. *This ESS does not apply to impacts on incomes or livelihoods that are not a direct result of land acquisition or land use restrictions imposed by the project. Such impacts will be addressed in accordance with ESS 1.*

6. *This ESS does not apply to voluntary, legally recorded market transactions in which the seller is given a genuine opportunity to retain the land and to refuse to sell it, and is fully informed about available choices and their implications. However, where such voluntary land transactions may result in the displacement of persons, other than the seller, who occupy, use or claim rights to the land in question, this ESS will apply.¹¹*

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Footnote 11. This may include situations where a project supports voluntary transactions between communities, governments and investors involving significant areas of land (for example where a project involves support to commercial investment in agricultural land). In such cases, in applying the relevant provisions of this ESS, special care must be taken to ensure: (a) that all tenure rights and claims (including those of customary and informal users) affecting the land in question are systematically and impartially identified; (b) that potentially affected individuals, groups or communities are meaningfully consulted, informed of their rights, and provided reliable information concerning environmental, economic, social and food security impacts of the proposed investment; (c) that community stakeholders are enabled to negotiate fair value and appropriate conditions for the transfer; (d) that appropriate compensation, benefit-sharing and grievance redress mechanisms are put in place; (e) that terms and conditions of the transfer are transparent, and (f) mechanisms are put in place for monitoring compliance with those terms and conditions.

GN6.1. Voluntary, legally recorded transactions are distinct from voluntary donations, which are covered under GN4.11-4.13. The former term refers to “willing buyer/willing seller” market transactions. Due diligence is conducted to confirm that a voluntary purchase is voluntary. The due diligence confirms: (a) land markets exist; (b) the transaction has taken place with the owner’s informed consent; (b) the owner was aware that he or she could refuse to sell, and would not be subject to compulsory acquisition; and (d) the owner was paid a fair price based on prevailing market values. These conditions also apply where third parties, for example, land consolidators, aggregators, land developers or other agents, are acting on behalf of a Borrower.

GN6.2. There can be situations in which ESS5 applies to a “voluntary purchase,” as Paragraph 6 and footnote 11 describe. If a purchase, lease or other type of land transfer includes land on which people other than the owner live or have use, whether formally or as customary or informal occupants at the time of the purchase, ESS5 applies. For example, a traditional authority in some countries may be able legally to sell land belonging to a community, but the land may be inhabited by people who have customary rights to farm or otherwise use it. In this case, ESS5 applies, because notwithstanding the “voluntary” nature of the transaction entered into by the traditional authority, people may be involuntarily displaced by the transaction, and require assistance in accordance with ESS5.

GN6.3 In some situations there may be a dispute or lack of clarity regarding ownership rights over the tract of land in question, including where ownership rights are recognizable under national laws, but have not yet been adjudicated and registered. For example, the state may claim ownership rights, including the right to sell or lease, but this claim may be legitimately contested by households in long-term possession of the land, or by communities with customary rights over the land. In such cases, adjudication of rights should occur prior to initiating transactions in order to ensure that the project acquires land from the rightful owners. Special attention should be given to vulnerable and disadvantaged groups including women since they are the most likely to lack formal legal rights to land or any assets and therefore face the risk of not being considered.

7. Where a project supports land titling or other activities intended to confirm, regularize or determine land rights, a social, legal and institutional assessment will be required under ESS 1.¹² The assessment aims to identify potential risks and impacts, as well as appropriate design measures to minimize and mitigate adverse economic and social impacts, especially those that affect poor and vulnerable groups.¹³ This ESS does not apply to disputes between private parties in land titling or related contexts. However, where persons are required to vacate land as a direct result of a project-supported determination that the land in question is state land, this ESS will apply (in addition to the relevant provisions of ESS 1 mentioned above).

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Footnote 12. ESS 1, para. 28(b).

Footnote 13. See ESS 1, Footnote 28.

GN7.1. Projects that involve land titling and land regularization seek to clarify, confirm, document and/or register legal rights over land. The activities they cover can take a variety of forms, including, among others, systematic field surveying, adjudication, documentation and registration of land parcels. Some such projects cover large regions and involve hundreds of thousands or even millions of parcels. Other projects include, among others, small pilot exercises, designed to test procedures and technology; technology or capacity building activities, such as computerizing and scanning land records, producing orthophotos or maps, designing registration software, or restructuring institutions; formalization of informal settlements in urban slums; and delimitation and formalization of community land rights, including indigenous territories. The objectives of such projects are to help the Borrower implement its own law and to strengthen overall tenure security. For all such projects, the potential social risks of such projects are considered in the environmental and social assessment of ESS1. The assessment will also help understand the different tenure systems and the dynamics of the tenure systems thus putting in place tailored measures that address the different tenure systems.

GN7.2. Paragraph 7 distinguishes between two scenarios. First, it excludes from its coverage “private-private” disputes arising in titling contexts. Where two private parties claim the same land and the land is granted to one party, the other party is not entitled to protection under ESS5. The second scenario concerns the displacement of people from land that has been determined under the project to belong to the state, in which case ESS5 is applicable.

8. *This ESS does not apply to land use planning or the regulation of natural resources to promote their sustainability on a regional, national or subnational level (including watershed management, groundwater management, fisheries management, and coastal zone management). Where a project supports such activities, the Borrower will be required to conduct a social, legal and institutional assessment under ESS 1, in order to identify potential economic and social risks and impacts of the planning or regulation, and appropriate measures to minimize and mitigate them, in particular those that affect poor and vulnerable groups.*

GN8.1. Paragraph 8 refers to situations in which the Bank is providing support to a process by which a Borrower develops better plans, typically covering large areas, which is viewed as a type of technical assistance, as described in Footnote 5 of ESS1. If the project also finances implementation of output from the technical assistance that results in involuntary resettlement, then ESS5 applies. It is best practice to prepare resettlement frameworks as part of the process of land use planning and regulation development. This ensures there are measures in place at early stages to protect vulnerable households. Displacement impacts and mitigation measures, as well as their costs, should be taken into account in designing land use and natural resource regulation. Finally, Paragraph 8 does not exempt project support for plans developed for the creation or extension of projected areas or parks, for which a “process framework” or similar instrument may be required under Paragraph 21.

9. *This ESS does not apply to management of refugees from, or persons internally displaced by, natural disasters, conflict, crime or violence.*

GN9.1. The purpose of Paragraph 9 is to distinguish between project-induced displacement, for which resettlement planning is possible and necessary under ESS5, and displacement resulting from

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emergencies that are not caused by the project and therefore, not covered by ESS5.

GN9.2. While ESS5 does not apply to forced displacements resulting from natural disasters, conflict, crime or violence, it is applicable when project activities cause displacement of already settled refugees or internally displaced persons. ESS5 also applies to state-imposed relocation of people or businesses as a subsequent response to a natural disaster or conflict – for example, where project activities involve the involuntary relocation of people from an affected area because of concern that the disaster, or other event, could reoccur.

Requirements

A. General

Eligibility Classification

10. Affected persons may be classified as persons: (a) Who have formal legal rights to land or assets; (b) Who do not have formal legal rights to land or assets, but have a claim to land or assets that is recognized or recognizable under national law; ¹⁴ or (c) Who have no recognizable legal right or claim to the land or assets they occupy or use. The census described in paragraph 20 will establish the status of the affected persons.
Footnote 14. Such claims could be derived from adverse possession or from customary or traditional tenure arrangements.

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GN10.1. Paragraph 10 defines three categories of affected persons who are eligible for coverage under ESS5. It is critical that the eligibility classification of affected persons give women and other vulnerable and disadvantaged groups a priority status for eligibility. Vulnerable and disadvantaged groups including women are most likely to lack formal legal rights to land or any asset and therefore not considered when the project is identifying beneficiaries for compensation or restoration. In addition, it is through the eligibility process and census that the identification of beneficiaries and people in need of assistance happens. So it is very important that the Borrower puts emphasis on vulnerable and disadvantaged groups including women as default when identifying affected persons. While people in all three categories are entitled to assistance of some sort under ESS5, the nature of that assistance may vary, as subsequent paragraphs of ESS5 make clear.

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

Category (b): Affected persons who do not have formal rights to land or assets, but who have a recognized or recognizable claim under national law can fall into a number of groups. They may have been using the land for generations without formal documentation under customary or traditional tenure arrangements that are accepted by the community and

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recognized by national law. In other cases, they may have never been provided formal title or their documents may be incomplete or lost. They may have a claim for adverse possession if they have occupied land for a certain period of time as defined by national law, without the formal owner contesting the occupation. In such cases, national law often has legal procedures by which such claims can become recognized.

Category (c): Affected persons who have no recognizable legal right or claim to the land or assets they occupy or use are eligible for assistance under ESS5. These can be seasonal resource users, such as herders, grazers, fishers or hunters (although if the rights of such users are recognized by national law, they may fall into category (a) or (b)). They can also be persons occupying land in violation of applicable laws. Affected persons in these groups are not eligible for compensation for land, but are eligible for resettlement and livelihood assistance and compensation for assets.

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Project Design

11. *The Borrower will demonstrate that involuntary land acquisition or restrictions on land use are limited to direct project requirements for clearly specified project purposes within a clearly specified period of time. The Borrower will consider feasible alternative project designs to avoid or minimize land acquisition or restrictions on land use, especially where this would result in physical or economic displacement, while balancing environmental, social, and financial costs and benefits, and paying particular attention to gender impacts and impacts on the poor and vulnerable.*

GN11.1. Demonstrating that land acquisition or restrictions are limited to specific purposes and timeframes helps to minimize excessive land acquisition (and unnecessary displacement) and discourages land speculation. Borrowers and project implementers should not acquire land that is not absolutely necessary for the project. For example, a road rehabilitation project should acquire land sufficient to ensure road integrity and safety and to enable the roadworks to proceed. A mega-hydropower project with massive displacement impacts can be redesigned into a series of small dams with reduced adverse impacts. A land registration project can incorporate tenure categories other than individual private ownership that protect vulnerable households and communities. Where displacement is unavoidable, adverse impacts on individuals and communities may be minimized through adjustments in size, routing or siting of project facilities. A meaningful analysis of possible alternatives that incorporates an estimate of the social and project costs associated with displacement helps the Borrower to identify optimal solutions and must be done at the design phase. Borrowers should refer to the FAO Voluntary Guidelines on the Responsible Governance of Tenure of Land for further guidance in this regard. This analysis is recorded in the Resettlement Plan (see Paragraph 21 of ESS5) so that it is available for review by stakeholders. The resettlement plan should be made public to all stakeholders before any implementation of the plans starts and should allow adequate time for consultation. Any involuntary displacement must be in line with international human right standards

GN11.2. Mitigation and compensation for physical and economic displacement can be significant. Projects should explore options that avoid involuntary displacement altogether, minimize the number of displaced households and reduce the associated risks of displacement to affected households. Therefore, potential costs are estimated early in the project design phase and integrated into project design and development. Early assessment of this cost is important to determine the relative costs and viability of alternative project designs, technologies, routes, or sites. The assessment of resettlement costs at an early stage of project development takes into account the level of uncertainty involved, and should build in contingencies, as appropriate. This is particularly the case in urban or peri-urban areas where resettlement costs are likely to significantly increase over time. Resettlement cost estimates and contingencies can then be adjusted during project design and implementation. This necessarily requires resettlement plans and budgets to be prepared upfront along with other project design aspects, while a range of designs are still being assessed and considered. Resettlement plans and budgets should not be treated as supplementary or secondary to other aspects of project design. Early public disclosure and consultations of draft resettlement plans and budgets is important to ensure effective and inclusive planning, which in turn is more likely to lead to successful implementation that meets the objectives of ESS5s.

Compensation and Benefits for Affected Persons

Commented [O14]: These are just some examples but we hope the GNs can go into more detail of alternatives.

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12. When land acquisition or restrictions on land use (whether permanent or temporary) cannot be avoided, the Borrower will offer affected persons compensation at replacement cost, and other assistance as may be necessary to help them improve or at least restore their standards of living or livelihoods, subject to the provisions of paragraph 26 through 36 of this ESS.¹⁵

Footnote 15. At the request of affected persons, it may be necessary to acquire entire land parcels if partial acquisition would render the remainder economically unviable, or make the remaining parcel unsafe or inaccessible for human use or occupancy.

GN12.1. It is most often poor people who are forced to move in the name of development. For poor households living in sub-standard housing prior to resettlement, replacement value compensation for their dwelling will, at best, return them to the same sub-standard conditions, or if families decide to upgrade, force them into debt. The Borrower should provide enough compensation to ensure that poor and vulnerable affected households can improve their living conditions and relocate to adequate housing of at least a basic acceptable standard according to UN Basic Principles and Guidelines on Development-Based Evictions and Displacement. A family whose home prior to resettlement consists of a makeshift shelter that does not provide protection from the elements, privacy, or security should be provided with resources to ensure access to adequate housing of at least minimum standards post-resettlement. In cases in which compensation, rather than replacement housing, is being provided by the Borrower, sufficient funds must be provided for the purchase or construction of adequate housing (adjusted for household size) established on the basis of independent expert advice. Replacement cost should only be used as the basis for compensation of lost housing when it meets or exceeds the minimum amount necessary to purchase or construct an adequate house.

GN12.2 Compensation for lost assets is calculated at replacement cost. Footnote 6 provides a detailed definition of “replacement cost.” The process used for determining compensation values should be transparent and easily comprehensible to project-affected people. With regard to land and assets, the calculation of replacement costs takes into account the following:

- (a) *Agricultural (including fallow land) or pasture land*: land of equal productive use or potential, located in the vicinity of the affected land or the new housing site, plus the cost of preparation to levels similar to or better than those of the affected land, and transaction costs such as registration and transfer taxes or customary fees.
- (b) *Land in urban areas*: the market value of land of equivalent area and use, with similar or improved infrastructure and services, preferably located in the vicinity of the affected land, plus transaction costs such as registration and transfer taxes.
- (c) *Houses and other structures* (including public structures such as schools, clinics and religious buildings): the cost of purchasing or building a replacement structure, with an area, quality and location similar to or better than those of the affected structure; or of repairing a partially affected structure, including labor and contractors’ fees; and transaction costs, such as registration, transfer taxes, and moving costs.
- (d) *Loss of access to natural resources and livelihoods*: in relation to loss of access to natural resources that are continually productive or regenerative, such as wild medicinal plants, timber and non-timber forest products, meat or fish, compensation should be paid for lost future value, unless the resource can be fully restored. In cases where compensation is being considered by the Borrower,

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a formula that takes into account the future productivity and use of the resource should be developed in consultation with the affected community. However, cash compensation is seldom an effective way of compensating for lost access to natural resources—as discussed in the guidance associated with Paragraph 16 and Paragraphs 33 through 36. The Borrower assesses means to fully restore resources or provide, or facilitate access to, similar resources elsewhere, taking into account the impacts at the alternate location, providing cash compensation only when it can be demonstrated that no feasible alternative measures are available.

GN12.2. Many countries have legally defined rates of compensation for land and crops. In many cases, such rates are not equal to replacement cost, either because they do not reflect market values or are not updated on a regular basis. Where such rates are used as guidance for replacement value, additional measures may be necessary to ensure that the compensation paid meets the requirements of ESS5.

GN12.3. Where functioning markets do not exist or land sales are prohibited, replacement cost of land may be estimated in a number of different ways. For example, for rural land, it may be possible to determine the replacement cost by reference to the productive value of the land. Determining a fair way to estimate replacement cost depends on a number of factors, such as the scope of land acquisition and its impact on overall production, proximity to markets, remaining period of an existing lease term, and the views of land valuation experts.

13. Compensation standards for categories of land and fixed assets will be disclosed and applied consistently. Compensation rates may be subject to upward adjustment where negotiation strategies are employed. In all cases, a clear basis for calculation of compensation will be documented, and compensation distributed in accordance with transparent procedures.

GN13.1. Information about compensation standards, compensation formulas and rates should be subject to consultation and input by affected people and communities in a transparent and consistent manner. Where compensation for land or assets (including crops) is calculated according to formulas or rates set out in documents prepared by the Borrower, these are consulted with affected people. It is also important to ensure that rates are applied consistently.

14. Where livelihoods of displaced persons are land-based,¹⁶ or where land is collectively owned, the Borrower will offer the displaced persons an option for replacement land in accordance with paragraph 35(a), unless it can be demonstrated to the Bank's satisfaction that equivalent replacement land is unavailable. As the nature and objectives of the project may allow, the Borrower will also provide opportunities to displaced communities and persons to derive appropriate development benefits from the project. In the case of affected persons under paragraph 10(c), resettlement assistance will be provided in lieu of compensation for land, as described in paragraphs 29 and 34(c).

Footnote 16. The term "land-based" includes livelihood activities such as rotational cropping and grazing of livestock as well as the harvesting of natural resources.

GN14.1. Land replacement strategies may include resettlement on public land or on private land purchased for resettlement. When replacement land is offered, the combined characteristics of the land, such as productive potential, advantages of location, and security of tenure, as well as the legal nature of the land title or use rights are at least equivalent to those of the original site.

GN14.2. Cash compensation or resettlement assistance in lieu of compensation for land is offered to those

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people who do not wish to continue their land-based livelihoods or who prefer to purchase land on their own. When payment of cash compensation is considered, the ability of the affected population to utilize cash to restore standards of living is assessed. It is critical that such an assessment is gender responsive and considers gender dynamics of the affected household, and not assume that cash compensation should be directed to heads of households given that a majority of whom are men putting women in more disadvantage situation. For example, short-term consumption of cash compensation can sometimes result in hardship for subsistence-based economies or poorer households. In such cases, provision of in-kind compensation (for example, livestock or other moveable/transferable property) or vouchers earmarked for specific types of goods and services may be more appropriate. Beyond cash compensation, other long term benefits that are sustainable should be explored.

15. The Borrower will take possession of acquired land and related assets only after compensation in accordance with this ESS has been made available and, where applicable, displaced people have been resettled and moving allowances have been provided to the displaced persons in addition to compensation. In addition, livelihood restoration and improvement programs will commence in a timely fashion in order to ensure that affected persons are sufficiently prepared to take advantage of alternative livelihood opportunities as the need to

GN15.1. The emphasis of Paragraph 15 is on timely action. With regard to compensation for land and assets, or assistance in lieu of compensation, this means payment *before* taking possession. With regard to livelihood restoration and improvement measures, while some flexibility may be necessary, it is important to initiate these measures in sufficient time to ensure that people have access to alternative livelihood opportunities as soon as needed. Until such measures are in place and incomes/livelihoods are restored, appropriate transitional support is provided to affected people so that they do not bear the burden of implementation delays. It will usually take a period of time after such measures are in place to restore incomes to previous levels. For example, measures to cultivate new farming land or commence small businesses in a new location will take time to begin generating revenue. To avoid indebtedness, transitional support should continue for a reasonable time until resettled households begin to receive income at a level commensurate with pre-resettlement income. The amount of transitional support should be sufficient to, at minimum, meet basic household needs until incomes are restored. Planning of such transitional support should provide for contingencies to address unforeseen additional delays.

16. In certain cases there may be significant difficulties related to the payment of compensation to particular affected persons, for example, where repeated efforts to contact absentee owners have failed, where project affected persons have rejected compensation that has been offered to them in accordance with the approved plan, or where competing claims to the ownership of lands or assets are subject to lengthy legal proceedings. On an exceptional basis, with prior agreement of the Bank, and where the Borrower demonstrates that all reasonable efforts to resolve such matters have been taken, the Borrower may deposit compensation funds as required by the plan (plus a reasonable additional amount for contingencies) into an interest-bearing escrow or other deposit account and proceed with the relevant project activities. Compensation placed in escrow will be made available to eligible persons in a timely manner as issues are resolved.

GN16.1. There are occasional circumstances, such as those noted in Paragraph 16, where application of the requirements of Paragraph 15 could lead to extensive delays in project implementation. In such cases, provided the Bank and Borrower agree, an escrow account is a useful approach that allows the project to go forward, while ensuring that project-affected persons are compensated as and when they come forward or the underlying disputes are resolved. The escrow should include a contingency amount in case the amount to be paid exceeds what was set forth in the resettlement plan.

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GN16.2. Escrow accounts are an exception; they are not intended to be used on a routine basis to postpone dealing with ordinary complications in the implementation of a resettlement plan. They should not be used, for example, unless the Borrower can demonstrate and has documented that it has exhausted all reasonable efforts to resolve the underlying issue.

Community Engagement

17. *The Borrower will engage with affected communities, including host communities, through the process of stakeholder engagement described in ESS10. Decision-making processes related to resettlement and livelihood restoration will include options and alternatives from which affected persons may choose. Disclosure of relevant information and meaningful participation of affected communities and persons will take place during the consideration of alternative project designs referred to in paragraph 11, and thereafter throughout the planning, implementation, monitoring, and evaluation of the compensation process, livelihood restoration activities, and relocation process. Additional provisions apply to consultations with displaced Indigenous Peoples, in accordance with ESS7.*

Commented [O15]: GN should promote and encourage Borrowers, and offer clear examples on how have a gender sensitive engagement particularly where women's perspectives on resettlement planning and implementation as well as gender-specific compensation measures (such as replacement land or alternative access to natural resources rather than case) are contemplated, and where impacts to their livelihoods are at stake - also where matters particularly critical to indigenous peoples/women are an issue.

GN17.1. For the purpose of ESS5, the affected communities are economically and/or physically displaced persons and the host community. Other stakeholders may include any governmental agencies or other parties responsible for approving and/or delivering resettlement-related plans and assistance. Early initiation of meaningful community engagement enables affected households, communities and other stakeholders to fully understand the implications of resettlement for their lives and to actively participate in the associated planning processes. Detailed information on consultation and engagement is provided in ESS10 and its accompanying Guidance Note.

GN17.2. The consultation and participation process is an ongoing, organized, iterative and inclusive process. It is documented in the resettlement plans (see Paragraph 21). The plans show how affected households and communities (including host communities) are involved, throughout the process of resettlement planning, implementation and monitoring. Deliberate efforts should be made to ensure meaningful engagement of all relevant project affected parties with emphasis on women and other vulnerable and disadvantaged groups.

GN17.3. It is important that affected disadvantaged or vulnerable individuals or groups have a voice in consultation and planning processes. This may involve special efforts to include those who are particularly vulnerable to hardship because of physical or economic displacement. Depending on the project context, this may be people living below the poverty line, the landless, the elderly, the disabled, or women- and children-headed households. Community engagement in this case may include dedicated focus groups, and members of disadvantaged or vulnerable groups should be included among the representatives of affected communities to ensure their inputs and to secure their equal participation in stakeholder engagement processes, free of manipulation, interference, coercion, discrimination and intimidation. But such dedicated focus groups should not take the place of their participation in regular consultations but should be considered as equally important. Project-affected vulnerable people may also require assistance to participate in consultation events or discussion forums, for example, through provision of transportation to consultation venues, or visits to individual households for consultation purposes. Affected persons identified as disadvantaged or vulnerable may also need additional help to understand their options for resettlement and compensation.

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GN17.4. Disadvantaged or vulnerable refers to those individuals or groups who, by virtue of, for example, their age, gender, ethnicity, religion, physical, mental or other disability, social, civic or health status, sexual orientation, gender identity, economic disadvantages or indigenous status, and/or dependence on unique natural resources, 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 an individual/group is also more likely to be excluded from/unable to participate fully in the mainstream consultation process and as such may require specific measures and/or assistance to do so. This will take into account considerations relating to age, including the elderly and minors, and including in circumstances where they may be separated from their family, the community or other individuals upon whom they depend.

18. 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 replacement land or alternative access to natural resources rather than in cash, should be explored.

GN18.1. Women frequently suffer disproportionately when resettlement is badly planned or executed, as they are often a disproportionately large number of the poor; have more limited access to resources, opportunities, and public services than men; have more insecure rights to land; and as a result, rely more heavily on informal support networks within their existing communities. The resettlement planning process needs to consider the situation of women and to adapt the engagement process as necessary to ensure that women have a role in decision making. A comprehensive planning process includes identification of: (i) women's means of income generation and livelihoods, including non-formal activities such as gathering natural resources, trading and bartering services and wares; (ii) women's social and economic networks, including extended family ties; and (iii) women's ownership of affected assets, including land and crops, in order to appropriately compensate them.

GN18.2. In certain contexts it may be necessary to conduct separate, additional consultations with women in order to ensure their inputs and to secure their equal participation in stakeholder engagement processes, free of manipulation, interference, coercion, discrimination and intimidation. Such consultations should be convened at times and in locations that take into account women's safety and ability to participate, and should not take the place of women's participation in regular consultations but should be considered as equally important. The format of these consultations should be culturally appropriate and designed to address barriers to participation, such as level of education. Similarly, additional and separate consultations may also be necessary when engaging with other disadvantaged or vulnerable individuals or groups.

Grievance Mechanism

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19. *The Borrower will ensure that a grievance mechanism for the project is in place, in accordance with ESS10 as early as possible in project development to address specific concerns about compensation, relocation or livelihood restoration measures raised by displaced persons (or others) in a timely fashion. Where possible, such grievance mechanisms will utilize existing formal or informal grievance mechanisms suitable for project purposes, supplemented as needed with project-specific arrangements designed to resolve disputes in an impartial manner.*

GN19.1. Grievance mechanisms are established as part of the resettlement plan (see Paragraph 21 and ESS10). Regardless of scale, involuntary resettlement may give rise to grievances among affected households and communities over issues ranging from rates of compensation and eligibility criteria to the location of resettlement sites and the quality of services at those sites. Grievances mechanisms must be sensitive to social and cultural norms and practices with particular attention to ensure a safe and secure space for vulnerable and disadvantaged groups including women to be able to freely express any particular and sensitive concerns or grievances.

GN19.2. The project grievance mechanism is disclosed and explained to affected communities as early as possible and on a regular basis throughout the project cycle. The grievance mechanism is available at no cost, and it is important that it be easily accessible, with special attention paid to accessibility for disadvantaged and vulnerable individuals or groups. A grievance mechanism is gender-responsive, transparent, independent and protected against political and other types of influence.

GN19.3. The scope of the grievance mechanism varies with the magnitude and complexity of the project and displacement involved, and may call for additional staff with specific expertise to be designated and trained to address grievances related to involuntary resettlement.

GN19.4. The grievance mechanisms is not a substitute for the Bank's Inspection Panel. The Borrower should inform and ensure that all project affected parties are aware of the existence of the Bank's Inspection Panel and how to contact them.

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Planning and Implementation

20. Where land acquisition or restrictions on land use are unavoidable, the Borrower will, as part of the environmental and social assessment, conduct a census to identify the persons who will be affected by the project, to establish an inventory of land and assets to be affected,¹⁷ to determine who will be eligible for compensation and assistance,¹⁸ and to discourage ineligible persons, such as opportunistic settlers, from claiming benefits. The social assessment will also address the claims of communities or groups who, for valid reasons, may not be present in the project area during the time of the census, such as seasonal resource users. In conjunction with the census, the Borrower will establish a cut-off date for eligibility. Information regarding the cut-off date will be well documented and will be disseminated throughout the project area at regular intervals in written and (as appropriate) non-written forms and in relevant local languages. This will include posted warnings that persons settling in the project area after the cutoff date may be subject to removal.

Footnote 17. See Annex 1. Such inventory should include a detailed account, derived through a consultative, impartial and transparent process, of the full range of rights held or asserted by affected people, including those based on custom or practice, secondary rights such as rights of access or use for livelihoods purposes, rights held in common, etc.

Footnote 18. Documentation of ownership or occupancy and compensation payments should be issued in the names of both spouses or single heads of households as relevant, 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 to achieve equity with men.

GN20.1. The census identifies affected people, and includes pertinent demographic (age, sex, family size, births, and deaths) and related social and economic information (ethnicity, health, education, occupation, income sources, livelihood patterns, productive capacity, etc.). The census helps to determine eligibility of affected people. It includes undertaking an inventory and valuation of assets and establishing, documenting and making known the rights of those affected. This may include different types of secondary rights of access and use that are valuable for people's livelihoods but that are largely undocumented, such as seasonal rights or rights held by migrant populations such as nomadic pastoralists. It is important to undertake the inventory in close consultation with affected communities and households, and if needed, the services of a social specialist with expertise in land and natural resource tenure. (See also ESS1 Paragraph 28(b) and Footnote 29, and associated Guidance Note.) The information gathered in connection with the census is the baseline which serves as a reference point against which income restoration and the results of other rehabilitation efforts can be measured.

GN20.2. The cut-off date for determining eligibility for compensation or other assistance is intended to help prevent encroachment by opportunistic settlers. It is most effective when it is well communicated, documented, and disseminated, including by providing clear demarcation of areas designated for resettlement. Individuals taking up residence in, or use of, the project area after the cut-off date are not eligible for compensation or resettlement assistance. Similarly, the loss of fixed assets (such as built structures, crops, fruit trees, and woodlots) established after the cut-off date is not compensated.

GN20.3. Diligent efforts should be made to ensure that the claims of individuals or groups who, for valid reasons, are not present at the time of the census but who have a claim to land or assets, are addressed.

GN20.4. A common complication encountered with respect to cut-off dates involves "historic" cut off

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dates, which were established when a project was ready for development but which, due to project delays, have become outdated. In such situations, natural population growth (for example, grown children from previously eligible households) may result in new households eligible for resettlement benefits and assistance that were not listed in the original survey. It is good practice for planners to make provision for population movements, natural population increase as well as new structures built (e.g. reparations or expanding their house or shop) by affected households after lengthy project and resettlement delays. Replacement value compensation for these assets should be provided in such circumstances. If there is a significant time lag between the completion of the census and implementation of the resettlement or livelihood restoration plan (such as more than 3 years), a repeat census and inventory and evaluation of assets are undertaken and the resettlement plan updated accordingly.

GN20.5 Where legally permissible, the resettlement plan includes measures to ensure that documentation of ownership or occupancy, such as title deeds and lease agreements, and compensation (including the bank accounts established for payment of compensation), are issued in the names of both spouses or of single women heads of households, as relevant to each situation. In circumstances in which national law and local customary tenure systems do not give women equal opportunities or rights with regard to property, alternative steps are taken to ensure that access of women to security of tenure is equivalent to that of men and does not further disadvantage women.

<p>21. To address the issues identified in the environmental and social assessment, the Borrower will prepare a plan¹⁹ proportionate to the risks and impacts associated with the project:</p> <p>(a) For projects with minor land acquisition or restrictions on land use, as a result of which there will be no significant impact on incomes or livelihoods, the plan will establish eligibility criteria for affected persons, set out procedures and standards for compensation, and incorporate arrangements for consultations, monitoring and addressing grievances;</p> <p>(b) For projects causing physical displacement, the plan will set out the additional measures relevant to relocation of affected persons;</p> <p>(c) For projects involving economic displacement with significant impacts on livelihoods or income generation, the plan will set out the additional measures relating to livelihood improvement or restoration; and</p> <p>(d) For projects that may impose changes in land use that restrict access to resources in legally designated parks or protected areas or other common property resources on which local people may depend for livelihood purposes, the plan will establish a participatory process for determining appropriate restrictions on use and set out the mitigation measures to address adverse impacts on livelihoods that may result from such restrictions.</p>
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Footnote 19. See Annex 1.

GN21.1. Resettlement plans are prepared for any project that results in economic or physical displacement. The scope and level of detail of the plan varies with the magnitude of displacement and complexity of the measures required to mitigate adverse impacts. In all cases, the plan describes the manner in which the objectives of ESS5 can be achieved. The resettlement plan may take a number of different forms, depending on the project's impacts. The different plans are described in Annex 1 to ESS5.

GN21.2. For access restrictions in relation to legally designated parks, protected areas or other common property, the resettlement plan may take the form of a "process framework" (also described in Annex 1). It is used to design project activities, determine eligibility criteria, reach agreement on access restrictions, identify measures to assist affected persons improve or restore their livelihoods, manage conflicts and grievances, and arrange for participatory implementation and monitoring.

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22. *The Borrower's plan will establish the roles and responsibilities relating to financing and implementation, and include arrangements for contingency financing to meet unanticipated costs, as well as arrangements for timely and coordinated response to unforeseen circumstances impeding progress toward desired outcomes.²⁰ The full costs of resettlement activities necessary to achieve the objectives of the project are included in the total costs of the project. The costs of resettlement, like the costs of other project activities, are treated as a charge against the economic benefits of the project; and any net benefits to resettlers (as compared to the "without-project" circumstances) are added to the benefits stream of the project.*

Footnote 20. For projects with significant resettlement impacts and complex mitigation measures, the Borrower may consider preparing a stand-alone resettlement project for Bank support.

GN22.1. A key function of the planning process is to determine as early and fully as possible the anticipated costs of resettlement, as well the arrangements for meeting those costs (including contingencies). It is important to specify in the arrangements the commitments obtained from relevant institutions within government and any other parties to meet the resettlement costs.

23. *The Borrower will establish procedures to monitor and evaluate the implementation of the plan and will take corrective action as necessary during implementation to achieve the objectives of this ESS. The extent of monitoring activities will be proportionate to the project's risks and impacts. For all projects with significant involuntary resettlement impacts, the Borrower will retain competent resettlement professionals to monitor the implementation of resettlement plans, design corrective actions as necessary, provide advice on compliance with this ESS and produce periodic monitoring reports. Affected persons will be consulted during the monitoring process. Periodic monitoring reports will be prepared and affected persons will be informed about monitoring results in a timely manner.*

GN23.1. The monitoring and evaluation of resettlement implementation should be planned as early as possible in preparation of the resettlement plan. The resettlement census, including socio-economic baseline studies, and the inventory and evaluation of assets are conducted in a manner that enables subsequent tracking of resettlement outcomes. This is typically done through the early identification of key indicators to be tracked over time.

24. *Implementation of the Borrower's 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 ESS. For all projects with significant involuntary resettlement impacts, the Borrower will commission an external completion audit of the plan when all mitigation measures have been substantially completed. The completion audit will be undertaken by competent resettlement professionals, will assess whether livelihoods and living standards have been improved or at least restored and, as necessary, will propose corrective actions to meet objectives not yet achieved.*

GN24.1. An external resettlement completion audit is best practice for all projects with involuntary resettlement and is required for all projects with significant adverse social impacts. The Bank will require an audit where the project has significant impacts, or the affected households are particularly vulnerable (for example, those with a strong attachment to particular lands and/or natural resources), or other social, economic, or political factors. The key objective of a completion audit is to evaluate whether the Borrower's efforts to restore the livelihoods and living standards of the affected population have been successful. The audit measures whether the livelihoods and living standards of the affected population meet or exceed those enjoyed prior to displacement, and if that is not the case, what additional measures,

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Commented [O16]: Completion audit should ideally be a standard procedure and should not be subject to the level of social impact

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if any, are needed to help improve, or at least restore, livelihoods and living standards. The audit also verifies that all physical inputs committed to in the resettlement plan have been delivered, and all agreed services have been provided.

25. *Where the likely 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 during project preparation, the Borrower will develop a framework establishing general principles and procedures compatible with this ESS. Once the individual project components are defined and the necessary information becomes available, such a framework will be expanded into one or more specific plans proportionate to potential risks and impacts. No physical and/or economic displacement will occur until plans required by this ESS have been finalized and approved by the Bank.*

GN25.1. It is not always possible to know the extent and location of resettlement during project preparation (for example, when a project has multiple subprojects that will be designed during project implementation). In such cases, a policy framework (see Annex 1 to ESS5) is used, which will be expanded into one or more specific resettlement plans in accordance with ESS5 once the relevant project subcomponents are defined. Paragraph 25 emphasizes the importance of finalizing and obtaining Bank approval of such plans before any associated displacement commences. As with any resettlement plan prepared under ESS5, no displacement commences until compensation has been paid and other relevant assistance provided, as described in Paragraph 15.

B. Displacement

Physical Displacement

26. *In the case of physical displacement, the Borrower will develop a plan that covers, at a minimum, the applicable requirements of this ESS regardless of the number of people affected. The plan will be designed to mitigate the negative impacts of displacement and, as warranted, to identify development opportunities. It will include a resettlement budget and implementation schedule, and establish the entitlements of all categories of affected persons (including host communities). Particular attention will be paid to gender aspects and the needs of the poor and the vulnerable. The Borrower will document all transactions to acquire land rights, provision of compensation and other assistance associated with relocation activities.*

GN26.1. When physical displacement is to occur, resettlement planning provides displaced persons with opportunities to participate in development of the resettlement plan and implementation of activities intended to improve or at least restore their standards of living. In accordance with Paragraph 20, baseline conditions are established prior to displacement by conducting a census and enumeration of households, an inventory and evaluation of their assets, and a socio-economic survey assessing living standards and social conditions. The contents of this plan are described in Annex 1 to ESS5.

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27. *If people living in the project area are required to move to another location, the Borrower will: (a) offer displaced persons choices among feasible resettlement options, including adequate replacement housing or cash compensation; and (b) provide relocation assistance suited to the needs of each group of displaced persons. New resettlement sites will offer living conditions at least equivalent to those previously enjoyed, or consistent with prevailing minimum codes or standards, whichever set of standards is higher. If new resettlement sites are to be prepared, host communities will be consulted regarding planning options, and resettlement plans will ensure continued access, at least at existing levels or standards, for host communities to facilities and services. The displaced persons' preferences with respect to relocating in preexisting communities and groups will be respected wherever possible. Existing social and cultural institutions of the displaced persons and any host communities will be respected.*

GN27.1. Consistent with The Right to Housing and other international human rights standards, replacement housing should, at a minimum, be of sufficient quality to protect inhabitants from weather conditions, pollution, and environmental hazards and provide for their physical safety; and housing structures should provide adequate space and privacy, taking into account the household size and the number of women and children. Designs should incorporate the special needs of persons with disabilities and the elderly to make housing and other facilities physically accessible. Adequate housing options are those that allow access to employment options, markets, and other means of livelihood such as agricultural fields, as well as basic infrastructure and services, such as affordable potable water, electricity and energy for household needs and sanitation, health-care, and education, and other livelihood opportunities depending on the local context. Resettlement sites and housing should be culturally appropriate to affected persons, and there should be access to appropriate places of worship.

GN27.2. One of the most important choices made in resettlement decision-making is the site of resettlement. Most importantly, if the site is far from economic opportunities that match the experience and skill sets of affected people, no level of support and intervention is likely to be effective at restoring their livelihoods. Adequate alternative sites should be identified to allow people to make a choice. The resettlement process and outcomes will be much more successful when in cases in which affected communities are encouraged and supported to identify a resettlement site for themselves, the Borrower facilitates the acquiring of the land in question.

GN27.3 Adequate sites are safe and not subject to periodic flooding or other hazards. Hazards on or near the site should be identified and mitigated; for example, busy roads or railways may require a fence, a gate, and traffic signals to protect children; a deep pond nearby in which children could drown would require the construction of a fence or other barrier. Human rights documentation covers many of these important requirements including the UN Basic Principles and Guidelines on Development-Based Evictions and Displacement.

GN27.4. The resettlement plan provides for transitional relocation assistance to people who are physically displaced. Such assistance may include transportation, food, shelter, and social services that are provided to affected people during the relocation to their new site. Additional measures may be necessary for vulnerable groups during physical relocation, particularly pregnant women, children, the elderly, and the disabled. Assistance may also include cash allowances that compensate affected people for the inconvenience associated with resettlement and defray the expenses of relocating to a new location, such as moving and lost workdays.

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28. *In the case of physically displaced persons under paragraph 10(a) or (b), the Borrower will offer the choice of replacement property of equal or higher value, with security of tenure, equivalent or better characteristics, and advantages of location, or cash compensation at replacement cost. Compensation in kind should be considered in lieu of cash.*²¹

Footnote 21. Payment of cash compensation for lost land and other assets may be appropriate where: (a) livelihoods are not land-based; (b) 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 (c) active markets for land, housing, and labor exist, displaced persons use such markets, there is sufficient supply of land and housing, and the Borrower has demonstrated to the satisfaction of the Bank that insufficient replacement land is available.

GN28.1. Security of tenure is an important component of adequate housing, and is defined in Footnote 7. Footnote 7 also provides that where affected people are receiving land as replacement for land they have lost to the project, their tenure rights to the replacement land is no weaker in effect than their tenure rights to the relinquished land. This provision draws attention to the fact that the nature and duration of a person's rights to land are important components of the value of what he or she is losing through displacement. For example, it would normally be inappropriate to replace land that is held in full ownership with land to which an affected person only receives a short-term lease. Applying this provision may require judgment, because it is not always easy to measure the relative strengths of different tenure arrangements. Therefore, it is important to look at the combined characteristics of replacement land to ensure that in the aggregate they provide value to the affected person that is equal to or greater than what she or he is losing as a result of displacement.

GN (Footnote 21) The Borrower should provide enough compensation to ensure that poor and vulnerable affected households can improve their living conditions and relocate to adequate housing of at least a basic acceptable standard according to the UN Basic Principles and Guidelines on Development-Based Evictions and Displacement and The Right to Housing. A family whose home prior to resettlement consists of a makeshift shelter that does not provide protection from the elements, privacy, or security should be provided with resources to ensure access to adequate housing of at least minimum standards post-resettlement. In cases in which compensation, rather than replacement housing, is being provided by the Borrower, sufficient funds must be provided for the purchase or construction of adequate housing (adjusted for household size) established on the basis of independent expert advice. Replacement cost should only be used as the basis for compensation of lost housing when it meets or exceeds the minimum amount necessary to purchase or construct an adequate house.

29. *In the case of physically displaced persons under paragraph 10(c), the Borrower will provide arrangements to allow them to obtain adequate housing with security of tenure. Where these displaced persons own structures, the Borrower will compensate them for the loss of assets other than land, such as dwellings and other improvements to the land, at replacement cost.*²² *Based on consultation with such displaced persons, the Borrower will provide relocation assistance in lieu of compensation for land sufficient for them to restore their standards of living at an adequate alternative site.*²³

Footnote 22. Where the Borrower demonstrates that an affected person derives substantial income from multiple illegal rental units, the compensation and other assistance that would otherwise be available to such person for non-land assets and livelihood restoration under this paragraph may be reduced with the prior agreement of the Bank, to better reflect the objectives of this ESS.

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Footnote 23. 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 locational advantages that may be essential to livelihoods, especially among the poor or vulnerable. Changes in location that may affect livelihood opportunities should be addressed in accordance with the relevant provisions of this ESS (see in particular paragraph 34(c)).

GN29.1. As indicated in several paragraphs of ESS5, affected people are entitled to certain types of assistance (for example, compensation for fixed assets and livelihood restoration) even if they have no legal rights to the land they are occupying. The Borrower should provide enough compensation to ensure that poor and vulnerable affected households can improve their living conditions and relocate to adequate housing of at least a basic acceptable standard according to the UN Basic Principles and Guidelines on Development-Based Evictions and Displacement and The Right to Housing. Footnote 22 refers to what is known as the “squatter landlord” phenomenon that is prevalent in many large cities in developing countries: these are persons who accumulate and derive substantial rental income from multiple buildings located on land to which they do not have legal rights. If it is demonstrated that a squatter landlord’s livelihood would not be significantly affected, the Borrower and Bank may agree on an approach that reduces the amount of compensation the landlord might otherwise be entitled to under ESS5 for fixed assets and livelihood restoration. In determining this, it is important to distinguish the situation and characteristics of “squatter landlords” from situations in which affected informal property owners depend on rental income from the structure they are losing for all or a substantial portion of their livelihoods – such affected people are not the intended focus of the Footnote.

GN (Footnote 23). A suitable location that provides access to both economic opportunities and security of land tenure are the two most important determinative factors of successful resettlement, and both must be ensured. Such “trade-offs” between two essential elements of the right to adequate housing – tenure security and access to livelihood opportunities - should not occur and should be avoided completely. It is never acceptable to place affected households at risk of either impoverishment or tenure insecurity because of the choice of resettlement site.

30. 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.

31. The Borrower will not resort to forced evictions of affected persons. “Forced eviction” is defined as 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 ESS. The exercise of eminent domain, compulsory acquisition or similar powers by a Borrower will not be considered to be forced eviction providing it complies with the requirements of national law and the provisions of this ESS, and is conducted in a manner consistent with basic principles of due process (including provision of adequate advance notice, meaningful opportunities to lodge grievances and appeals, and avoidance of the use of unnecessary, disproportionate or excessive force).

GN31.1. The prohibition against “forced eviction” does not prevent action by a government to remove a person who continues to occupy land upon completion of the legal process of eminent domain or compulsory acquisition. Eviction is not considered to be forced eviction if it conforms to national and international law – Including compliance with, and completion of, all relevant legal and administrative procedures, including appeals processes – complies with all the relevant requirements of ESS5, and is

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carried out in a way that respects human rights standards and is fully aligned with the UN Basic Principles and Guidelines on Development-based Evictions and Displacement. Evictions should only be carried out in exceptional circumstances, solely for the purpose of promoting the general welfare, after all feasible alternatives have been exhausted, and Borrowers demonstrate the public interest value of the project and the proportionality of displacement impacts and risks.

GN31.2. Due process is understood to include the following types of procedural protections: (a) an opportunity for genuine consultation with those affected; (b) adequate and reasonable notice for all affected persons prior to the scheduled date of eviction; (c) information on the proposed evictions, and, where applicable, on the alternative purpose for which the land or housing is to be used, to be made available in reasonable time to all those affected; (d) especially where groups of people are involved, government officials or their representatives to be present during an eviction; (e) all persons carrying out the eviction to be properly identified; (f) evictions not to take place in particularly bad weather or at night unless the affected persons consent otherwise; (g) provision of legal remedies; and (h) provision, where possible, of legal aid to persons who are in need of it to seek redress from the courts.

32. *As an alternative to displacement, the Borrower may consider negotiating in situ land development arrangements by which those to be affected may elect to accept a partial loss of land or localized relocation in return for improvements that will increase the value of their property after development. Any person not wishing to participate will be allowed to opt instead for full compensation and other assistance as required in this ESS.*

GN32.1. Where feasible, in situ resettlement may be a way of enabling physically and/or economically displaced persons to remain in or close to the location where they live and work. It can provide a way for affected people to more directly benefit from the project and to share in the incremental enhancement of property values that a project brings about. Paragraph 32 therefore confirms that in situ arrangements may be used under ESS5, where people receive smaller but more valuable replacement land or housing that has been developed by the project itself. Examples include irrigation projects where affected farmers relinquish rainfed land for a smaller portion of irrigated and more productive land, or land readjustment schemes where rural land is relinquished in exchange for smaller, high-value urban plots that benefit from project-financed infrastructure. Care is taken in all such cases to demonstrate and document that the calculation of the value of the improvements is robust and that the expectation of enhanced value within a reasonable period is realistic. When there is a transition period between the relinquishing of land and the provision of replacement land in an in-situ location, transitional assistance is provided.

Economic Displacement

33. *In the case of projects affecting livelihoods or income generation, the Borrower's plan will include measures to allow affected persons to improve, or at least restore, their incomes or livelihoods. The plan will establish the entitlements of affected persons and/or communities, paying particular attention to gender aspects and the needs of vulnerable segments of communities, and will ensure that these are provided in a transparent, consistent, and equitable manner. The plan will incorporate arrangements to monitor the effectiveness of livelihood measures during implementation, as well as evaluation once implementation is completed. The mitigation of economic displacement will be considered complete when the completion audit concludes that affected persons or communities have received all of the assistance for which they are eligible, and have been provided with adequate opportunity to reestablish their livelihoods.*

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34. Economically displaced persons who face loss of assets or access to assets will be compensated for such loss at replacement cost:
- (a) In cases where land acquisition or restrictions on land use affect commercial enterprises,²⁴ affected business owners will be compensated for the cost of identifying a viable alternative location; for lost net income during the period of transition; for the cost of the transfer and reinstallation of the plant, machinery, or other equipment; and for reestablishing commercial activities. Affected employees will receive assistance for temporary loss of wages and, if necessary, assistance in identifying alternative employment opportunities;
 - (b) In cases affecting persons with legal rights or claims to land that are recognized or recognizable under national law (see paragraph 10 (a) and (b)), replacement property (e.g., agricultural or commercial sites) of equal or greater value will be provided, or, where appropriate, cash compensation at replacement cost; and
 - (c) Economically displaced persons who are without legally recognizable claims to land (see paragraph 10(c)) will be compensated for lost assets other than land (such as crops, irrigation infrastructure and other improvements made to the land), at replacement cost. Additionally, the Borrower will provide assistance in lieu of land compensation sufficient to provide such persons with an opportunity to reestablish livelihoods elsewhere. The Borrower is not required to compensate or assist persons who encroach on the project area after the cut-off date for eligibility.

Footnote 24. This includes shops, restaurants, services, manufacturing facilities and other enterprises, regardless of size and whether licensed or unlicensed.

GN33.1 For economic displacement impacts Borrowers should conduct baseline assessments and aim to improve or at least restore incomes and livelihoods that are adversely affected. In addition, for economic displacement impacts that fall outside the scope of ESS5 and are instead covered by ESS1, mitigation measures should nonetheless aim to improve and, at minimum, restore people's livelihoods and living standards to pre-displacement levels since compensation alone does not prevent impoverishment in such cases.

GN34.1. Where possible, local communities and Indigenous Peoples should be allowed to exercise pre-existing access or usage rights to Borrower-controlled land. For example, nomadic peoples may claim legal or customary rights to access or pass through Borrower-controlled land periodically or seasonally, for subsistence and traditional activities. Their claims may be linked to certain natural resources such as an oasis or water spring, herds of migratory animals or plants that grow naturally, that can be harvested only at a particular time of the year, or are pollinators for other plants, trees, or crops. The exercise of such rights, however, is subject to reasonable measures by the Borrower to maintain a safe and healthy working environment for workers under ESS2, safeguards for community health, safety and security under ESS4, and the Borrower's reasonable operating requirements. If it is deemed necessary to curtail pre-existing access or usage rights for such reasons, the affected people are provided with other assistance measures, consistent with the objectives of ESS5, and with the objectives of ESS7, if it concerns Indigenous Peoples.

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35. *Economically displaced persons will be provided opportunities to improve, or at least restore, their means of income-earning capacity, production levels, and standards of living:*
- (a) *For persons whose livelihoods are land-based, replacement land that has a combination of productive potential, locational advantages, and other factors at least equivalent to that being lost will be offered where feasible.;*
 - (b) *For persons whose livelihoods are natural resource-based and where project-related restrictions on access envisaged in paragraph 4 apply, measures will be implemented to either allow continued access to affected resources or to provide access to alternative resources with equivalent livelihood-earning potential and accessibility. Where common property resources are affected, benefits and compensation associated with restrictions on natural resource usage may be collective in nature; and*
 - (c) *If it is demonstrated that replacement land or resources are unavailable, the Borrower will offer economically displaced persons options for alternative income earning opportunities, such as credit facilities, skills training, business start-up assistance, employment opportunities, or cash assistance additional to compensation for assets. Cash assistance alone, however, frequently fails to provide affected persons with the productive means or skills to restore livelihoods.*

GN35.1. Compensation alone is not sufficient to restore or improve the livelihoods and social welfare of displaced households and communities. Challenges associated with rural resettlement include restoring livelihoods based on land or natural resource use and the need to avoid compromising the cohesion of affected communities, including the host communities to which the displaced population may be resettled. A challenge associated with urban resettlement is the restoration of wage-based or enterprise-based livelihoods that are often tied to location (such as proximity to jobs, customers and markets).

GN35.2. The following are examples for the design of measures to improve or restore livelihoods that are land-based, wage-based and enterprise-based:

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

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after resettlement; if this ability is impaired then mitigation measures are implemented to ensure continuity and avoid a net loss in welfare for affected households and communities.

- (c) *Enterprise-based livelihoods*: Established and start-up entrepreneurs and artisans may benefit from credit or training (such as business planning, marketing, inventory and quality control) to expand their businesses and generate local employment.

GN35.3. Land acquisition may result in elimination or restriction of access to commonly held natural resources such as rangeland, pasture, fallow land, and non-timber forest resources (for example, medicinal plants, construction, and handicraft materials), woodlots for timber and fuelwood, or fishing grounds. In such instances, land-based compensation in the form of suitable replacement land, or access to other areas of natural resources to address the loss of such resources is provided. Such assistance can take the form of initiatives that enhance the productivity or sustainable use of the remaining resources to which the community has access (for example, improved resource management practices or inputs to boost the productivity of the resource base), in-kind provision of resources, or as a last resort, cash compensation intended to compensate those affected for loss of access for some reasonable period of time. (See also ESS6.)

36. *Transitional support will 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*

GN36.1. See the GN for Paragraph 15.

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C. Collaboration with Other Responsible Agencies or Subnational Jurisdictions

37. *The Borrower will establish means of collaboration between the agency or entity responsible for project implementation and any other governmental agencies, subnational jurisdictions or entities that are responsible for any aspects of land acquisition, resettlement planning, or provision of necessary assistance. In addition, where the capacity of other responsible agencies is limited, the Borrower will actively support resettlement planning, implementation, and monitoring. If the procedures or standards of other responsible agencies do not meet the relevant requirements of this ESS, the Borrower will prepare supplemental arrangements or provisions for inclusion in the resettlement plan to address identified shortcomings. The plan will also specify financial responsibilities for each of the agencies involved, appropriate timing and sequencing for implementation steps, and coordination arrangements for addressing financial contingencies or responding to unforeseen circumstances.*

GN37.1. There may be cases where the project implementing agency of a project lacks the legal authority or organizational capacity to undertake land acquisition and provide resettlement assistance directly. Instead, that responsibility may be within the mandate of another agency that is not directly involved in project implementation. In such instances, it is recommended that the Borrower take early and proactive steps in establishing ways to collaborate between all relevant agencies.

D. Technical and Financial Assistance

38. *The Borrower may request technical assistance from the Bank to strengthen Borrower capacity, or the capacity of other responsible agencies, for resettlement planning, implementation and monitoring. Such forms of assistance may include staff training, assistance in formulating new regulations or policies relating to land acquisition or other aspects of resettlement, financing for assessments or other investment costs associated with physical or economic displacement, or other purposes.*

39. *The Borrower may request the Bank to finance either a component of the main investment causing displacement and requiring resettlement, or a free-standing resettlement project with appropriate cross-conditionalities, processed and implemented in parallel with the investment that causes the displacement. The Borrower may also request the Bank to finance resettlement even though it is not financing the main investment that makes resettlement necessary.*

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ESS5-ANNEX 1. Involuntary Resettlement Instruments

1. This Annex describes the elements of the plans addressing physical and/or economic displacement described in paragraph 21 of ESS 5. For purposes of this Annex, these plans shall be referred to as “resettlement plans”. Resettlement plans include measures to address physical and/or economic displacement, depending on the nature of the impacts expected from a project. Projects may use alternative nomenclature, depending on the scope of the resettlement plan – for example, where a project involves only economic displacement, the resettlement plan may be called a “livelihood plan” or where restrictions on access to legally designated parks and protected areas are involved, the plan may take the form of a “process framework.” This Annex also describes the framework referred to paragraph 25 of ESS 5.

A. Resettlement Plan

2. The scope of requirements and level of detail of the resettlement plan vary with the magnitude and complexity of resettlement. The plan is based on up-to-date and reliable information about (a) the proposed project and its potential impacts on the displaced persons and other adversely affected groups, (b) appropriate and feasible mitigation measures, and (c) the legal and institutional arrangements required for effective implementation of resettlement measures.

Minimum Elements of a Resettlement Plan

3. Description of the project. General description of the project and identification of the project area.

4. Potential impacts. Identification of:
(a) the project components or activities that give rise to displacement, explaining why the selected land must be acquired for use within the timeframe of the project;
(b) the zone of impact of such components or activities;
(c) the scope and scale of land acquisition and impacts on structures and other fixed assets;
(d) any project-imposed restrictions on use of, or access to, land or natural resources;
(e) alternatives considered to avoid or minimize displacement and why those were rejected; and
(f) the mechanisms established to minimize displacement, to the extent possible, during project

5. Objectives. The main objectives of the resettlement program.

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6. *Census survey and baseline socio-economic studies. The findings of a household-level census identifying and enumerating affected persons, and, with the involvement of affected persons, surveying land, structures and other fixed assets to be affected by the project. The census survey also serves other essential functions:*
- (a) *identifying characteristics of displaced households, including a description of production systems, labor, and household organization; and baseline information on livelihoods (including, as relevant, production levels and income derived from both formal and informal economic activities) and standards of living (including health status) of the displaced population;*
 - (b) *information on vulnerable groups or persons for whom special provisions may have to be made;*
 - (c) *identifying public or community infrastructure, property or services that may be affected;*
 - (d) *providing a basis for the design of, and budgeting for, the resettlement program;*
 - (e) *in conjunction with establishment of a cut-off date, providing a basis for excluding ineligible people from compensation and resettlement assistance; and*
 - (f) *establishing baseline conditions for monitoring and evaluation purposes.*
 - (g) *As the Bank may deem relevant, additional studies on the following subjects may be required to supplement or inform the census survey:*
 - (h) *land tenure and transfer systems, including an inventory of common property natural resources from which people derive their livelihoods and sustenance, non-title-based usufruct systems (including fishing, grazing, or use of forest areas) governed by local recognized land allocation mechanisms, and any issues raised by different tenure systems in the project area;*
 - (i) *the patterns of social interaction in the affected communities, including social networks and social support systems, and how they will be affected by the project; and*
 - (j) *social and cultural characteristics of displaced communities, including a description of formal and informal institutions (e.g., community organizations, ritual groups, nongovernmental organizations (NGOs)) that may be relevant to the consultation strategy and to designing and*
7. *Legal framework. The findings of an analysis of the legal framework, covering*
- (a) *the scope of the power of compulsory acquisition and imposition of land use restriction and the nature of compensation associated with it, in terms of both the valuation methodology and the timing of payment;*
 - (b) *the applicable legal and administrative procedures, including a description of the remedies available to displaced persons in the judicial process and the normal timeframe for such procedures, and any available grievance redress mechanisms that may be relevant to the project;*
 - (c) *laws and regulations relating to the agencies responsible for implementing resettlement activities; and*
8. *Institutional Framework. The findings of an analysis of the institutional framework covering*
- (a) *the identification of agencies responsible for resettlement activities and NGOs/CSOs that may have a role in project implementation, including providing support for displaced persons;*
 - (b) *an assessment of the institutional capacity of such agencies and NGOs/CSOs; and*
 - (c) *any steps that are proposed to enhance the institutional capacity of agencies and NGOs/CSOs responsible for resettlement implementation.*
9. *Eligibility. Definition of displaced persons and criteria for determining their eligibility for compensation and other resettlement assistance, including relevant cut-off dates.*
10. *Valuation of and compensation for losses. The methodology to be used in valuing losses to determine their replacement cost; and a description of the proposed types and levels of compensation for land, natural resources and other assets under local law and such supplementary measures as are necessary to achieve replacement cost for them.*

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11. *Community participation. Involvement of displaced persons (including host communities, where relevant)*
(a) *a description of the strategy for consultation with, and participation of, displaced persons in the design and implementation of the resettlement activities;*
(b) *a summary of the views expressed and how these views were taken into account in preparing the resettlement plan;*
(c) *a review of the resettlement alternatives presented and the choices made by displaced persons regarding options available to them; and*
(d) *institutionalized arrangements by which displaced people can communicate their concerns to project authorities throughout planning and implementation, and measures to ensure that such vulnerable groups as indigenous people, ethnic minorities, the landless, and women are*

12. *Implementation schedule. An implementation schedule providing anticipated dates for displacement, and estimated initiation and completion dates for all resettlement plan activities. The schedule should indicate how the resettlement activities are linked to the implementation of the overall project.*

13. *Costs and budget. Tables showing categorized cost estimates for all resettlement activities, including allowances for inflation, population growth, and other contingencies; timetables for expenditures; sources of funds; and arrangements for timely flow of funds, and funding for resettlement, if any, in areas outside the jurisdiction of the implementing agencies.*

14. *Grievance redress mechanism. The plan describes affordable and accessible procedures for third-party settlement of disputes arising from displacement or resettlement; such grievance mechanisms should take into account the availability of judicial recourse and community and traditional dispute settlement mechanisms.*

15. *Monitoring and evaluation. Arrangements for monitoring of displacement and resettlement activities by the implementing agency, supplemented by third-party monitors as considered appropriate by the Bank, to ensure complete and objective information; performance monitoring indicators to measure inputs, outputs, and outcomes for resettlement activities; involvement of the displaced persons in the monitoring process; evaluation of results for a reasonable period after all resettlement activities have been completed; using the results of resettlement monitoring to guide subsequent implementation.*

16. *Arrangements for adaptive management. The plan should include provisions for adapting resettlement implementation in response to unanticipated changes in project conditions, or unanticipated obstacles to achieving satisfactory resettlement outcomes.*

Additional Planning Requirements where Resettlement Involves Physical Displacement

17. *When project circumstances require the physical relocation of residents (or businesses), resettlement plans require additional information and planning elements. Additional requirements include:*

18. *Transitional assistance. The plan describes assistance to be provided for relocation of household members and their possessions (or business equipment and inventory). The plan describes any additional assistance to be provided for households choosing cash compensation and securing their own replacement housing, including construction of new housing. If planned relocation sites (for residences or businesses) are not ready for occupancy at the time of physical displacement, the plan establishes a transitional allowance sufficient to meet temporary rental expenses and other costs until occupancy is available.*

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19. *Site selection, site preparation, and relocation. When planned relocation sites are to be prepared, the resettlement plan describes the alternative relocation sites considered and explains sites selected, covering*
- (a) *institutional and technical arrangements for identifying and preparing relocation sites, whether rural or urban, for which a combination of productive potential, locational advantages, and other factors is better or at least comparable to the advantages of the old sites, with an estimate of the time needed to acquire and transfer land and ancillary resources;*
 - (b) *identification and consideration of opportunities to improve local living standards by supplemental investment (or through establishment of project benefit-sharing arrangements) in infrastructure, facilities or services;*
 - (c) *any measures necessary to prevent land speculation or influx of ineligible persons at the selected sites;*
 - (d) *procedures for physical relocation under the project, including timetables for site preparation and transfer; and*
 - (e) *(e) legal arrangements for regularizing tenure and transferring titles to those resettled, including provision of security of tenure for those previously lacking full legal rights to land or structures.*
20. *Housing, infrastructure, and social services. Plans to provide (or to finance local community provision of) housing, infrastructure (e.g., water supply, feeder roads), and social services (e.g., schools, health services); plans to maintain or provide a comparable level of services to host populations; any necessary site development, engineering, and architectural designs for these facilities.*
21. *Environmental protection and management. A description of the boundaries of the planned relocation sites; and an assessment of the environmental impacts of the proposed resettlement and measures to mitigate and manage these impacts (coordinated as appropriate with the environmental assessment of the main investment requiring the resettlement).*
22. *Consultation on relocation arrangements. The plan describes methods of consultation with physically displaced persons on their preferences regarding relocation alternatives available to them, including, as relevant, choices related to forms of compensation and transitional assistance, to relocating as individual households families or with preexisting communities or kinship groups, to sustaining existing patterns of group organization, and for relocation of, or retaining access to, cultural property (e.g. places of worship, pilgrimage centers, cemeteries).*
23. *Integration with host populations. Measures to mitigate the impact of planned relocation sites on any host communities, including*
- (a) *consultations with host communities and local governments;*
 - (b) *arrangements for prompt tendering of any payment due the hosts for land or other assets provided in support of planned relocation sites;*
 - (c) *arrangements for identifying and addressing any conflict that may arise between those resettled and host communities; and*
 - (d) *any measures necessary to augment services (e.g., education, water, health, and production services) in host communities to meet increased demands upon them, or to make them at least comparable to services available within planned relocation sites.*

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Additional Planning Requirements where Resettlement Involves Economic Displacement

24. *If land acquisition or restrictions on use of, or access to, land or natural resources may cause significant economic displacement, arrangements to provide displaced persons with sufficient opportunity to improve, or at least restore, their livelihoods are also incorporated into the resettlement plan, or into a separate livelihoods improvement plan. These include:*

25. *Direct land replacement. For those with agricultural livelihoods, the resettlement plan provides for an option to receive replacement land of equivalent productive value, or demonstrates that sufficient land of equivalent value is unavailable. Where replacement land is available, the plan describes methods and timing for its allocation to displaced persons.*

26. *Loss of access to land or resources. For those whose livelihood is affected by loss of land or resource use or access, including common property resources, the resettlement plan describes means to obtain substitutes or alternative resources, or otherwise provides support for alternative livelihoods.*

27. *Support for alternative livelihoods. For all other categories of economically displaced persons, the resettlement plan describes feasible arrangements for obtaining employment or for establishing a business, including provision of relevant supplemental assistance including skills training, credit, licenses or permits, or specialized equipment. As warranted, livelihood planning provides special assistance to women, minorities or vulnerable groups who may be disadvantaged in securing alternative livelihoods.*

28. *Consideration of economic development opportunities. The resettlement plan identifies and assesses any feasible opportunities to promote improved livelihoods as a result of resettlement processes. This may include, for example, preferential project employment arrangements, support for development of specialized products or markets, preferential commercial zoning and trading arrangements, or other measures. Where relevant, the plan should also assess the feasibility of prospects for financial distributions to communities, or directly to displaced persons, through establishment of project-based benefit-sharing arrangements.*

29. *Transitional support. The resettlement plan provides transitional support to those whose livelihoods will be disrupted. This may include payment for lost crops and lost natural resources, payment of lost profits for businesses, or payment of lost wages for employees affected by business relocation. The plan provides that the transitional support continues for the duration of the transition period.*

B. Resettlement Framework

30. *The purpose of the resettlement framework is to clarify resettlement principles, organizational arrangements, and design criteria to be applied to subprojects or project components to be prepared during project implementation (see ESS5, para. 25). Once the subproject or individual project components are defined and the necessary information becomes available, such a framework will be expanded into a specific plan proportionate to potential risks and impacts. Project activities that will cause physical and/or economic displacement will not commence until such specific plans have been finalized and approved by the Bank.*

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31. The resettlement policy framework covers the following elements:
- (a) a brief description of the project and components for which land acquisition and resettlement are required, and an explanation of why a resettlement policy framework rather than a resettlement plan is being prepared;
 - (b) principles and objectives governing resettlement preparation and implementation;
 - (c) a description of the process for preparing and approving resettlement plans;
 - (d) estimated displacement impacts and estimated numbers and categories of displaced persons, to the extent feasible;
 - (e) eligibility criteria for defining various categories of displaced persons;
 - (f) a legal framework reviewing the fit between borrower laws and regulations and Bank policy requirements and measures proposed to bridge any gaps between them;
 - (g) methods of valuing affected assets;
 - (h) organizational procedures for delivery of compensation and other resettlement assistance, including, for projects involving private sector intermediaries, the responsibilities of the financial intermediary, the government, and the private developer;
 - (i) a description of the implementation process, linking resettlement implementation to civil works;
 - (j) a description of grievance redress mechanisms;
 - (k) a description of the arrangements for funding resettlement, including the preparation and review of cost estimates, the flow of funds, and contingency arrangements;
 - (l) a description of mechanisms for consultations with, and participation of, displaced persons in planning, implementation, and monitoring; and

C. Process Framework

32. A process framework is prepared when Bank-supported projects may cause restrictions in access to natural resources in legally designated parks and protected areas. The purpose of the process framework is to establish a process by which members of potentially affected communities participate in design of project components, determination of measures necessary to achieve the objectives of this ESS, and implementation and monitoring of relevant project activities.

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33. Specifically, the process framework describes participatory processes by which the following activities will be accomplished
- (a) Project components will be prepared and implemented. The document should briefly describe the project and components or activities that may involve new or more stringent restrictions on natural resource use. It should also describe the process by which potentially displaced persons participate in project design.
 - (b) Criteria for eligibility of affected persons will be determined. The document should establish that potentially affected communities will be involved in identifying any adverse impacts, assessing of the significance of impacts, and establishing of the criteria for eligibility for any mitigating or compensating measures necessary.
 - (c) Measures to assist affected persons in their efforts to improve their livelihoods or restore them, in real terms, to pre-displacement levels, while maintaining the sustainability of the park or protected area will be identified. The document should describe methods and procedures by which communities will identify and choose potential mitigating or compensating measures to be provided to those adversely affected, and procedures by which adversely affected community members will decide among the options available to them.
 - (d) Potential conflicts or grievances within or between affected communities will be resolved. The document should describe the process for resolving disputes relating to resource use restrictions that may arise between or among affected communities, and grievances that may arise from members of communities who are dissatisfied with the eligibility criteria, community planning measures, or actual implementation.
 - (e) Additionally, the process framework should describe arrangements relating to the following
 - (f) Administrative and legal procedures. The document should review agreements reached regarding the process approach with relevant administrative jurisdictions and line ministries (including clear delineation for administrative and financial responsibilities under the project).

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The Guidance Notes provide guidance for the Borrower on the application of the Environmental and Social Standards (ESSs), which form part of the World Bank’s 2016 Environmental and Social Framework. The Guidance Notes help to explain the requirements of the ESSs; they are not Bank policy, nor are they mandatory. The Guidance Notes do not substitute for the need to exercise sound judgment in making project decisions. In case of any inconsistency or conflict between the Guidance Notes and the ESSs, the provisions of the ESSs prevail. Each paragraph of the Standard is highlighted in a box, followed by the corresponding guidance.

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Introduction

1. This ESS applies to a distinct social and cultural group identified in accordance with paragraphs 8 and 9 of this ESS. The terminology used for such groups varies from country to country, and often reflects national considerations. ESS7 uses the term “Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities”¹ recognizing that groups identified under paragraphs 8 and 9 may be referred to in different countries by different terms. Such terms include “Sub-Saharan African historically underserved traditional local communities,” “indigenous ethnic minorities,” “aboriginals,” “hill tribes,” “vulnerable and marginalized groups,” “minority nationalities,” “scheduled tribes,” “first nations” or “tribal groups.” ESS7 applies to all such groups, providing they meet the criteria set out in paragraphs 8 and 9. For the purposes of this ESS, the term “Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities” includes all such alternative terminology.

Footnote 1. ESS7 applies to a distinct social and cultural group, which has been identified as set out in paragraphs 8 and 9. The use of the terms “Indigenous Peoples,” “Sub-Saharan African Historically Underserved Traditional Local Communities” and any other alternative terminology does not broaden the scope of application of this ESS, in particular the criteria in paragraphs 8 and 9.

2. ESS7 contributes to poverty reduction and sustainable development by ensuring that projects supported by the Bank enhance opportunities for Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities to participate in, and benefit from, the development process in ways that do not threaten their unique cultural identities and well-being.²

Footnote 2. This ESS recognizes that Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities have their own understanding and vision of their well-being and that, broadly, this is a holistic concept that relates to their intrinsic relationship to lands and traditional practices and is reflective of their way of life. This captures their core principles and aspirations of reaching harmony with their surroundings, and achieving solidarity, complementarity and communal living.

3. This ESS recognizes that Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities have identities and aspirations that are distinct from mainstream groups in national societies and often are disadvantaged by traditional models of development. In many instances, they are among the most economically marginalized and vulnerable segments of the population. Their economic, social, and legal status frequently limits their capacity to defend their rights to, and interests in, land, territories and natural and cultural resources, and may restrict their ability to participate in and benefit from development projects. In many cases, they do not receive equitable access to project benefits, or benefits are not devised or delivered in a form that is culturally appropriate, and they may not always be adequately consulted about the design or implementation of projects that would profoundly affect their lives or communities. This ESS recognizes that the roles of men and women in indigenous cultures are often different from those in the mainstream groups, and that women and children have frequently been marginalized both within their own communities and as a result of external developments, and may have specific needs.

4. Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities are inextricably linked to the land on which they live and the natural resources on which they depend. They are therefore particularly vulnerable if their land and resources are transformed, encroached upon, or significantly degraded. Projects may also undermine language use, cultural practices, institutional arrangements, and religious or spiritual beliefs that Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities view as essential to their identity or well-being. However, projects may also create important opportunities for Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities

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to improve their quality of life and well-being. A project may create improved access to markets, schools, clinics and other services that seek to improve living conditions. Projects can create opportunities for Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities to participate in, and benefit from project-related activities that may help them fulfill an aspiration to play an active and meaningful role as citizens and partners in development. Furthermore, this ESS recognizes that Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities play a vital role in sustainable development.

5. This ESS recognizes that the situation of Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities varies from region to region and from country to country. The particular national and regional contexts and the different historical and cultural backgrounds will form part of the environmental and social assessment of the project. In this way, the assessment is intended to support identification of measures to address concerns that project activities may exacerbate tensions between different ethnic or cultural groups.

Objectives

- To ensure that the development process fosters full respect for the human rights, dignity, aspirations, identity, culture, and natural resource-based livelihoods of Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities.
- To avoid adverse impacts of projects on Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities, or when avoidance is not possible, to minimize, mitigate and/or compensate for such impacts.
- To promote sustainable development benefits and opportunities for Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities in a manner that is accessible, culturally appropriate and inclusive.
- To improve project design and promote local support by establishing and maintaining an ongoing relationship based on meaningful consultation with the Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities affected by a project throughout the project's life-cycle.
- To obtain the Free, Prior, and Informed Consent (FPIC)³ of affected Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities in the three circumstances described in this ESS.
- To recognize, respect and preserve the culture, knowledge, and practices of Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities, and to provide them with an opportunity to adapt to changing conditions in a manner and in a timeframe acceptable to them.

Footnote 3. For the purposes of this ESS, FPIC is defined in paragraphs 25 and 26.

Scope of Application

6. This ESS applies to a distinct social and cultural group identified in accordance with paragraphs 8 and 9. In some countries, such groups are referred to as 'Indigenous Peoples.' In other countries they may be referred to by other terms, such as "Sub-Saharan African historically underserved traditional local communities," "indigenous ethnic minorities," "aboriginals," "hill tribes," "vulnerable and marginalized groups," "minority nationalities," "scheduled tribes," "first nations," or "tribal groups." As the applicability of the term "Indigenous Peoples" varies widely from country to country, the Borrower may request the Bank to use an alternative terminology for the Indigenous Peoples as appropriate to the national context of the Borrower.⁴ Regardless of which terminology is

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used, the requirements of this ESS will apply to all such groups. This ESS uses the term “Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities” in recognition of the different terminology which may be used to refer to Indigenous Peoples in the national context.

Footnote 4. The purpose of ESS7 is not to specify terminology to identify or describe these groups, which will be defined solely in accordance with the criteria set out in paragraphs 8 and 9.

GN6.1. ESS7 recognizes that different terms, including those listed in paragraph 6, can be used to refer to a group identified in accordance with the criteria set out in paragraph 8 and 9 of this Standard. The term “Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities” (IP/SSAHUTLC) is understood to apply to groups or communities, rather than individuals.

GN6.2. A determination that a group or community is covered under ESS7 does not affect the political or legal status of such a group or community within specific countries or states.

7. This ESS applies whenever Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities (as they may be referred to in the national context) are present in, or have collective attachment to a proposed project area, as determined during the environmental and social assessment. This ESS applies regardless of whether Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities are affected positively or negatively, and regardless of the significance of any such impacts.⁵ This ESS also applies irrespective of the presence or absence of discernible economic, political or social vulnerabilities, although the nature and extent of vulnerability will be a key variable in designing plans to promote equitable access to benefits or to mitigate adverse impacts.

Footnote 5. The scope and scale of consultation, as well as subsequent project planning and documentation processes, will be proportionate to the scope and scale of potential project risks and impacts as they may affect Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities. See paragraph 11.

GN7.1. Whenever IP/SSAHUTLC are present in, or have collective attachment to a proposed project area ESS7 applies, regardless of the significance of project impacts and irrespective of whether such impacts are positive or negative. While ESS7 applies irrespective of the presence or absence of discernible vulnerabilities, the nature and extent of vulnerability is an important consideration in preparation of the IP/SSAHUTLC Plan, referred to in Paragraph 13 of ESS7. See Appendix A of this Guidance Note for recommended contents of an IP/SSAHUTLC Plan.

GN7.2. In the analysis of vulnerability it is important to include factors such as IP/SSAHUTLC’ economic, social, legal status and tenure security; their institutions, customs, culture, and/or language; their dependence on natural resources; their past and ongoing relationship to other groups in the area and the mainstream economy, and any human rights risks associated with project decisions and activities. Consultations with IP/SSAHUTLC support, strengthen and legitimize this analysis and help in identifying their preferences regarding both project benefits and mitigation measures. Consultations are carried out with IP/SSAHUTLC in a manner that is culturally appropriate, and their preferences are taken into account while designing measures intended to help benefit them.

8. In this ESS, the term “Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities” (or as they may be referred to in the national context using an alternative terminology) is used in a

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generic sense to refer exclusively to a distinct social and cultural group possessing the following characteristics in varying degrees:

- (a) Self-identification as members of a distinct indigenous social and cultural group and recognition of this identity by others; and*
- (b) Collective attachment⁶ to geographically distinct habitats, ancestral territories, or areas of seasonal use or occupation, as well as to the natural resources in these areas; and*
- (c) Customary cultural, economic, social, or political institutions that are distinct or separate from those of the mainstream society or culture; and*
- (d) A distinct language or dialect, often different from the official language or languages of the country or region in which they reside.*

Footnote 6. "Collective attachment" means that for generations there has been a physical presence in and economic ties to land and territories traditionally owned, or customarily used or occupied, by the group concerned, including areas that hold special significance for it, such as sacred sites.

9. This ESS also applies to communities or groups of Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities who, during the lifetime of members of the community or group, 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 land, natural disasters, or incorporation of such territories into an urban area⁷. This ESS also applies to forest dwellers, hunter-gatherers, pastoralists or other nomadic groups, subject to satisfaction of the criteria in paragraph 8.

Footnote 7. Care must be taken in application of this ESS in urban areas. Generally, it does not apply to individuals or small groups migrating to urban areas in search of economic opportunity. It may apply, however, where Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities have established distinct communities in or near urban areas but still possess the characteristics stated in paragraph 8.

GN8.1. The Bank determines the applicability of ESS7. In doing so, the Bank undertakes a screening in accordance with paragraphs 8 and 9 of ESS7. The Bank will ensure that this screening considers international standards and guidance on indigenous peoples' rights, including but not limited to the United Nations Declaration on the Rights of Indigenous Peoples, International Labor Convention 169 on indigenous and tribal peoples, and relevant guidance and jurisprudence from regional human rights institutions and United Nations treaty bodies.

GN8.2 (Footnote 6). When determining collective attachment, consideration is given to the fact that such groups live under many different circumstances with varying levels of attachment to the areas in which they live. "Collective attachment" signifies that the groups generally consider their lands and resources to be collective assets, and that they see their culture and identity as a function of the group rather than as individuals. It also signifies that these groups' economies, modes of production, social organization and cultural and spiritual circumstances are generally linked to particular territories and natural resources. The concept of collective attachment refers to geographically distinct habitats or ancestral territories, or areas of seasonal use or occupation and the natural resources therein, and therefore, groups with collective attachment may include:

- (a) Groups resident upon the lands affected by the project. This could also include those who are nomadic or who seasonally migrate, and whose attachment to the area affected by the project may be periodic or seasonal in nature;

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- (b) Groups that do not live on the lands affected by the project, but who retain ties to those lands through traditional ownership and/or customary usage, including seasonal or cyclical use.;
- (c) Groups that have lost collective attachment to lands and territories affected by the project, occurring within the concerned group members' lifetime, because of forced severance, conflict, involuntary resettlement programs by governments, dispossession from their lands, natural calamities or incorporation into an urban area;
- (d) Groups that reside in mixed settlements in the area affected by the project, such that they only form one part of the broader community; or
- (e) Groups with collective attachment to project-affected ancestral lands located in urban areas.

GN8.3. There is no hierarchy to the four characteristics and that all of them need to be present in varying degrees. "Varying degrees" reflects the fact that some characteristics may be less evident for some groups or communities through integration into the broader society or economy, sometimes as a result of government policy. Moreover, given the varying contexts and characteristics of Indigenous Peoples today, a group may possess defining characteristics and thereby be covered by the policy in one region, but may be more fully integrated and possess varying degrees of the defining characteristics in another region of the same country, or in a neighboring country. The collective attachment of groups to their traditional territories, for example, may have been forcibly severed due to government resettlement programs. Some groups may no longer speak their own language, or it may be spoken by only a few community members. The role of traditional institutions may also be eroding or have been replaced by official administrative structures. Subject to the temporal limitation relating to collective attachment referred to in Paragraph 9 of ESS7 and the explanation in GN9.1, these factors alone do not disqualify groups from being covered under ESS7, but are assessed in the final determination made by the Bank.

GN9.1. The phrase "during the lifetime of members of the community or group" introduces a temporal limitation on claims to collective attachment. This means that claims regarding loss of collective attachment that exceed that temporal limitation, which are often complex and can be traced back many years before the lifetime of the members of the community, fall outside the scope of Paragraph 9.

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10. Following a determination by the World Bank that Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities are present in, or have collective attachment to the project area, the Borrower may be required to seek inputs from appropriate specialists to meet the consultation, planning, or other requirements of this ESS. The World Bank may follow national processes during project screening for the identification, in accordance with paragraphs 8 and 9, of Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities (as they may be referred to in the national context), where these processes meet the requirements of this ESS⁸.

Footnote 8. In conducting this screening, the Bank may seek the technical advice of specialists with expertise on the social and cultural groups in the project area. The Bank will also consult the Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities concerned and the Borrower. See paragraph 54 in the World Bank Environmental and Social Policy for Investment Project Financing.

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GN10.1. The engagement of appropriate specialists to provide technical advice and assistance regarding application of ESS7 is important, for example when there are circumstances or vulnerabilities of IP/SSAHUTLC, or national legislation and general socio-economic data only provide general information rather than specific data regarding the groups that may be present. The specialists should have proven familiarity with social science research methods, extensive knowledge and working experience with the subject of IP/SSAHUTLC in the country or region. Projects affecting IP/SSAHUTLC may also benefit from ongoing input from appropriate specialists, for example, in assisting the Borrower to better understand the characteristics, issues and priorities of the IP/SSAHUTLC, their governance structures and decision making processes. The Borrower will make public the Terms of Reference for the hiring of these specialists in advance of their selection.

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Requirements

A. General

11. A key purpose of this ESS is to ensure that Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities present in, or with collective attachment to, the project area are fully consulted about, and have opportunities to actively participate in, project design and the determination of project implementation arrangements. The scope and scale of consultation, as well as subsequent project planning and documentation processes, will be proportionate to the scope and scale of potential project risks and impacts as they may affect Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities.

12. A key purpose of this ESS is to ensure that Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities present in, or with collective attachment to, the project area are fully consulted about, and have opportunities to actively participate in, project design and the determination of project implementation arrangements. The scope and scale of consultation, as well as subsequent project planning and documentation processes, will be proportionate to the scope and scale of potential project risks and impacts as they may affect Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities.

GN11.1. A targeted social assessment for the purposes of ESS7, as set out in Appendix A of this Guidance Note, is conducted when IP/SSAHUTLC are present in, or have collective attachment to, the project area. A key aspect of the assessment is understanding the relative vulnerabilities of the affected IP/SSAHUTLC and how the project may affect them. The assessment should consider the differentiated impacts of project activities on both women and men and impacts on potentially vulnerable or marginalized groups within the community such as LGBTI and people with disabilities. In some cases, it would be appropriate to call upon local gender experts knowledgeable and respectful of the delicate balance of gender relations in a collective/communal setting of the affected IP/SSAHUTLC. The assessment is proportionate to the nature and scale of the proposed project's potential risks and impacts on, as well as the vulnerability of, the IP/SSAHUTLC. It should consider human rights risks associated with project decisions and activities explicitly. Input from qualified specialists and accompanying meaningful consultations with IP/SSAHUTLC are important to inform and support the assessment. The assessment also evaluates the capacity of the Borrower to involve IP/SSAHUTLC in project design and implementation. Consultations continue throughout project design and implementation. The Borrower should conduct routine monitoring meetings with community leaders and women and men in the community to track compliance with agreements and the effectiveness of risk mitigation efforts. The Borrower will develop in consultation with the affected IP/SSAHUTLC the Terms of Reference for such assessment and make them publicly available.

GN12.1. In certain circumstances, project benefits, such as enhancing access to roads, healthcare, and education, can have unintended adverse impacts on IP/SSAHUTLC due to their particular circumstances or vulnerabilities. These impacts may include loss of language and cultural norms, undermining of traditional governance structures, creation of internal conflict, increased pressures and encroachment on lands, and pressures on or contamination of natural resources. The assessment identifies the potential for, and scale of, such adverse impacts. The discussion and identification of the potential for, and scale of, such adverse impacts will be done in consultation with the affected IP/SSAHUTLC.

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GN12.2. IP/SSAHUTLC may be heterogeneous and may comprise multiple groups and different social units within these groups (such as individuals, clans, communities, and ethnic groups). Projects may be implemented at national, regional or local levels, and issues of cultural identity, geographic access, language, governance structures, cohesion and priorities may differ greatly between groups. Projects also may have different impacts on different subgroups within a community. For example, land for a project may be acquired from one clan, but such acquisition could impact other clans' traditional access to and use of such land and the resources located on it. The social assessment for the purposes of ESS7 forms the basis for identifying the different groups and understanding the nature and significance of potential impacts on each of them.

13. The Borrower's proposed measures and actions will be developed in consultation with the affected Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities and contained in a time-bound plan, such as an Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities plan. The scope and scale of the plan will be proportionate to the potential risks and impacts of the project. The format and title of the plan will be adjusted as appropriate to the project or country context, and will reflect any alternative terminology for the Indigenous Peoples, as referred to in paragraph 6.

GN13.1. In consultation with IP/SSAHUTLC, an IP/SSAHUTLC Plan is prepared that sets out culturally appropriate mitigation measures and benefits, and specifies the timing for completion of actions required. The Plan will consider the potential differentiated impacts of project activities on both women and men, and impacts on potentially vulnerable or marginalized groups within the community such as LGBTI and people with disabilities, and will identify risk mitigation measures accordingly. See Appendix A of this Guidance Note for recommended contents of an IP/SSAHUTLC Plan.

Projects Designed Solely to Benefit Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities

14. Where projects are designed to provide benefits only to Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities, the Borrower will proactively engage with the relevant Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities to ensure their ownership and participation in project design, implementation, monitoring and evaluation. The Borrower will also consult with them as to the cultural appropriateness of proposed services or facilities, and will seek to identify and address any economic or social constraints (including those relating to gender) that may limit opportunities to benefit from, or participate in, the project.

15. When Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities are the sole, or the overwhelming majority of, project beneficiaries, the elements of the plan may be included in the overall project design, and preparation of a stand-alone Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities plan is not necessary.

GN15.1. The projects in Paragraphs 14-15 are specifically designed to benefit only IP/SSAHUTLC and may include health and education projects or community-driven development projects that are focused solely on IP/SSAHUTLC. In such cases, the Borrower may either prepare a stand-alone IP/SSAHUTLC Plan or incorporate elements of such a plan, including cultural appropriateness of proposed services or facilities

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considering the delicate balance of gender relations in a collective/communal setting, and arrangements for monitoring and evaluation, into the overall project design and documentation. A stand-alone IP/SSAHUTLC Plan may be prepared instead, if preferred. It is important to apply the requirements of ESS7, including undertaking a targeted social assessment, and to conduct appropriate consultations with affected IP/SSAHUTLC.

Projects Where Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities Are Not the Sole Beneficiaries

16. When Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities are not the only beneficiaries of the project, planning requirements will vary with circumstances. The Borrower will design and implement the project in a manner that provides affected Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities with equitable access to project benefits. The concerns or preferences of Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities will be addressed through meaningful consultation and project design, and documentation will summarize the consultation results and describe how Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities' issues have been addressed in project design. Arrangements for ongoing consultations during implementation and monitoring will also be described.

17. The Borrower will prepare a time-bound plan, such as an Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities plan setting out the measures or actions proposed. In some circumstances, a broader integrated community development plan¹⁰ will be prepared, addressing all beneficiaries of the project and incorporating necessary information relating to the affected Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities.

Footnote 10. An Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities and other communities development plan may be appropriate in circumstances where other people, in addition to the Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities, will be affected by the risks and impacts of the project; where more than one Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities group is to be included; or where the regional or national scope of a programmatic project incorporates other population groups. In certain circumstances, a planning framework will be appropriate.

GN17.1. In some projects, affected groups of IP/SSAHUTLC may exist in the same area as other affected communities or they may be integrated within a larger affected population. In such cases, a stand-alone IP/SSAHUTLC Plan can be prepared, or all elements of this plan can be included as part of a broader integrated community development plan. Issues related to IP/SSAHUTLC are addressed in project design to provide equitable access to project benefits in a culturally appropriate manner. In any case, whether it is a stand-alone IP/SSAHUTLC Plan or components of this plan are included as part of a broader integrated community development plan, such a plan should include appropriate budgets, and draft versions as well as the final version should be publicly disclosed to, and consulted on with affected IP/SSAHUTLC in a manner that is accessible and culturally appropriate prior to project appraisal and approval.

GN17.2 Footnote 10 of ESS7 refers to an IP/SSAHUTLC Planning Framework. The use of the framework approach is appropriate where the design or location of the project cannot be known during project preparation, or when a project has multiple subprojects that will only be designed during project

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implementation. The framework specifies the timing for completion of any specific plans, and includes a clear statement of roles and responsibilities, budget, and commitment for funding. Such frameworks should be developed in consultation with affected IP/SSAHUTLC. When all variables and information is finally available for completion of any specific plans, such plans should be developed and agreed upon in consultation with affected IP/SSAHUTLC. See Appendix A of this Guidance Note for recommended contents of an IP/SSAHUTLC Planning Framework.

Avoidance of Adverse Impacts

18. Adverse impacts on Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities will be avoided where possible. Where alternatives have been explored and adverse impacts are unavoidable, the Borrower will minimize and/or compensate for these impacts in a culturally appropriate manner proportionate to the nature and scale of such impacts and the form and degree of vulnerability of the affected Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities.

GN18.1. In the analysis of vulnerability it is important to include factors such as IP/SSAHUTLC' economic, social, legal status and tenure security; their institutions, customs, culture, and/or language; their dependence on natural resources; their past and ongoing relationship to other groups in the area and the mainstream economy, and any human rights risks associated with project decisions and activities.

19. When situations arise in which projects potentially affect remote groups with limited external contact, also known as peoples "in voluntary isolation," "isolated peoples" or "in initial contact," the Borrower will take appropriate measures to recognize, respect and protect their land and territories, environment, health and culture, as well as measures to avoid all undesired contact with them as a consequence of the project. The aspects of the project that would result in such undesired contact will not be processed further.

GN19.1. Undesired contact with IP/SSAHUTLC in voluntary isolation may lead to significant adverse social, economic or cultural impacts on them. It could also lead to conflict and pose significant health risks to such communities as many may not have developed immunity to viruses and diseases common among mainstream populations. It may also create a potential for conflict. When the Bank's screening or the Borrower's environmental and social assessment identifies the existence of IP/SSAHUTLC in voluntary isolation or with limited or no previous contact with other parts of society in the project area, it is important to include in the IP/SSAHUTLC Plan appropriate protocols to avoid undesired contact, and measures to mitigate potential adverse impacts resulting from any unintended contact.

Mitigation and Development Benefits

20. The Borrower and affected Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities will identify mitigation measures in alignment with the mitigation hierarchy described in ESS1 as well as opportunities for culturally appropriate and sustainable development benefits. The scope of assessment and mitigation will include cultural impacts¹¹ as well as physical impacts. The Borrower will ensure the timely delivery of agreed measures to affected Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities.

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Footnote 11. Considerations relating to cultural impacts may include, for example, the language of instruction and curriculum content in education projects, or culturally sensitive or gender-sensitive procedures in projects such as health projects, and others.

21. *The determination, delivery, and distribution of compensation and shared benefits to affected Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities will take account of the institutions, rules and customs of these Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities as well as their level of interaction with mainstream society. Eligibility for compensation can either be individually or collectively-based, or be a combination of both.¹² Where compensation occurs on a collective basis, as far as practicable mechanisms that promote the effective distribution of compensation to all eligible members, or collective use of compensation in a manner that benefits all members of the group, will be defined and implemented.*

Footnote 12. 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.

GN21.1. The findings of the targeted social assessment help determine the eligibility and the appropriate structure and mechanisms for the delivery and management of compensation and shared benefits. Opportunities for benefit-sharing are considered as distinct from compensation for adverse impacts, and address the longer-term sustainable development of the affected communities.

22. *Various factors including, but not limited to, the nature of the project, the project context and the vulnerability of affected Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities will determine how affected Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities will benefit from the project. Identified opportunities will aim to address the goals and preferences of the affected Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities, 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.*

GN22.1. While ESS7 applies irrespective of the presence or absence of discernible economic, political, or social vulnerabilities, the nature and extent of vulnerability is a key variable in designing plans to promote access to benefits or measures to mitigate adverse impacts on IP/SSAHUTLC. It is important to include factors such as IP/SSAHUTLC' economic, social, legal status and tenure security; their institutions, customs, culture, and/or language; their dependence on natural resources; their past and ongoing relationship to other groups in the area and the mainstream economy, and any human rights risks associated with project decisions and activities in an analysis of vulnerability. Consultations with IP/SSAHUTLC support, strengthen and legitimize this analysis and help in identifying their preferences regarding both project benefits and mitigation measures. Consultations are carried out with IP/SSAHUTLC in a manner that is culturally appropriate, and their preferences are taken into account while designing measures intended to help benefit them.

Meaningful Consultation Tailored to Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities

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23. To promote effective project design, to build local project support or ownership, and to reduce the risk of project-related delays or controversies, the Borrower will undertake an engagement process with affected Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities, as required in ESS10. This engagement process will include stakeholder analysis and engagement planning, disclosure of information, and meaningful consultation, in a culturally appropriate and gender and inter-generationally inclusive manner. For Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities, the process of meaningful consultation will also:

- (a) Involve Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities' representative bodies and organizations¹³ (e.g., councils of elders or village councils, or chieftains) and, where appropriate, other community members;
- (b) Provide sufficient time for Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities' decision-making processes;¹⁴ and
- (c) Allow for Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities' effective participation in the design of project activities or mitigation measures that could potentially affect them either positively or negatively.

Footnote 13. For projects that have a regional or national scope, the meaningful consultation may be carried out with Indigenous organizations or representatives at the relevant national or regional levels. These organizations or representatives will be identified in the stakeholder engagement process described in ESS10.

Footnote 14. 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 that are considered legitimate by the majority of the concerned participants.

GN23.1. In addition to the elements of the engagement process with IP/SSAHUTLC set out in Paragraph 23 of ESS7, ESS10 provides further details on meaningful consultations. The aim of consultations is to engage in a meaningful dialogue with stakeholders, discuss ideas and concerns, negotiate benefits and mitigation measures, inform the decision-making process and agree upon next steps for the project to continue. Security and accessibility are expected to be considered when designing a consultation program, especially in fragile and conflict situations. Paragraph 22 of ESS10 states that meaningful consultation is a two-way process, that:

- (a) Begins early in the project planning process to gather initial views on the project proposal and inform project design including the development of terms of reference for hiring specialists, to develop targeted social and environmental assessments and their respective mitigation plans;
- (b) Encourages stakeholder feedback, particularly as a way of informing project design and engagement by stakeholders in the identification and mitigation of environmental and social impacts and risks;
- (c) Continues on an ongoing basis and conducts routine monitoring meetings with community leaders and women and men in the community to track compliance with agreements and the effectiveness of risk mitigation efforts.;

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- (d) Is based on the prior disclosure and dissemination of relevant, transparent, objective, meaningful and easily accessible information such as terms of reference, draft social assessments, mitigation plans among others in a timeframe that enables meaningful consultations with stakeholders prior to project appraisal and approval in a culturally appropriate format, in relevant local language(s) and understandable to stakeholders;
- (d) Considers and responds to feedback through a matrix detailing stakeholder comments and how stakeholder concerns were responded to and taken into account;
- (e) Supports active and inclusive engagement with project-affected parties;
- (f) Is free of external manipulation, interference, coercion, discrimination, and intimidation; and
- (g) Is documented and disclosed by the Borrower in accordance with ESS10 GN9.1 documentation of stakeholder engagement.

GN23.2. Approaches to meaningful consultation are most effective when they build on existing customary institutions and decision-making processes utilized by the affected IP/SSAHUTLC. In this respect, Borrowers should ensure that their plans for consultation processes are strongly linked to traditional consultation processes and validated by community leaders. The capacity of the Borrowers existing institutions and decision-making processes to address any new issues that may arise due to the project are analyzed as part of the targeted social assessment and in consultation with the IP/SSAHUTLC. Based on this analysis, additional measures to improve capacity can be put into place as necessary. Targeted social assessments should explicitly identify and define actions to mitigate human rights risks in line with United Nations Declaration on the Rights of Indigenous Peoples, International Labor Convention 169 on indigenous and tribal peoples, and relevant guidance and jurisprudence from regional human rights institutions and United Nations treaty bodies. They should also define clear actions (including seeking input from women and marginalized groups on the process) to ensure the full participation of both women and men, as well as potentially vulnerable or marginalized groups within the community, within decision making. Consultation processes and agreements reached with communities should be documented in appropriate languages, and these should be made accessible to all community members.

GN23.3. There may be divergent views and opinions within IP/SSAHUTLC. A meaningful consultation takes into account these different viewpoints and opinions while respecting traditional cultural approaches to consultations and decision-making.

B. Circumstances Requiring Free, Prior and Informed Consent (FPIC)

23. *Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities may be particularly vulnerable to the loss of, alienation from or exploitation of their land and access to natural and cultural resources. In recognition of this vulnerability, in addition to the General Requirements of this ESS (Section A) and those set out in ESSs 1 and 10, the Borrower will obtain the FPIC of the affected Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities in accordance with paragraphs 25 and 26 in circumstances in which the project will:*

Commented [O11]: See also our suggestion on ESS10 GN9.1. Documentation of stakeholder engagement includes the following, as appropriate:

- (a) date and location of each meeting, with copy of the notification to stakeholders;
- (b) a list of all relevant documentation disclosed to participants including format (printed, digital, etc.), time of disclosure, language, and type of document (draft or final version, concept notes, terms of reference, environmental and social assessment, mitigation plan, etc.) The notice should be done well in advance. The venue and time for the meetings should factor in social and customary norms that may hinder participation of women, men and vulnerable and disadvantaged groups in the meeting
- (c) the purpose of the engagement (for example, to inform stakeholders of an intended project or to gather their views on potential environmental and social impacts of an intended project, or to discuss and negotiate benefits and mitigation measures or to monitor and evaluate project implementation among others);
- (d) the form of engagement and consultation (for example, face-to-face meetings such as town halls or workshops, focus groups, written consultations, online consultations);
- (e) number of participants, disaggregated by gender and age, and categories of participants (government officials, civil society, private sector, communities, NGOs, academics, etc.);
- (f) coherent and complete notes of comments, points and concerns raised by stakeholders, noting the number of concerns raised by individuals of disadvantaged or vulnerable groups;
- (g) a matrix detailing stakeholder comments and how stakeholder concerns were responded to and taken into account; and
- (h) issues and activities that require follow up actions from the Borrower and/or other stakeholders and timeframe, including clarifying how stakeholders are informed of decisions.
- (i) Records of deliberate efforts made to ensure representation of vulnerable and disadvantaged groups including women in the stakeholder engagements.

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- (a) have adverse impacts on land and natural resources subject to traditional ownership or under customary use or occupation;
- (b) cause relocation of Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities from land and natural resources subject to traditional ownership or under customary use or occupation; or
- (c) have significant impacts on Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities' cultural heritage that is material to the identity and/or cultural, ceremonial, or spiritual aspects of the affected Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities' lives.

In these circumstances, the Borrower will engage independent specialists to assist in the identification of the project risks and impacts.

GN24.1. The specialists referred to in Paragraph 24 of ESS7 should have significant experience in issues of concern to IP/SSAHUTLC. The Borrower in consultation with the affected IP/SSAHUTLC will develop and make public the Terms of Reference for the hiring of these specialists in advance of their selection.

GN24.2. In some projects, FPIC may only be required in relation to specific portions of land or aspects of a project. Examples include: (a) linear projects that pass through multiple human habitats may require FPIC to the component that traverses IP/SSAHUTLC lands; (b) projects comprising multiple sub-projects, some of which are located on IP/SSAHUTLC lands, may require FPIC for the sub-projects located on those lands; and (c) projects involving an expansion of ongoing activities may require FPIC on the new project activities. FPIC processes must also be conducted when changes to project design will result in any of the circumstances of FPIC being met. For example, FPIC must be obtained for unanticipated roads, plants, pipelines, or other infrastructure or associated facilities prior to their construction.

25. *There is no universally accepted definition of FPIC. For the purposes of this ESS, FPIC is established as follows:*

- (a) *The scope of FPIC applies to project design, implementation arrangements and expected outcomes related to risks and impacts on the affected Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities;*
- (b) *FPIC builds on and expands the process of meaningful consultation described in ESS10 and paragraph 23 above, and will be established through good faith negotiation between the Borrower and affected Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities;*
- (c) *The Borrower will document: (i) the mutually accepted process to carry out good faith negotiations that has been agreed by the Borrower and Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities; and (ii) the outcome of the good faith negotiations between the Borrower and Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities, including all agreements reached as well as dissenting views; and*
- (d) *FPIC does not require unanimity and may be achieved even when individuals or groups within or among affected Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities explicitly disagree.*

GN25.1 While there is no universally accepted definition of FPIC, it includes the principle that IP/SSAHUTLC must be adequately informed in advance of any decision being made in relation to

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the project or parts of the project that affect their lands, resources and livelihoods allowing adequate time for traditional decision-making processes. Such process must be free of coercion, intimidation, pressure and manipulation, and should be given the opportunity to approve or reject a project or parts of the project prior to the commencement of all activities. FPIC processes must be ongoing. Borrowers should facilitate community participation in decision making throughout the life of the project, and communities should have the opportunity to give or withhold their consent at each phase of project development where changes to project design entail potential impacts on communities.

GN25.2. Identification of appropriate representation of IP/SSAHUTLC is an important part of the process to establish FPIC. These are the individuals who are considered by the majority of the affected IP/SSAHUTLC to be the legitimate authorities to make decisions on collective support on their behalf. The representatives may be chosen through a process that is culturally appropriate to the respective IP/SSAHUTLC, such as through referendum or an assembly format, or they may be tribal chiefs or a council of elders, among others and in accordance with the affected IP/SSAHUTLC's internal decision-making mechanisms, political, social and cultural structures and context. The selection of the IP/SSAHUTLC legitimate authorities is a process led entirely by the internal decision-making mechanisms, political, social and cultural structures of the affected IP/SSAHUTLC.

GN25.2. Particular attention should be given to groups within affected IP/SSAHUTLC who may be vulnerable, such as women, youth, the poor and persons with disabilities. Prior to initiating the FPIC process, project proponents should consult with members of each of these subgroups in order to identify potential barriers to their participation in consultation and FPIC processes. Addressing any limitations on their participation in the FPIC process helps to ensure that their interests and concerns are adequately considered and addressed as part of the process to establish FPIC. In instances where affected IP/SSAHUTLC do not have access to independent technical or legal support for the negotiations processes, the Borrower should provide communities with sufficient funds to facilitate this independent support.

GN25.3. Good faith negotiation involves, on the part of all parties:

- (a) Willingness to engage in a process and availability to meet at reasonable times and frequency;
- (b) Sharing of information necessary for informed negotiation;
- (c) Use of mutually acceptable procedures for negotiation;
- (d) Willingness to change initial positions and modify offers where possible; and
- (e) Provision of sufficient time for the process.

In the event that communities have developed internal mechanisms for decision making, and have reached a decision not to accept a particular project, the Borrower must respect this decision and should not insist on community participation in further negotiation processes.

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GN25.4. The Borrower informs the Bank of the process that has been agreed upon for good faith negotiation on FPIC. Where there is disagreement on what constitutes an appropriate engagement process, or an agreement cannot be reached, the Borrower will seek advice from an independent specialist as required in Paragraph 24 of ESS7. If project-affected communities decide that the project should not proceed then the project will not proceed, in conformance with FPIC as an international standard and the borrower will inform the Bank of the decision not to proceed with the project or parts of the project subject to the affected IP/SSAHUTLC's FPIC.

GN25.5. Achieving FPIC requires paying attention to, and documenting, both process and outcome. Documenting the process and outcome establishes a record of agreements reached as well as dissenting views. The Borrower will share all relevant documentation with local communities in a form and language that is appropriate to them, and will submit said documentation of the process to the Bank. With the affected IP/SSAHUTLC's authorization the Bank will also post any FPIC agreement reached in the process. Borrowers should also ensure that communities have the capacity to compile, store and maintain agreements and other key documents in ways that are accessible and useful for all community members, including women and youth, providing support for these tasks if necessary.

GN25.6. FPIC may be achieved even when individuals or groups within or among IP/SSAHUTLC explicitly disagree. Such disagreement does not constitute a veto. The determination of whether consent has been reached by the community will be made by the community itself.

GN25.7. The Borrower should expect that the Bank will monitor the implementation of FPIC in consultation with affected IP/SSAHUTLC. For example, the Bank will ensure that project monitoring includes interviews and focus groups with project-affected IP/SSAHUTLC communities prior to project approval and at least twice annually in order to gauge whether they feel they have been adequately consulted and whether their FPIC has been ascertained for the circumstances in which it is required. In addition, the Bank will make public the justification for their determination that FPIC has been achieved (or not).

Commented [O12]: FPIC and meaningful consultation is important, but experience tells us that most consultation is interest-driven in the pursuit of objectives ("to get on with the project as soon as possible and keeping costs at a minimum"). External manipulation, interference, subtle coercion, corruptive actions (cash for votes), discrimination and intimidation are routinely used to gain consent. Therefore, the GN should set out clear expectations for Borrowers that Bank staff will engage at their discretion as impartial observers to ensure that no foul play is taking place under the guise of 'meaningful consultation' or FPIC and that women are not being coerced or threatened into silence.

26. For the purposes of this ESS, consent refers to the collective support of affected Indigenous Peoples communities/Sub-Saharan African Historically Underserved Traditional Local Communities for the project activities that affect them, reached through a culturally appropriate process. It may exist even if some individuals or groups object to such project activities, as recognized by paragraph 25 (d).

27. When the FPIC of the affected Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities cannot be ascertained by the Bank, the aspects of the project relevant to those affected Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities for which the FPIC cannot be ascertained will not be processed further. Where the Bank has made the decision to continue processing the project other than the aspects for which the FPIC of the affected Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities cannot be ascertained, the Borrower will ensure that no adverse impacts result on such Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities during the implementation of the project.

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GN26.1 How a community defines ‘consent’ must be a community-specific decision through their traditional decision-making processes rather than one the Bank or borrowing government imposes. This is consistent with the very essence of FPIC which derives from indigenous peoples’ right to self-determination. The determination of whether consent has been reached by the community will be made by the community itself.

GN27.1 If FPIC cannot be ascertained by the Bank, the project design will be adjusted to eliminate the aspects of the project relevant to the affected IP/SSAHUTLC. For example, if affected communities of IP/SSAHUTLC do not provide their FPIC to the proposed construction of a new road through their land, the project should abandon the plan to construct the road through their land or reroute the road to an area agreed upon with the affected IP/SSAHUTLC to avoid acquisition of the land or physical displacement of the communities. In such cases, measures included in the IP/SSAHUTLC Plan must avoid any adverse impacts on the communities.

28. *Agreements reached between the Borrower and affected Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities will be described, and actions necessary to accomplish agreements will be included, in the ESCP. During implementation, the Borrower will ensure that necessary actions are taken, and agreed benefits or improvements to services are delivered, so as to maintain Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities’ support for the project.*

Impacts on Lands and Natural Resources Subject to Traditional Ownership or Under Customary Use or Occupation

29. *Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities are often closely tied to their land and related natural resources.¹⁵ Frequently, land is traditionally owned or under customary use or occupation. While Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities may not possess legal title to land as defined by national law, their use of the land, including seasonal or cyclical use, for their livelihoods, or for cultural, ceremonial, and spiritual purposes that define their identity and community, can often be substantiated and documented. Where projects involve (a) activities that are contingent on establishing legally recognized rights to lands and territories that Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities have traditionally owned or customarily used or occupied,¹⁶ or (b) the acquisition of such lands, 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 the Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities concerned. The objective of such plans will be the following: (a) full legal recognition of existing customary land tenure systems of Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities; or (b) conversion of customary usage rights to communal and/or individual ownership rights.¹⁷ If neither option is possible under national law, the plan includes measures for the legal recognition of Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities’ perpetual or long-term renewable custodial or use rights.*

Footnote 15. Examples include marine and aquatic resources, timber and non-timber forest products, medicinal plants, hunting and gathering grounds, and grazing and cropping areas.

Footnote 16. For example, extractive industries, creation of conservation areas, agro-development schemes, greenfield infrastructure development, land management or titling programs.

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Footnote 17. Conversion of customary usage rights to individual ownership rights will only be an objective following consultation with the Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities concerned and assessment of the impacts of such conversion on the communities and their livelihoods.

30. If the Borrower proposes to locate a project, or commercially develop natural resources, on land traditionally owned by, or under the customary use or occupation of, Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities, and adverse impacts¹⁸ can be expected, the Borrower will take the following steps and obtain their FPIC:

- (a) Document efforts to avoid and otherwise minimize the area of land proposed for the project;
- (b) Document efforts to avoid and otherwise minimize impacts on natural resources subject to traditional ownership or customary use or occupation;
- (c) Identify and review all property interests, tenurial arrangements, and traditional resource usage prior to purchasing, leasing or, as a last resort, undertaking land acquisition;
- (d) Assess and document Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities' resource use without prejudicing any Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities' land claim. The assessment of land and natural resource use will be gender inclusive and specifically consider women's role in the management and use of these resources;
- (e) Ensure that affected Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities are informed of: (i) their land rights under national law, including any national law recognizing customary use rights; (ii) the scope and nature of the project; and (iii) the potential impacts of the project; and
- (f) Where a project promotes commercial development of their land or natural resources, afford due process, and offer compensation together with culturally appropriate sustainable development opportunities to Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities, at least equivalent to that to which any landowner with full legal title to the land would be entitled, including:
 - (i) Providing fair lease arrangements or, where land acquisition is necessary, providing land-based compensation or compensation in kind in lieu of cash compensation where feasible;¹⁹
 - (ii) 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;
 - (iii) Enabling Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities to share equitably in the benefits to be derived from the commercial development of the land or natural resources where the Borrower intends to utilize land or natural resources that are central to the identity and livelihood of affected Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities and the usage thereof exacerbates livelihood risk; and
 - (iv) Providing affected Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities with access, usage, and transit on land the Borrower is developing subject to overriding health, safety, and security considerations.

Footnote 18. Such adverse impacts may include impacts from loss of access to assets or resources or restrictions on land use resulting from project activities.

Footnote 19. 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

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income-earning opportunities over and above cash compensation to affected Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities.

Relocation of Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities from Lands and Natural Resources Subject to Traditional Ownership or Under Customary Use or Occupation

31. The Borrower will consider feasible alternative project designs to avoid the relocation of Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities from communally held²⁰ or attached land and natural resources subject to traditional ownership or customary use or occupation. If such relocation is unavoidable the Borrower will not proceed with the project unless FPIC has been obtained as described above; the Borrower will not resort to forced eviction,²¹ and any relocation of Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities will meet the requirements of ESS5. Where feasible, the relocated Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities will be able to return to their traditional or customary land, should the cause of their relocation cease to exist.

Footnote 20. Typically, Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities 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 Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities individually hold legal title, or where the relevant national law recognizes customary rights for individuals, the requirements of ESS5 will apply, in addition to the requirements under paragraph 31 of this ESS.

Footnote 21. See paragraph 31 of ESS5.

GN31.1. Physical relocation of IP/SSAHUTLC is particularly complex and may have significant and irreversible adverse impacts on their cultural survival. Therefore, feasible alternative project designs that avoid such relocation, which may result from the project's acquisition of land, or through restrictions or alterations on land use or resources are explored. Relocation may be considered only once it has been established that there is no feasible alternative and the FPIC of the affected IP/SSAHUTLC has been obtained.

GN31.2. Upon conclusion of the FPIC process providing for the relocation of IP/SSAHUTLC, a plan is prepared in line with the conclusion of the FPIC process and in accordance with ESS5. The plans to be developed under ESS5 and ESS7 may be prepared separately, or combined as appropriate. Resettlement plans should be considered as a stand-alone projects in accordance with ESS5, and FPIC processes must be conducted at all different stages of the resettlement program from design to implementation. IP/SSAHUTLC communities must be guaranteed equal or greater ownership rights over any replacement lands, and replacement lands should be equal in quality, size and legal status. If affected IP/SSAHUTLC communities decide at any stage of the design or implementation of the resettlement plan that the relocation should not proceed then the resettlement process will not proceed, in conformance with FPIC as an international standard; and the borrower will inform the Bank of the decision of not proceeding with the relocation of affected IP/SSAHUTLC.

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GN31.3 Both process and outcome should be documented establishing a record of agreements reached as well as dissenting views. The Borrower will share all relevant documentation with local communities in a form and language that is appropriate to them, and will submit said documentation of the process to the Bank. With the affected IP/SSAHUTLC's authorization the Bank will also post any FPIC agreement reached in the process. Borrowers should also ensure that communities have the capacity to compile, store and maintain agreements and other key documents in ways that are accessible and useful for all community members, including women and youth, providing support for these tasks if necessary.

GN31.4. It is important to note that in some cases where individuals among the affected IP/SSAHUTLC hold legal title to land individually, their decision to relinquish the title and relocate may still be subject to a community-based decision-making process.

GN31.5. The Bank will monitor the Borrower implementation of FPIC in consultation with affected IP/SSAHUTLC. For example, the Bank will ensure that project monitoring includes interviews and focus groups with project-affected IP/SSAHUTLC communities prior to project approval and at least twice annually in order to gauge whether they feel they have been adequately consulted and whether their FPIC has been ascertained for the circumstances in which it is required. In addition, the Bank will make public the justification for their determination that FPIC has been achieved (or not).

Cultural Heritage

32. *Where a project may significantly impact cultural heritage²² that is material to the identity and/ or cultural, ceremonial, or spiritual aspects of the affected Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities' lives, priority will be given to the avoidance of such impacts. Where significant project impacts are unavoidable, the Borrower will obtain the FPIC of affected Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities.*

Footnote 22. 'Cultural heritage' is defined in ESS8. It includes natural areas with cultural and/or spiritual value such as sacred groves, sacred bodies of water and waterways, sacred mountains, sacred trees, sacred rocks, burial grounds and sites.

GN32.1. "Cultural heritage" is both tangible and intangible. Tangible cultural heritage includes movable or immovable objects, sites, structures, groups of structures, and natural features and landscapes that have cultural significance. Intangible cultural heritage includes practices, representations, expressions, knowledge and skills, as well as the instruments, objects, artifacts and cultural spaces associated with that communities and groups recognize as part of their cultural heritage. Further explanation and requirements on cultural heritage are set out in ESS8.

GN32.2. The targeted social assessment determines whether there are any potential significant impacts on the cultural heritage of IP/SSAHUTLC, and whether the cultural heritage is material to the identity and/or cultural, ceremonial, or spiritual aspects of their lives. The social assessment will ensure that the identification of cultural heritage takes into account the views of both women and men.

33. *Where a project proposes to use the cultural heritage of Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities for commercial purposes, the Borrower will inform the*

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affected Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities of: (a) their rights under national law; (b) the scope and nature of the proposed commercial development; and (c) the potential consequences of such development; and obtain their FPIC. The Borrower will also enable Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities to share equitably in the benefits to be derived from commercial development of such cultural heritage, consistent with the customs and traditions of the Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities.

GN33.1. Commercial use of cultural heritage refers to the development, renovation, production, use, replication, or exhibition of cultural resources for profit-making purposes. Examples of commercial use of tangible cultural heritage may include the production and sale of artifacts and artworks, or tourism projects that bring visitors to historical temples. Examples of commercial use of intangible cultural heritage may include use of traditional medicinal knowledge or of other sacred or traditional techniques for processing plants, fibers, or metals or other traditional forms of production. The IP/SSAHUTLC are informed about the scope and nature of the proposal to use the cultural heritage, including the entities, companies, or persons involved in the commercial activities, as well as the potential beneficiaries or end users, to facilitate their FPIC. The IP/SSAHUTLC are also informed of the potential consequences of the proposed development, including any impacts on livelihoods, any potential environmental and social risks and impacts, and any impacts on the continued use of such resources by the IP/SSAHUTLC.

GN33.2. The IP/SSAHUTLC are consulted as to the potential benefits to be derived from the commercial use of their cultural heritage. This may include, for example, development of benefits from the commercial use of their cultural heritage, including benefits in the form of employment, vocational training, and benefits pursuant to community development and similar programs. If FPIC is obtained by the affected IP/SSAHUTLC, and in instances where affected IP/SSAHUTLC do not have access to independent technical or legal support for the negotiations of equitable benefit sharing mechanisms, the Borrower should provide communities with sufficient funds to facilitate this independent support.

GN33.3. The use of IP/SSAHUTLC names, photographs, and other items depicting them and the environment in which they live can be sensitive in many situations. It is important to assess local norms and preferences, and consult with the relevant communities before using such items, for example, when naming project sites or specific infrastructure.

C. Grievance Mechanism

34. *The Borrower will ensure that a grievance mechanism is established for the project, as described in ESS10, which is culturally appropriate and accessible to affected Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities, and takes into account the availability of judicial recourse and customary dispute settlement mechanisms among Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities.*

GN34.1. The grievance mechanism is proportionate to the potential risks and impacts of the project, and should be accessible and inclusive. A well-functioning mechanism receives and facilitates resolution of grievances promptly. Examples of grievances of affected IP/SSAHUTLC include lack of information on the project and its impacts, inadequacy of compensation, failure of the Borrower to communicate or deliver

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Commented [OI3]: Suggest including a list of resources on grievance mechanisms, such as:

Oxfam: <https://womin.org.za/images/reforming-the-system/Oxfam%20Australia%20-%20Community%20-%20Mining%20Company%20Grievance%20Resolution.pdf>

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on agreed action plans, or benefits that are considered culturally inappropriate. Detailed information on grievance mechanisms is provided in ESS10.

GN34.2. Grievance mechanisms take into account cultural attributes of IP/SSAHUTLC and their traditional mechanisms for raising and resolving issues. Some IP/SSAHUTLC may prefer verbal, as opposed to written methods of expressing grievances. The grievance method is designed and agreed upon in consultation with affected IP/SSAHUTLC to address these, and any other relevant considerations.

GN34.3. A grievance mechanism is a system, process or procedure that receives and acts upon complaints and suggestions for improvement, and facilitates resolution of concerns and grievances arising in connection with a project. An effective grievance mechanism provides project-affected IP/SSAHUTLC redress, and helps address issues at an early stage and ensures that the most marginalized are informed and have access to the grievance mechanism. A grievance mechanism is gender-responsive, transparent, independent and protected against political and other types of influence.

GN34.4. The grievance mechanism is not a substitute for the Bank's Inspection Panel. The Borrower will inform and ensure that all project affected IP/SSAHUTLC are aware of the existence of the Bank's Inspection Panel and how to contact them.

D. Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities and Broader Development Planning

35. *The Borrower may request Bank technical or financial support, in the context of a specific project or as a separate activity, for preparation of plans, strategies or other activities intended to strengthen consideration and participation of Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities (as they may be referred to in the national context) in the development process. This may include a variety of initiatives designed, for example, to: (a) strengthen local legislation to establish recognition of customary or traditional land tenure arrangements; (b) address the gender and intergenerational issues that exist among Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities; (c) protect indigenous knowledge including intellectual property rights; (d) strengthen the capacity of Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities to participate in development planning or programs; and (e) strengthen the capacity of government agencies providing services to Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities.*

36. *Affected Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities may themselves seek support for various initiatives and these should be taken into consideration by the Borrower and the Bank. They include: (a) support for the development priorities of Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities through programs (such as community-driven development programs and locally managed social funds) developed by governments in cooperation with Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities; (b) preparation of participatory profiles of Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities to document their culture, demographic structure, gender and intergenerational relations and social organization, institutions, production systems, religious beliefs, and resource use patterns; (c) facilitating partnerships among the government, Indigenous Peoples/Sub-Saharan African Historically Underserved*

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Traditional Local Communities Organizations, Civil Society Organizations, and the private sector to promote Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities' development programs.

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ESS7 Guidance Note Appendix A

This Appendix describes the aspects of the environmental and social assessment, and the plans and frameworks to promote equitable access to benefits and to mitigate adverse project impacts referred to in Paragraphs 7 and 13 of ESS7. For purposes of this Appendix, these tools are referred to as the “Social Assessment,” the “IP/SSAHUTLC Plan,” and the “IP/SSAHUTLC Planning Framework.” These names may be adjusted as appropriate to the project or country context, reflecting the alternative terminology in use, as specified in Paragraph 6 of ESS7.

Targeted Social Assessment for the purposes of ESS7

1. The breadth, depth, and type of analysis of the social assessment is proportionate to the potential risks and impacts of the proposed project on the IP/SSAHUTLC. The social assessment referred to in this Appendix is conducted as part of the environmental and social assessment under ESS1, and will include consideration of human rights risks and differential gender impacts associated with the project in line with international standards and guidance on indigenous peoples’ rights, including but not limited to the United Nations Declaration on the Rights of Indigenous Peoples, International Labor Convention 169 on indigenous and tribal peoples, and relevant guidance and jurisprudence from regional human rights institutions and United Nations treaty bodies.
2. Draft and final terms of reference for environmental and social assessments should be made public prior to project appraisal and approval. They should be posted online and made available to community members in a form and language that is accessible to them.
3. The social assessment includes the following elements, as needed:
 - a) A review of the legal and institutional framework applicable to IP/SSAHUTLC.
 - b) Gathering of baseline data on the demographic, social, cultural, and political characteristics of the IP/SSAHUTLC, disaggregated by gender, the land and territories that they have traditionally owned or customarily used or occupied, and the natural resources on which they depend.
 - c) Taking the review and baseline data into account, the identification of project-affected parties and the elaboration of a culturally appropriate process for involving and consulting with the IP/SSAHUTLC at each stage of project preparation and implementation (see Paragraph 23 of ESS7).
 - d) An assessment, based on meaningful consultation tailored to IP/SSAHUTLC, of the potential adverse and positive effects of the project. Critical to the determination of potential adverse impacts is an analysis of the relative vulnerability of, and risks to, the affected IP/SSAHUTLC, given their distinct circumstances and close ties to land and natural resources, as well as their potential lack of access to opportunities relative to other social groups in the communities, regions, or national societies in which they live. It is important to include in the assessment factors such as IP/SSAHUTLC’ economic, social, legal status and tenure security; their institutions, customs, culture, and/or language; their dependence on natural resources; their past and ongoing relationship to other groups in the area and the mainstream economy, and any human rights risks associated with project activities in an analysis of vulnerability.
 - e) The identification and evaluation of measures necessary to avoid adverse impacts on both women and men, or if such measures are not feasible, the identification of measures to minimize, mitigate, or compensate for such impacts, and to ensure that the IP/SSAHUTLC receive culturally

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appropriate benefits under the project. This is based on meaningful consultation tailored to IP/SSAHUTLC and, where relevant pursuant to Paragraph 24 of ESS7, on Free Prior and Informed Consent (FPIC).

IP/SSAHUTLC Plan

1. In most cases, the IP/SSAHUTLC Plan includes the following elements, as needed:
 - a) A summary of the Targeted Social Assessment, including the applicable legal and institutional framework and baseline data.
 - b) A summary of the results of the meaningful consultation tailored to IP/SSAHUTLC, and if the project involves the three circumstances specified in Paragraph 24 of ESS7, then the outcome of the process of FPIC carried out with the affected IP/SSAHUTLC during project preparation. The plan should present detailed and verifiable evidence of how the Borrower came to the determination that FPIC had been obtained, and this information should be published on the World Bank website. If communities do not object, FPIC agreements reached should be made public.
 - c) A framework for meaningful consultation tailored to IP/SSAHUTLC during project implementation.
 - d) Measures for ensuring IP/SSAHUTLC receive social and economic benefits that are culturally appropriate and steps for implementing them. If necessary, this may call for measures to enhance the capacity of the project implementing agencies.
 - e) Measures to avoid, minimize, mitigate, or compensate IP/SSAHUTLC for any potential adverse impacts that were identified in the social assessment, and steps for implementing them.
 - f) The cost estimates, financing plan, schedule and roles and responsibilities for implementing the IP/SSAHUTLC Plan.
 - g) Accessible procedures appropriate to the project to address grievances by the affected IP/SSAHUTLC arising from project implementation, as described in Paragraph 35 of ESS7 and in ESS10.
 - h) Mechanisms and benchmarks appropriate to the project for monitoring, evaluating, and reporting on the implementation of the IP/SSAHUTLC Plan.
 - i) Draft and final versions of the IP/SSAHUTLC Plans should be made public prior to project appraisal and approval. They should be posted online and made available to community members in a form and language that is accessible to them.

IP/SSAHUTLC Planning Framework

1. The purpose of the IP/SSAHUTLC Planning Framework is to clarify the principles, organizational arrangements, and design criteria to be applied to subprojects or project components to be prepared during project implementation when IP/SSAHUTLC may be present in or have collective attachment to the project area. Following identification of the subproject or individual project components and confirmation that IP/SSAHUTLC are present in or have collective attachment to the project area, a specific plan, proportionate to potential risks and impacts, is prepared. Project activities that may affect IP/SSAHUTLC do not commence until such specific plans are finalized and approved by the Bank.
2. The IP/SSAHUTLC Planning Framework sets out:
 - a) The types of subprojects likely to be proposed for financing under the project.

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- b) The potential positive and adverse impacts of such programs or subprojects on IP/SSAHUTLC.
- c) A plan for carrying out the social assessment for such programs or subprojects.
- d) A framework for ensuring the meaningful consultation tailored to IP/SSAHUTLC and in the specified circumstances, a framework for ensuring their Free Prior and Informed Consent (FPIC) during project implementation.
- e) Institutional arrangements, including capacity building where necessary, for screening project-supported activities, evaluating their effects on IP/SSAHUTLC, preparing IP/SSAHUTLC Plans and addressing any grievances.
- f) Monitoring and reporting arrangements, including mechanisms and benchmarks appropriate to the project.
- g) Disclosure arrangements for IP/SSAHUTLC Plans to be prepared as specified in the IP/SSAHUTLC Planning Framework.

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Guidance Note for ESS9
Financial Intermediaries

The Guidance Notes provide guidance for the Borrower on the application of the Environmental and Social Standards (ESSs), which form part of the World Bank's 2016 Environmental and Social Framework. The Guidance Notes help to explain the requirements of the ESSs; they are not Bank policy, nor are they mandatory. The Guidance Notes do not substitute for the need to exercise sound judgment in making project decisions. In case of any inconsistency or conflict between the Guidance Notes and the ESSs, the provisions of the ESSs prevail. Each paragraph of the Standard is highlighted in a box, followed by the corresponding guidance.

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Commented [O11]: ESS9 should contain considerably more guidance to help World Bank financial intermediaries establish effective environmental and social management systems (ESMS) and ensure that sub-projects apply the requirements of all relevant ESSs and do no harm. The application by financial institutions of environmental and social responsibilities is relatively new, and many financial institutions that will become World Bank intermediaries do not have even basic ESMSs or sufficient staff with expertise on environmental and social assessment. Many have little or no experience in applying environmental and social safeguards, even for the most straightforward of projects, let alone for more complex financial relationships. In the financial sector, the application of environmental and social requirements will depend on the type of FI (eg. private equity, commercial banks) and the type of transaction (equity or debt, including credit facilities, syndicated loans, bonds, etc.) and the role the FI plays in the transaction (arranger, manager, underwriter, holder, etc.). Because of this lack of experience and staff, on one hand, and the complexity of different relationships, on the other, there is a need for particularly strong and practical guidance for FIs on the application of ESS9. The Guidance Notes for ESS9 should support clients to implement all the substantive requirements and objectives of the ESSs in the most effective way possible to avoid the same systemic problems observed at IFC.

The Guidance Notes should refer FIs to the increasing number of international standards that create an expectation that financial institutions respect human rights in their investment decisions, including by adopting human rights and environmental and social policies; conducting environmental and social due diligence across their products and services, using their leverage with clients to prevent, mitigate and remediate harms and human rights violations, and contributing to remedies themselves in some cases. The Guidance should provide references to key documents, including the OECD Guidelines on Responsible Business Conduct for Institutional Investors, and others relating to the financial sector, many of which can be found [here](#)

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Financial Intermediaries

Introduction

1. ESS9 recognizes that strong domestic capital and financial markets and access to finance are important for economic development, growth and poverty reduction. The Bank is committed to supporting sustainable financial sector development and enhancing the role of domestic capital and financial markets.

2. FIs are required to monitor and manage the environmental and social risks and impacts of their portfolio and FI subprojects, and monitor portfolio risk, as appropriate to the nature of intermediated financing. The way in which the FI will manage its portfolio will take various forms, depending on a number of considerations, including the capacity of the FI and the nature and scope of the funding to be provided by the FI.

3. FIs are required to develop and maintain, in the form of an Environmental and Social Management System (ESMS), effective environmental and social systems, procedures and capacity for assessing, managing, and monitoring risks and impacts of subprojects, as well as managing overall portfolio risk in a responsible manner.

Objectives

- To set out how the FI will assess and manage environmental and social risks and impacts associated with the subprojects it finances.
- To promote good environmental and social management practices in the subprojects the FI finances.
- To promote good environmental and sound human resources management within the FI.

GN (Objectives). Underlying the general objectives relating to environmental and social risk management is the end goal of ensuring that FI sub-projects apply the relevant issue-specific ESSs on the ground, meet their substantial objectives, and do no harm to people and the environment but enhance positive outcomes and benefits. ESS9 sets out the expectation that FI clients need to apply the increasing number of international standards including the OECD Guidelines on Responsible Business Conduct for Institutional Investors and the UN Guiding Principles on Business and Human Rights that create an expectation that financial institutions respect human rights in their investment decisions, including by adopting human rights and environmental and social policies; conducting environmental and social due diligence across their products and services, using their leverage with clients to prevent, mitigate and remediate harms and human rights violations, and contributing to remedies themselves in some cases.

Scope of Application

4. This ESS applies to Financial Intermediaries (FIs) that receive financial support from the Bank. FIs include public and private financial services providers, including national and regional development banks, which channel financial resources to a range of economic activities across industry sectors.¹ Financial intermediation also includes provision of financing or guarantees by FIs to other FIs. For the purposes of this ESS, the term "FI subproject" refers to projects financed by FIs with support from the Bank.² Where the project involves on-lending by the FI to another FI, the term "FI subproject" will include the subprojects of each subsequent FI.

Footnote 1. Such FIs use various financial products such as project finance, corporate finance, medium and small enterprise finance, microfinance, housing finance, leasing, and trade finance. This ESS covers all types of financing and financial products provided by FIs that are targeted to productive business activities.

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Footnote 2. "FI subprojects" are defined as projects or activities financed by an FI. Where an FI provides financing, or guarantees to other FIs, "FI subprojects" are defined as projects or activities financed by the latter FI with support from the former FI.

GN4.1. World Bank IPF support to FIs can take different forms, and may include:

- (a) loans, credits or grants to FIs to be used by them for loans or equity for specific sub-projects, or channeled to other FIs to be used by them for loans or equity for specific sub-projects; and
- (b) Guarantees to FIs to enable them to mobilize debt financing for loans, guarantees, or equity for specific sub-projects; and

The scope of application of ESS9 and relevant ESSs depends on the project activities or commitments covered by Bank investment project financing. Technical assistance may be provided to IPF loans, credits and grants. However, even in cases in which the Bank's investment is limited to a specific class of sub-projects, in line with global good practices including the OECD Guidelines on Responsible Business Conduct for Institutional Investors and the UN Guiding Principles on Business and Human Rights and other international standards, World Bank FIs are encouraged to apply their environmental and social management systems across their entire portfolios and operations.

GN4.2. Project structures supporting financial intermediation may include the following types of entities:

- (a) Ministries of Finance;
- (b) central banks;
- (c) state financial institutions that may be a state agency, authority or board not established under corporate law;
- (d) independent financial institutions established under corporate law (including banks, financial companies, whether state or privately owned); or
- (e) funds managed by a fund manager, which may include a formally established fund or funds in the form of a government bank account for a purpose defined by the project (without staff or operating resources). This category does not include funds that are not part of financial intermediation, for example, matching grant schemes.

GN4.3. FIs may provide a variety of financial products and services including credit products, which can be funded (loans) or unfunded (guarantees); other financial products such as dealing room products (for example, hedging, swaps) and investment banking products (for example, bond underwriting, arranging of equity issuances); equity investments; or fund management. ESS9 sets out the expectation that wherever the FI has an opportunity to influence contractual arrangements to encourage and promote sustainability through the effective implementation and use of relevant ESSs including the provision of setting up an ESMS, it should use it to ensure environmental and social risks at the subproject level are

Commented [O12]: The GNs should provide detail on how the FI can meet its responsibilities with respect to these variety of types of transactions and roles. In the financial sector, the application of environmental and social requirements will depend on the type of FI (eg. private equity, commercial banks) and the type of transaction (equity or debt, including credit facilities, syndicated loans, bonds, etc.) and the role the FI plays in the transaction (arranger, manager, underwriter, holder, etc.). Because of this lack of experience and staff, on one hand, and the complexity of different relationships, on the other, there is a need for particularly strong and practical guidance for FIs on the application of ESS9.

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covered. If environmental and social risks are not addressed in the contractual arrangements, and the FI and/or the FI subprojects are not in a position to generate such commitments, the FI should not make the investment. Regardless the financial product and service the FI is negotiating, as an arranger, manager, or underwriter of such transactions, including a bond issue among others, the FI is required to ensure that clauses reflecting the ESS requirements are incorporated into agreements and covenants.

GN4.4. Projects may involve one or more FIs, different terms may be used to describe the different entities involved in financial intermediation projects. For example, the World Bank may provide investment project financing to a Ministry of Finance (borrowing entity), which delegates the administration of a line of credit to an apex FI (wholesaling entity), which on-lends to participating FIs (retail entities), which lend to small and medium enterprises for projects or activities (FI subproject).

GN4.5. An “FI subproject” is the ultimate project or activities supported by the FI. As Footnote 2 states, if an FI provides financial support to another FI (for example, through a loan or guarantee) the FI subproject is the project or activities supported by the participating FI. For example, where the FI provides a loan to a rural finance institution, which then lends (via a sub-loan) to a farmer (sub-borrower) who uses the loan to expand farming operations, the FI subproject is the expanded farming operation.

GN4.6. Where a World Bank project includes technical assistance to an FI, the FI follows the requirements set out in ESS1 as relevant and appropriate to the nature and risks of the technical assistance.

5. *The requirements of this ESS apply to all FIs that receive support from the Bank, either directly from the Bank or the Borrower, or through the Borrower or other FIs, as follows:*

- (a) Where Bank support is provided to the FI to fund clearly-defined FI subprojects the requirements of this ESS will apply to each of the FI subprojects;*
- (b) Where Bank support is provided to the FI for a general purpose,³ the requirements of this ESS will apply to the entire portfolio of the FI's future subprojects from the date on which the legal agreement becomes effective.*

Footnote 3. Support for a 'general purpose' means that the support cannot be traced to a specific FI subproject or specific types of financing.

6. *Where an FI receiving support from the Bank provides financing or guarantees to other FIs, the FI will apply the requirements of this ESS and will cause each subsequent FI to apply the requirements of this ESS, as specified in paragraph 5 of this ESS.*

GN6.1. The way in which each FI will apply the requirements of ESS9 and other relevant ESSs will depend on the FI's relationship to the FI subprojects. As noted in GN7.1, the ESMS will be established and maintained by the Responsible FI. Regardless the financial product and service the FI is negotiating, as an arranger, manager, or underwriter of such transactions, including a bond issue among others, or where funding is provided through a number of FIs, the requirements relating to ESS9 and other relevant ESSs are incorporated into each of the contractual agreements between an FI and the subsequent FIs, to which loans, equity, financing or guarantees are provided.

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Requirements

7. FIs will put in place and maintain an ESMS to identify, assess, manage, and monitor the environmental and social risks and impacts of FI subprojects on an ongoing basis. The ESMS will be commensurate with the nature and magnitude of environmental and social risks and impacts of FI subprojects, the types of financing, and the overall risk aggregated at the portfolio level.⁴ Where the FI can demonstrate that it already has an ESMS in place, it will provide adequate documented evidence of such an ESMS, indicating which elements (if any) will be enhanced or modified to meet the requirements of this ESS.⁵

Footnote 4. For the purpose of assessing the adequacy of the ESMS, the FI portfolio means the portfolio of current and/or proposed subprojects to which this ESS applies, as described in paragraph 5.

Footnote 5. Where the Bank is providing support to a project involving Financial Intermediaries (FIs), and other multilateral or bilateral funding agencies, including IFC and MIGA, will or have already provided financing to the same FIs, the Bank may agree to rely on the requirements of such other agencies for the assessment and management of environmental and social risks and impacts of the project, including the institutional arrangements already established by the participating FIs, provided that such requirements will enable the project to achieve objectives materially consistent with this ESS and other ESSs, as applicable. Following review by the Bank, an FI may be required to enhance its ESMS, as deemed necessary by the Bank.

GN7.1. The FI that is required to develop and maintain the ESMS is the FI that has direct responsibility for selecting and funding the FI subprojects (the Responsible FI). The Responsible FI develops and maintains the ESMS, so that the environmental and social risks and impacts of the FI subprojects financed or guaranteed by the Responsible FI can be identified, assessed, managed and monitored appropriately and in accordance with the specific requirements and objectives of the ESSs and other international standards including the OECD Guidelines on Responsible Business Conduct for Institutional Investors and the UN Guiding Principles on Business and Human Rights.

GN7.2. The ESMS includes processes for screening and categorizing proposed subprojects based on their potential environmental and social risks and impacts, conducting environmental and social assessments and monitoring subproject environmental and social performance. As part of the FI's ESMS, FIs should develop or review their gender policy to ensure that they have capacity and mandate to integrate gender sensitivity throughout their portfolio, and by extension ensure that sub-clients consider and manage gender-differentiated impacts. An existing ESMS may need to be strengthened to meet the requirements of ESS9 and other relevant ESSs, in which case it is recommended that a time-bound action plan be used by the FI for this purpose and documented in the ESCP.

GN7.3. An effective ESMS is commensurate with the highest level of environment and social risk that is anticipated in FI subprojects and/or portfolio. The ESMS is reviewed and enhanced by the responsible FI prior to supporting a new FI subproject with higher levels of environmental and social risks and impacts.

GN7.4 Where the Borrower on-lends Bank funds, the contractual arrangements between on-lending parties should set out the requirements of ESS9 including establishment of ESMS, the application of ESS2, and other relevant ESSs to the Responsible FI. ESS9 also sets out the expectation for FIs to set out clauses and contract arrangements to address the sub-project's responsibility to take remedial measures in line with the requirements and objectives of the ESSs, including providing appropriate remedies to project

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affected people should the sub-project fail to apply the ESSs and where harms ensue as a result. The contractual arrangements should also set out the legal remedies available to the FI when sub-projects are found not to be in compliance with the ESSs and/or provide for substantive remedies for communities that have suffered harms as a result (for example through penalty fees or environmental performance bonds). These will create meaningful and enforceable legal imperatives on the sub-project to comprehensively apply the ESSs.

8. *The FI's ESMS will include the following elements: (i) environmental and social policy; (ii) clearly defined procedures for the identification, assessment and management of the environmental and social risks and impacts of subprojects; (iii) organizational capacity and competency; (iv) monitoring and review of environmental and social risks of subprojects and the portfolio; and (v) external communications mechanism.*

9. *Where FI subprojects are likely to have minimal or no adverse environmental or social risks or impacts, the FI will apply national law.⁶*

Footnote 6. This will rely on an assessment of the risks of the potential FI subprojects that the FI is proposing to finance, and the capacity of the FI. This may apply to certain retail financial products, such as consumer loans or credit cards.

10. *The FI will review and adjust, in a manner acceptable to the Bank, its ESMS from time to time, including when the environmental and social risk profile of its portfolio changes significantly.*

GN10.1. The ESMS is updated or supplemented by the responsible FI if the environment and social risk profile of the FI's general purpose or subproject portfolio changes significantly. Changes to the ESMS may include updating procedures, conducting staff training on specific issues or adding additional staff with relevant skills. Any significant changes proposed to the ESMS including the timeframe are agreed with the Bank prior to their adoption and documented in the ESCP. All changes to the ESMS should be included in the reports submitted to the Bank, in accordance with Paragraph 23 of ESS9.

11. *The FI will comply with any exclusions in the legal agreement and apply relevant national law for all FI subprojects. In addition, the FI will apply the relevant requirements of the ESSs to any FI subproject that involves resettlement (unless the risks or impacts of such resettlement are minor), adverse risks or impacts on Indigenous Peoples or significant risks or impacts on the environment, community health and safety, labor and working conditions, biodiversity or cultural heritage.*

12. *An FI may be required to adopt and implement additional or alternative environmental and social requirements, depending on the nature of the FI, its activities, the sector or countries of operation, and the environmental and social risks and impacts of the potential FI subprojects.⁷*

Footnote 7. These will be incorporated into the ESMS, the environmental and social procedures and/or set out in the legal agreement.

GN11.1. Paragraph 11 applies to the Responsible FI, and the requirements of Paragraph 11 are incorporated in the ESMS. Examples of exclusions include the ineligibility of subprojects or general purpose activities that are high risk or have significant adverse environmental or social impacts, or ineligibility of business activities that involve land expropriation, involuntary resettlement or loss or damage to assets.

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GN11.2. Where Bank support is provided for a general purpose, as set out in Paragraph 5(b) of ESS9, the exclusions in the legal agreement apply to the entire portfolio of the FI. Where the World Bank support is for clearly defined subprojects, the exclusions apply only to those subprojects.

GN11.3. When the risks and impacts referred to in Paragraph 11 are identified, the Responsible FI ensures that (i) the ESMS contains procedures to address such risks and impacts, (ii) the contractual arrangements between the Responsible FI and the FI subprojects provide for application of such procedures, (iii) the contractual arrangements between the FI and the FI subproject provide for the application of remedial measures in line with the ESSs, including providing appropriate remedies to project affected people should the sub-project fail to apply the ESSs and where harms ensue as a result, and (iv) the contractual arrangements between the FI and the FI subproject provide for legal remedies available to the FI when sub-projects are found not to be in compliance with the ESSs and/or provide for substantive remedies for communities that have suffered harms as a result.

13. *The FI will provide a safe and healthy working environment. Accordingly, relevant aspects of ESS2 will apply to the FI itself. The FI will have in place and maintain appropriate labor management procedures, including procedures relating to working conditions and terms of employment, non-discrimination and equal opportunity, grievance mechanisms and occupational health and safety. The FI will provide adequate documented evidence of such procedures.*

GN13.1. This requirement applies to the Responsible FI and sub-projects.

A. Environmental and Social Management System

Environmental and Social Policy

14. *The environmental and social policy of the FI will be endorsed by the FI's senior management and will include organizational commitments, objectives, and metrics with regard to the FI's environmental and social risk management. The policy will clearly state applicable requirements for FI subprojects, and will include the following:*

- (a) All FI subprojects will be prepared and implemented in accordance with relevant environmental and social national and local laws and regulations;*
- (b) All FI subprojects will be screened against exclusions in the legal agreement;⁸*
- (c) All FI subprojects will be screened for environmental and social risks and impacts;*
- (d) All FI subprojects which involve resettlement (unless the risks or impacts of such resettlement are minor), adverse risks or impacts on Indigenous Peoples or significant risks or impacts on the environment, community health and safety, labor and working conditions, biodiversity or cultural heritage will apply relevant requirements of ESSs.⁹*

Footnote 8. These will be set out in the legal agreement between the FI and the entity providing financing to the FI, and will reflect the exclusions in the legal agreement pursuant to which the Bank provides its support.

Footnote 9. The relevant requirements of the ESSs will be applied to such projects regardless of how such projects are categorized under the FI's own risk categorization system as referred to in paragraph 17.

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GN14.1. The ESMS contains the elements that allow the FI to manage the environmental and social risk of its operations and the subprojects it supports. These elements include:

- an environmental and social policy that meets the requirements of the ESSs and other international standards such as the United Nations Guiding Principles on Business and Human Rights and the OECD Guidelines on Responsible Business Conduct for Institutional Investors;
- an access to information and disclosure policy and procedures related to the disclosure of relevant information of high and substantial risk subprojects and investments with minimum of name of the company and its subsidiaries, and the names, sectors, and locations of sub-projects along with draft and then final environmental and social risk assessments for such projects;
- procedures for the assessment and monitoring of sub-projects which include provisions for regular reporting by the sub-project to the FI, public review of these reports, site visits to high and substantial risk sub-projects among other aspects;
- organizational capacity and competency of the FI where the level of capacity of the FI does not affect its responsibilities under ESS9, but may affect the resources, measures, and support needed to develop a fully functioning and effective ESMS;
- stakeholder engagement as defined in ESS10; and
- public monitoring and reporting of sub-projects compliance with environmental and social requirements as set out in the contractual arrangements;
- external communications mechanism with appropriate process or procedure to receive and act upon complaints and suggestions for improvement, and facilitates resolution of concerns and grievances arising in connection with a sub-project or FI investment. This mechanism should be gender-responsive, transparent, independent and protected against political and other types of influence.
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Commented [O13]: More detail guidance is needed in terms of how to set up complex elements such as metrics with regard to the FI's ESMS. More details is needed given that many financial institutions that become World Bank intermediaries have little or no experience developing such environmental and social policies.

More detail guidance is needed on how the FI can meet its responsibilities with respect to the variety of types of transactions and roles. In the financial sector, the application of environmental and social requirements will depend on the type of FI (eg. private equity, commercial banks) and the type of transaction (equity or debt, including credit facilities, syndicated loans, bonds, etc.) and the role the FI plays in the transaction (arranger, manager, underwriter, holder, etc.). Because of this lack of experience and staff, on one hand, and the complexity of different relationships, on the other, there is a need for particularly strong and practical guidance for FIs on the application of ESS9.

Commented [O14]: The guidance should explain that meeting the requirements of ESS9 and other ESSs, by implication necessitates the disclosure of sub-projects by the FI (and the World Bank). If communities are to avail themselves of these mechanisms, they must be made aware that the FI is financing the project and that the project is supposed to adhere to the World Bank's standards.

Environmental and Social Procedure

15. *The FI will put in place and maintain clearly defined environmental and social procedures which reflect and implement the FI's Environmental and Social Policy. The procedures will be proportionate to the nature of the FI and the level of potential environmental and social risks and impacts associated with the FI subprojects.¹⁰*

Footnote 10. Where the FI already has appropriate environmental and social procedures in place, it will provide adequate documented evidence of such procedures to the Bank and, following review by the Bank, will enhance them, as deemed necessary by the Bank.

16. *The FI's environmental and social procedures will include measures to:*
(a) Screen all FI subprojects against any exclusions in the legal agreement;

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- (b) Screen, review and categorize the FI subprojects according to their potential environmental and social risks and impacts;
- (c) Require that all FI subprojects are assessed, prepared and implemented to meet national law and, in addition, where an FI subproject involves resettlement (unless the risks or impacts of such resettlement are minor), adverse risks or impacts on Indigenous Peoples or significant risks or impacts on the environment, community health and safety, labor and working conditions, biodiversity or cultural heritage, the relevant requirements of the ESSs are applied;¹¹
- (d) Ensure that the measures needed to satisfy the requirements of (c) above are set out in the legal agreement between the FI and the sub-borrower;
- (e) Monitor and keep and regularly update environmental and social information on FI subprojects;
- (f) If the risk profile of an FI subproject increases significantly, apply relevant requirements of the ESSs¹² and document these appropriately; and
- (g) Monitor the environmental and social risk of the FI portfolio.

Footnote 11. The environmental and social procedures will require such FI subprojects to conduct stakeholder engagement pursuant to ESS10 in a manner proportionate to the risks and impacts of the FI subprojects.

Footnote 12. The 'relevant requirements of the ESSs' will relate to the reasons for which the risk profile of the FI subproject has increased.

GN16.1. The ongoing due diligence that FIs should undertake in order to monitor the sub-projects compliance with environmental and social requirements as set out in the contractual arrangements require regular reporting by the sub-project to the FI and the review of these reports, including identification of gaps in reporting; FIs are expected to conduct site visits to high and substantial risk sub-projects; and routinely monitor for news alerts and reports of ESG research firms regarding the sub-client performance.

GN16.2. If the risk profile of an FI subproject increases significantly, and the FI's existing environmental and social procedures are not adequate to address this increased risk, the FI in agreement with the Bank modifies such procedures as necessary, document and report such changes in the ESCP including in the Annual Environmental and Social reports submitted to the Bank.

GN16.3. As part of the environmental and social procedures, when an FI is considering an investment in a sub-project and identifies that the sub-project has previously caused adverse impacts and these harms are ongoing, the FI should require the sub-project to remedy the harms. For example, if a sub-project caused forced evictions and displaced people without adequate compensation, access to adequate housing and livelihood support and opportunities, and several years later the sub-project seeks financing from the FI in order to complete construction, operate, expand, or whatever the case may be, the FI must require the sub-project to remediate the harms in line with ESS5 as a condition of financing. As a general rule, the FI should ensure that this commitment is laid out clearly in contractual arrangements with the investee.

17. As part of the environmental and social procedures, the FI will develop and adopt a categorization system for subprojects with clearly defined risk categories. ¹³ The categorization system will take into account (i) the nature and magnitude of environmental and social risks and impacts of subprojects; (ii) sectoral and geographical context; (iii) type of financing. The risk categorization will inform the scope and nature of the FI's environmental

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and social due diligence and risk management of its subprojects. Such categorization system will allow for a systematic aggregation and analysis of risk at the portfolio level.

Footnote 13. A typical categorization system used by FIs may consist of three or four risk categories, which correspond to high, substantial, moderate, or low risk. Good international practice in some instances suggests that four risk categories allow for more comprehensive assessment and management of environmental and social risk by FIs.

18. As part of its environmental and social risk categorization system, the FIs will categorize any subproject which involves resettlement (unless the risks or impacts of such resettlement are minor), adverse risks or impacts on Indigenous Peoples or significant risks or impacts on the environment, community health and safety, labor and working conditions, biodiversity or cultural heritage, as high or substantial risk.

Organizational Capacity and Competency

19. The FI will develop and maintain organizational capacity and competency for implementing the ESMS with clearly defined roles and responsibilities. The FI will designate a representative of the FI's senior management to have overall accountability for environmental and social performance of the FI subprojects, including the implementation of this ESS and ESS2 and resources necessary to support such implementation. The representative will: (a) designate a staff member to be responsible for day-to-day implementation of the ESMS, including the environmental and social procedures; (b) ensure that adequate resources are available for management of and training in environmental and social issues; and (c) ensure that adequate technical expertise, either in-house or external expert support, is available to carry out due diligence and manage the environmental and social risks of the FI subprojects, including providing implementation support as required.

20. The FI will ensure that the requirements of this ESS and ESS2 are clearly communicated to all relevant FI personnel,¹⁴ and to ensure that relevant personnel have the necessary knowledge and capabilities¹⁵ for managing environmental and social risks in accordance with the FI's ESMS.

Footnote 14. Such personnel may include investment, legal, and credit officers, security personnel etc.

Footnote 15. Including by providing appropriate training.

Monitoring and Reporting

21. The FI will monitor the environmental and social performance of the FI subprojects in a manner proportionate to the risks and impacts of the FI subprojects, and provide regular progress reports to the FI's senior management. This will include periodic review of the effectiveness of the FI's ESMS.

GN21.1. As part of its ESMS, the Responsible FI develops a written procedure detailing how performance monitoring is conducted to ensure sub-projects compliance with environmental and social requirements as set out in the contractual arrangements. This monitoring is proportionate to the environmental and social risks and impacts of the FI subprojects and require regular reporting by the sub-project to the FI and the review of these reports, including identification of gaps in reporting; FIs are expected to conduct site visits to high and substantial risk sub-projects; and routinely monitor for news alerts and reports of ESG research firms regarding the sub-project performance. Monitoring and reporting is conducted on a regular basis.

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GN21.2. The frequency and method of monitoring of FI subprojects depends upon the risk levels and performance of the FI subprojects. High and substantial risk subprojects require constant and continual supervision and reporting. Monitoring outcomes and identified corrective actions should be documented. The Responsible FI works with the FI subproject to ensure corrective actions are implemented in line with the substantive requirement and objectives of the ESSs and other international standards.

GN21.3. In cases when complex social and environmental issues arise in its sub-projects, and despite the FI's full and meaningful efforts to influence the sub-project to provide remedies, if the sub-project refuses to address risks or remediate harms, the FI should exit the relationship and exclude the sub-project from future investments. It should inform the World Bank of these developments. In such cases, the World Bank and the FI should publicly disclose the reasons the FI ended the relationship.

GN21.4. The ESMS is reviewed periodically by the Responsible FI to assess the effectiveness, and determine whether changes are needed in agreement with the Bank. The review of the ESMS is expected to evaluate the FI's implementation of its own environmental and social policy as referenced in Paragraph 14, and how environmental and social procedures have been implemented with respect to FI subprojects as well as sub-project compliance.

22. The FI will promptly notify the Bank of any significant accidents or incidents associated with FI subprojects. If the risk profile of an FI subproject increases significantly, the FI will notify the Bank and will apply relevant requirements of the ESSs in a manner agreed with the Bank, as set out in the ESMS. The FI will monitor the measures and actions agreed, and report to the Bank as appropriate.

GN22.1. The notification of any significant accidents or incidents to the World Bank may be provided directly by the Responsible FI to the World Bank or through the Borrower.

23. The FI will submit to the Bank Annual Environmental and Social Reports on the implementation of its ESMS, including its environmental and social procedures, this ESS and ESS2, as well as the environmental and social performance of its portfolio of FI subprojects. The annual report will include details of how the requirements of this ESS are being met, the nature of the FI subprojects financed through the project, and the overall portfolio risk, profiled by sector.

GN23.1. It is considered a good practice to request the services of an independent third party auditor to conduct the Annual Environmental and Social Reports, which should include a report on compliance by the FI and a representative sample of high and substantial risk sub-projects with the Bank's ESS substantial requirements and objectives. Depending on the level of risk of a subproject, reporting may be required more frequently than annually. ESS9 sets out the expectations for the FI to make publicly available its Annual Environmental and Social Reports in accordance to the objectives and requirement of the ESSs.

B. Stakeholder Engagement

24. The FI will require the FI subproject to conduct stakeholder engagement in a manner proportionate to the risks and impacts of the FI subproject, and which reflects the type of FI subprojects it will finance. The relevant provisions of ESS10 will be included in the FI's environmental and social procedures. In certain circumstances,

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depending on the risks and impacts of the project and the type of FI subprojects it will finance, the Bank may require the FI to be engaged in stakeholder engagement.

GN24.1. ESS10 sets out requirements relating to the disclosure of FI sub-project related information - environmental and social assessments, mitigation plans, resettlement plans, indigenous peoples plans, among others- to allow stakeholders to understand the potential risks and impacts of FI subprojects. This information is disclosed in the relevant local languages and in a manner, that is accessible and culturally appropriate, and prior to approval of the FI subproject. Further details on stakeholder engagement are set out in ESS10.

25. The FI will put in place procedures for external communications on environmental and social matters proportionate to the risks and impacts of the FI subprojects, and the risk profile of the FI's portfolio. The FI will respond to public enquiries and concerns in a timely manner.

GN25.1. Procedures for external communications on environmental and social issues are designed to receive, respond to, and document requests for sub-project level information or concerns to allow a timely response. The FIs will ensure that the external communications mechanism is known and accessible to sub-project affected parties and effective at addressing issues that come to the FI's attention. This includes making contact information specialist in the external communications mechanisms publicly available and easily accessible (for example, a phone number, website, e-mail address, printed material at the sub-project level). If a concern is deemed not to be relevant, the Responsible FI records the reasons for this determination. Environmental and social issues brought to the FI's attention through the external communications mechanism should be reported to the World Bank. ESS9 sets out expectations for the FI to require that high and substantial risk sub-projects establish operational-level grievance mechanisms, as required by ESS10 and other ESSs.

GN25.2. ESS9 sets out the expectations for the FI to ensure that project-affected people are aware that they are entitled to access the World Bank Inspection Panel especially with, but not limited to, high and substantial risk sub-projects. The FI should ensure this responsibility is discharged by requiring the sub-project to provide a report to the FI (ie. details of date, manner and form in which affected people were made aware of their entitlements to access the Inspection Panel). The FI should report this information to the World Bank in its Annual Environmental and Social Report.

26. The FI will disclose through the FI's website, if a website exists, and permit, in writing, the Bank to disclose on the Bank's website, a summary of each of the elements of the FI's ESMS.

GN26.1. ESS9 sets out the expectation that as part of the elements of the FI's ESMS, the FI will disclose through the FI's website, if a website exists, and permit, in writing, the Bank to disclose on the Bank's website the following elements of a functional FIs ESMS:

- (a) the FI's policy statement which describes specific objectives, metrics, and aspirations that the FI has set with regard to its environmental and social performance;

Commented [O15]: Increasingly, disclosure is industry best practice; for instance the third version of the Equator Principles sets out a framework for disclosure by signatory banks of the names, locations and sectors of its project finance investments with the consent of its clients. The guidance notes provide an important opportunity for the World Bank to play a leadership role in pushing for greater disclosure in the financial sector, consistent with its development mandate and goals. Disclosure places a reputational incentive on the FI and the sub-project to: undertake more thorough due diligence; consult with communities and obtain free, prior, and informed consent when appropriate; conduct robust environmental and social impact assessments; and develop strong risk management plans. It also allows for communities to alert the FI and the World Bank early on if concerns arise.

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- (b) the FI's procedures for screening and assessing risks and impacts of subprojects or individual transactions including field visits;
- (c) organizational structure and capacity of the environmental and social risk management unit including contact information of environmental and social specialist;
- (d) after Bank review, the summary of the environmental and social assessments that is required for any subproject considered high and substantial risk, including monitoring reports of subprojects in accordance with the ESMS;
- (e) FI's Annual Environmental and Social Reports
- (f) the FI's procedures for its external communications mechanism

27. *The FI will require its sub-borrowers to disclose, in relation to FI subprojects, any project-related documents¹⁶ required (a) by the application of the ESSs; (b) for any FI subprojects categorized as high risk in accordance with the FI's own categorization system; and (c) any environmental and social monitoring reports relating to (a) or (b).*

Footnote 16. For example, environmental and social assessment reports, resettlement action plans and Indigenous Peoples plans.

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The Guidance Notes provide guidance for the Borrower on the application of the Environmental and Social Standards (ESSs), which form part of the World Bank's 2016 Environmental and Social Framework. The Guidance Notes help to explain the requirements of the ESSs; they are not Bank policy, nor are they mandatory. The Guidance Notes do not substitute for the need to exercise sound judgment in making project decisions. In case of any inconsistency or conflict between the Guidance Notes and the ESSs, the provisions of the ESSs prevail. Each paragraph of the Standard is highlighted in a box, followed by the corresponding guidance.

Commented [O11]: Gender equity is a valuable development outcome in itself that also contributes to wider development benefits. Specific targeting of women, community awareness in raising women's rights and the value of their full participation, and the support for women to be part of decision making, all enable more gender equitable outcomes and hence better development interventions.

There need to be explicit commitments in the GN to women's participation and benefit, as well as integration of women and gender issues throughout the GN for ESS10 but also the other ESSs, environmental and social assessments, action plans, stakeholder engagement and the ESCP.

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Introduction

1. This ESS recognizes the importance of open and transparent engagement between the Borrower and project stakeholders as an essential element of good international practice. Effective stakeholder engagement can improve the environmental and social sustainability of projects, enhance project acceptance, and make a significant contribution to successful project design and implementation.

2. Stakeholder engagement is an inclusive process conducted throughout the project life-cycle. Where properly designed and implemented, it supports the development of strong, constructive and responsive relationships that are important for successful management of a project's environmental and social risks. Stakeholder engagement is most effective when initiated at an early stage of the project development process, and is an integral part of early project decisions and the assessment, management and monitoring of the project's environmental and social risks and impacts.

3. This ESS must be read in conjunction with ESS1. Requirements regarding engagement with workers are found in ESS2. Special provisions on emergency preparedness and response are covered in ESS2 and ESS4. In the case of projects involving involuntary resettlement, Indigenous Peoples or cultural heritage, the Borrower will also apply the special disclosure and consultation requirements set out in ESS5, ESS7 and ESS8.

Objectives

- *To establish a systematic approach to stakeholder engagement that will help Borrowers identify stakeholders and build and maintain a constructive relationship with them, in particular project-affected parties.*
- *To assess the level of stakeholder interest and support for the project and to enable stakeholders' views to be taken into account in project design and environmental and social performance.*
- *To promote and provide means for effective and inclusive engagement with project-affected parties throughout the project life-cycle on issues that could potentially affect them.*
- *To ensure that appropriate project information on environmental and social risks and impacts is disclosed to stakeholders in a timely, understandable, accessible and appropriate manner and format.*
- *To provide project-affected parties with accessible and inclusive means to raise issues and grievances, and allow Borrowers to respond to and manage such grievances.*

Scope of Application

4. *ESS10 applies to all projects supported by the Bank through Investment Project Financing. The Borrower will engage with stakeholders as an integral part of the project's environmental and social assessment and project design and implementation, as outlined in ESS1.*

GN 4.1. Stakeholder engagement is the continuing process by which the Borrower identifies, communicates and facilitates a two-way dialogue and negotiation with the people directly and indirectly affected by its decisions and activities, the potential project proponents and others with an interest in the implementation and outcomes of its decisions and the project. It takes into account the different access and communication needs of various groups and individuals, especially those more vulnerable or disadvantaged since they are more at risk of being excluded from discussions and/or decisions but will

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likely be impacted differently, and/or they may be at particular risk of threats and reprisals for speaking in public spaces. Such threats can take the form of violence or other types of intimidation to them, their families, properties or livelihood. Engagement begins as early as possible in project preparation, at the concept idea stage of the project because early identification of and consultation with affected and interested parties allows stakeholders' views, concerns and circumstances to be considered in the decision to go forward with the project, as well as in project design, implementation and operation of the project.

GN4.2. Meaningful stakeholder engagement throughout the project cycle is an essential aspect of good project management. Stakeholder consultations provide input for the project design and approach, terms of reference, environmental and social assessment, mitigation plans, monitoring reports, and further evaluation of the project, including the Environmental and Social Commitment Plan (ESCP), and any other project plans that may be prepared. The level and frequency of stakeholder engagement conducted is proportionate to the risks and impacts of the project and agreed upon with affected stakeholders during the preparation of the Stakeholder Engagement Plan. For example, high and substantial risk projects like in the extractive or infrastructure sectors require constant and regular engagement including deeper levels of negotiation and agreements with project affected parties through the entire project cycle and decision making processes.

GN4.3 Meaningful stakeholder engagement is not possible without adequate public disclosure of project related information in a manner accessible and culturally appropriate to affected persons (online, printed copies, infographics, newspaper, radio broadcast, etc.) including translation to local languages to all affected and interested parties and other relevant stakeholders before project appraisal and prior to project approval allowing them the opportunity to feed into analysis and plans, and provide informed comments through an inclusive, transparent and gender responsive consultation process. Project information includes drafts and final versions of terms of reference for the environmental and social assessments, environmental and social assessments, mitigation plans, indigenous peoples plans, resettlement plans, and project budgets. Additionally, beyond full disclosure of material information efforts should be made to build and or strengthen the capacity of project affected parties to ensure that they adequately understand the project impacts, both long and short term as well as all the entitlements and protections accorded to them by the ESF, including access to redress through the Inspection Panel.

GN4.3. The techniques and practices described in this Guidance Note are applied both to the specific requirements of ESS10, as well as any engagement, consultation and disclosure requirements set out in the other ESSs (whether or not such techniques and practices are described in the respective Guidance Notes).

GN4.4. ESS10 also sets expectations for how Borrowers should interact and respect affected parties and other interested parties be they individuals or organizations throughout the various stages of the project that may have views on the project or project components, be they positive or negative. As a Bank-financed project, it is expected that any individual or organization that criticizes, speaks up against, or seeks/supports redress for grievances against the project or project components at any stage of the project, will have their views and concerns listened to and responded to by the Borrower, and will not face harm, retaliation, or repercussions by the Borrower or other project proponents directly or indirectly.

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5. For the purpose of this ESS, “stakeholder” refers to individuals or groups who:
- (a) are affected or likely to be affected by the project (project-affected parties); and
 - (b) may have an interest in the project (other interested parties).

GN5.1. The term ‘project affected parties’ includes those that are anticipated to be direct and indirect beneficiaries of the project, and/or likely to be affected by the project because of direct, indirect and/or cumulative impacts or potential risks to their physical environment, health, security, well-being or livelihoods. These stakeholders may include individuals or groups, including local communities.

GN5.2. The term ‘other interested parties’ refers to individuals, groups or organizations with an interest in the project, which may be because of the project location, its characteristics, its impacts, or matters related to public interest. For example, these parties may include regulators, government officials, the private sector, women’s organizations, unions, academics and civil society organizations, including international, national and local level organizations engaging on policy issues in the relevant sector(s).

Requirements

6. Borrowers will engage with stakeholders throughout the project life-cycle, commencing such engagement as early as possible in the project development process and in a timeframe that enables meaningful consultations with stakeholders on project design. The nature, scope and frequency of stakeholder engagement will be proportionate to the nature and scale of the project and its potential risks and impacts.

7. Borrowers will engage in meaningful consultations with all stakeholders. Borrowers will provide stakeholders with timely, relevant, understandable and accessible information, and consult with them in a culturally appropriate manner, which is free of manipulation, interference, coercion, discrimination and intimidation.

8. The process of stakeholder engagement will involve the following, as set out in further detail in this ESS: (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.

GN9.1. Documentation of stakeholder engagement includes the following, as appropriate:

- (a) date and location of each meeting, with copy of the notification to stakeholders;
- (b) a list of all relevant documentation disclosed to participants including format (printed, digital, etc.), time of disclosure, language, and type of document (draft or final version, concept notes, terms of reference, environmental and social assessment, mitigation plan, etc.) The notice should be done well in advance. The venue and time for the meetings should factor in

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social and customary norms that may hinder participation of women, men and vulnerable and disadvantaged groups in the meeting

- (c) the purpose of the engagement (for example, to inform stakeholders of an intended project or to gather their views on potential environmental and social impacts of an intended project, or to discuss and negotiate benefits and mitigation measures or to monitor and evaluate project implementation among others);
- (d) the form of engagement and consultation (for example, face-to-face meetings such as town halls or workshops, focus groups, written consultations, online consultations);
- (e) number of participants, disaggregated by gender and age, and categories of participants (government officials, civil society, private sector, communities, NGOs, academics, etc.) ;
- (f) coherent and complete notes of comments, points and concerns raised by stakeholders, noting the number of concerns raised by individuals of disadvantaged or vulnerable groups;
- (g) a matrix detailing stakeholder comments and how stakeholder concerns were responded to and taken into account; and
- (h) issues and activities that require follow up actions from the Borrower and/or other stakeholders and timeframe, including clarifying how stakeholders are informed of decisions.
- (i) Records of deliberate efforts made to ensure representation of vulnerable and disadvantaged groups including women in the stakeholder engagements.

A. Engagement during Project Preparation

Stakeholder Identification and Analysis

10. *The Borrower will identify the different stakeholders, both project-affected parties and other interested parties¹. As set out in paragraph 5, individuals or groups that are affected or likely to be affected by the project will be identified as 'project-affected parties' and other individuals or groups that may have an interest in the project will be identified as 'other interested parties'.*

Footnote 1. The stakeholders of a project will vary depending on the details of the projects. They may include local communities, national and local authorities, neighboring projects, and nongovernmental organizations.

GN10.1. The Bank and the Borrower may agree to use independent third parties to support identifying and convening affected stakeholders, particularly in contexts where identification, diversity, or independence of stakeholders may be compromised, for example in areas affected by conflict, ethnic tensions, or known barriers to civic participation. The process to identify stakeholders may include the following:

- (a) At the concept stage of the project, the Borrower develops a list of project-affected and other interested parties, paying special attention to identifying disadvantaged and vulnerable groups.
- (b) Second, other interested parties are identified by listing relevant interest groups including local and national civil society groups and NGOs, and considering historical issues, social relations, relationships between local communities and , and any other relevant factors related to the sector and location that help anticipate local and external responses to the project. Particularly in projects that have policy-level implications related to the project's sector (for example in health,

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education and social protection projects), other interested parties should include national and local civil society organizations engaging on policy and sector reform, as well as relevant unions, women's groups, academics and other relevant associations.

- (c) Third, communications are sent to all stakeholders in a gender-sensitive manner that is widely accessible and culturally appropriate -in some situations radio broadcasts are necessary and more effective- to let stakeholders know about the project concept idea, and that discussions are going to be conducted with representatives of the stakeholders identified and with persons knowledgeable about the local, country and sector contexts and undertake media and social media searches to verify the list and identify any other project-affected or interested parties and to find out how to contact them. In the communications, the borrower will ensure stakeholders that provisions will be considered to facilitate a safe space for dialogue, free of coercion and intimidation and special consideration will be given to enable the equitable participation of women, children and other disadvantaged and vulnerable groups, including people with disabilities.

11. *The Borrower will identify those project-affected parties (individuals or groups) who, because of their particular circumstances, may be disadvantaged or vulnerable.² 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. An adequate level of detail will be included in the stakeholder identification and analysis so as to determine the level of communication that is appropriate for the project.*

Footnote 2. Disadvantaged or vulnerable refers to those 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 an individual/group is also more likely to be excluded from/unable to participate fully in the mainstream consultation process and as such may require specific measures and/or assistance to do so. This will take into account considerations relating to age, including the elderly and minors, and including in circumstances where they may be separated from their family, the community or other individuals upon which they depend.

GN11.1 Disadvantaged or vulnerable refers to those individuals or groups who, by virtue of, for example, their age, gender, ethnicity, religion, physical, mental or other disability, social, civic or health status, sexual orientation, gender identity, economic disadvantages or indigenous status, and/or dependence on unique natural resources, 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 an individual/group is also more likely to be excluded from/unable to participate fully in the mainstream consultation process and as such may require specific measures and/or assistance to do so. This will take into account considerations relating to age, including the elderly and minors, and including in circumstances where they may be separated from their family, the community or other individuals upon whom they depend.

12. *Depending on the potential significance of environmental and social risks and impacts, the Borrower may be required to retain independent third party specialists to assist in the stakeholder identification and analysis to support a comprehensive analysis and the design of an inclusive engagement process.*

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GN12.1. Guidance in relation to the nature and role of independent third parties is provided in ESS1, paragraph 25 and its related Guidance Note.

Stakeholder Engagement Plan

13. *In consultation with the Bank, the Borrower will develop and implement a Stakeholder Engagement Plan (SEP)³ proportionate to the nature and scale of the project and its potential risks and impacts.⁴ A draft of the SEP will be disclosed as early as possible, and before project appraisal, and the Borrower will seek the views of stakeholders on the SEP, including on the identification of stakeholders and the proposals for future engagement. If significant changes are made to the SEP, the Borrower will disclose the updated SEP.*

Footnote 3. Depending on the nature of the scale of the risks and impacts of the project, the elements of a SEP may be included as part of the ESCP and preparation of a stand-alone SEP may not be necessary.

Footnote 4. Where possible, stakeholder engagement will utilize engagement structures within the national system e.g. community meetings, supplemented as needed with project-specific arrangements.

14. *The SEP will describe the timing and methods of engagement with stakeholders throughout the life-cycle of the project as agreed between Bank and Borrower, distinguishing between project-affected parties and other interested parties. The SEP will also describe the range and timing of information to be communicated to project-affected parties and other interested parties, as well as the type of information to be sought from them.*

GN13.1. The process of preparing the SEP is inclusive and transparent and considers gender dynamics with special interest in women's rights within the spirit of the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW), the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol), and other instruments to ensure women's meaningful participation in decision making and access to project benefits, and that the most marginalized women can have a chance to feed into analysis and plans, and be properly informed of projects and to discuss them. The SEP is designed to accommodate the needs and circumstances of different stakeholders paying special attention to identified disadvantaged and vulnerable groups. It identifies the information and types of interaction to be conducted in each phase of the project, and includes any other stakeholder engagement required by the other ESSs.

GN13.2. As appropriate for the nature and scale of the project and its potential risks, the SEP will include a description of the project; a list of the stakeholder groups identified, including disadvantaged and vulnerable individuals or groups; the proposed stakeholder engagement program (including topics stakeholders will be engaged on, how and when each stakeholder or stakeholder group will be notified, the methods of engagement, list of information/documents that will be in the public domain, languages they will be available in, length of consultation period, and opportunities to comment and negotiate); indication of resources required for implementing stakeholder engagement activities; summary description of the grievance mechanism including the Bank's Inspection Panel and how to access to them; and contact information and process for seeking further information.

GN13.3. The draft SEP is made available to the Bank and stakeholders in formats and through channels that are appropriate for them. As relevant to the project, the draft SEP invites input from stakeholders and the Bank on aspects such as: (a) whether the list of identified stakeholders is accurate, appropriate, diverse or independent; (b) the proposed methods of notification and engagement (for example, where

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meetings and workshops may be held and how to communicate with disadvantaged or vulnerable groups); (c) the proposed extent and format of engagement (for example, the type of meetings and duration of the consultation period); and (d) the format and language of information to be provided. Stakeholder feedback on these aspects is reviewed and incorporated in the SEP. If significant changes are made to the SEP, a revised SEP is publicly disclosed.

GN13.4. The SEP is proportionate to the stakeholder concerns regarding the risks and impacts associated with the project. Where the elements of the SEP are included in the ESCP, it is important to ensure that the specific stakeholder engagement arrangements are communicated in formats suitable and understandable for the identified stakeholders, including and especially disadvantaged or vulnerable groups. This may include, for example, a factsheet or brochure that alerts stakeholders to the information to be provided, in some situations radio broadcasts may be necessary and more effective, along with locations of consultation meetings, channels for providing comments, deadlines for comments, contact information, and a summary of the grievance redress mechanism including the Bank's Inspection Panel.

GN13.5. Because project circumstances and stakeholder concerns can change or new ones may emerge, stakeholder engagement is conducted from project concept and design, and throughout the project cycle including implementation, operation and decommissioning. This means that the SEP is completed before the preparation of the environmental and social assessment in order to guide the stakeholder engagement from the beginning of project assessments. The SEP may need to be updated during project implementation. This allows improvement to project implementation based on stakeholder feedback, and proactive management of concerns.

15. *The SEP will be designed to take into account the main characteristics and interests of the 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.*

GN15.1 In certain contexts it may be necessary to conduct separate, additional consultations with women in order to ensure their inputs and to secure their equal participation in stakeholder engagement processes, free of manipulation, interference, coercion, discrimination and intimidation. Such consultations should be convened at times and in locations that take into account women's safety and ability to participate, and should not take the place of women's participation in regular consultations but should be considered as equally important. The format of these consultations should be informed by women, culturally appropriate, and designed to address barriers to participation, such as level of education. Similarly, additional and separate consultations may also be necessary when engaging with other disadvantaged or vulnerable individuals or groups (see GN11.1).

GN15.2 Physical accessibility of places where public consultations take place should be guaranteed by the borrower in a manner that is consistent with article 12 of the Convention on the Rights of Persons with Disabilities which recognizes legal capacity of people with disabilities and promotes supported decision-making rather than substituted decision-making. This means that support should be provided when required to ensure that people with disabilities can express their views on an equal basis with others,

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and the decisions of others such as family members or relatives should not be accepted as a substitute.

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 an increased level of 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.*

GN16.1 Such measures could include working to overcome obstacles such as illiteracy and restricted freedom of movement. Such measures should also facilitate the participation of women, especially in contexts where there are strong patriarchal structures in place. The Borrower should promote and implement measures such as special outreach, support, and public information programs to encourage and secure women's equal participation in consultation processes. Measures should be taken to alleviate some of the burden of women's unpaid care work (such as providing childcare during consultations) to ensure the ability of women to participate and to address the double burden women face when participating in public processes. Similarly, this may also be the case when engaging with other disadvantaged or vulnerable individuals or groups (see GN11.1).

17. *When the stakeholder engagement with local individuals and communities depends substantially on community representatives,⁵ the Borrower will make reasonable efforts to verify that such persons do, in fact, represent the views of such individuals and communities, and that they are facilitating the communication process in an appropriate manner.⁶*

Footnote 5. For example, village heads, clan heads, community and religious leaders, local government representatives, civil society representatives, or teachers.

Footnote 6. For example, by conveying, in an accurate and timely manner, information provided by the Borrower to the communities and the comments and concerns of such communities to the Borrower.

18. *In certain circumstance,⁷ depending on the level of 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 ESS that will be implemented once the location is known.*

Footnote 7. For example, where the exact location of the project is not known.

GN18.1. The use of the SEP framework approach is appropriate where the design and location of the project cannot be known during project preparation, or when a project has multiple subprojects that will only be designed during project implementation. In such cases, the framework sets out the principles to be followed for stakeholder engagement in a manner that is consistent with ESS10 and this Guidance Note, indicates how people are notified as key information becomes known. The SEP is updated as and when specific details become known, for example the specific locations, stakeholders and schedule of activities.

Information Disclosure

19. *The Borrower will disclose project information to allow stakeholders to understand the risks and impacts of the project, and potential opportunities. The Borrower will provide stakeholders with access to the following*

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information, as early as possible before the Bank proceeds to project appraisal, and in a timeframe that enables meaningful consultations with stakeholders on project design:

- (a) The purpose, nature and scale of the project;
- (b) The duration of proposed project activities;
- (c) Potential risks and impacts of the project on local communities, and the proposals for mitigating these, highlighting potential risks and impacts that might disproportionately affect vulnerable and disadvantaged groups and describing the differentiated measures taken to avoid and minimize these;
- (d) The proposed stakeholder engagement process highlighting the ways in which stakeholders can participate;
- (e) The time and venue of any proposed public consultation meetings, and the process by which meetings will be notified, summarized, and reported; and
- (f) The process and means by which grievances can be raised and will be addressed.

GN19.1. Meaningful stakeholder engagement depends on timely, accurate and comprehensible information. Making available project-related information as early as possible in the project cycle and in a manner and language appropriate for each stakeholder group is important. The Borrower will make special efforts to understand, inform, and discuss with disadvantaged and vulnerable groups, including women, the differentiated impacts of the project on them, short and long term implications, the means of obtaining access to compensation, livelihood restoration, and share benefits, and how and when to raise grievances including through the Bank's Inspection Panel.

Commented [OI2]: It is really important that this GN is revised comprehensively to ensure that Borrowers are seeing stakeholder engagement as a means to **identify and understand** potential impacts and improve the project as well. It is not only about "informing" stakeholders.

GN19.2 Project information includes drafts and final versions of project concept and design documents, terms of reference for the environmental and social assessments, environmental and social assessments, mitigation plans or frameworks, indigenous peoples plans or frameworks, resettlement plans or frameworks, and project budgets among others.

GN19.2. It is important to remain responsive to requests for information from project-affected parties and other interested parties through the project cycle, and set up appropriate systems to make available project information. Such systems should be accessible to project affected parties, should also be predictable in terms of timeframes for acknowledging the request for information, responding to and disclosing the requested information, giving reasonable and coherent justifications in case of denying request for information, and providing the appropriate mechanism for requesters to appeal.

20. The information will be disclosed in relevant local languages and in a manner that is accessible and culturally appropriate, taking into account any specific needs of groups that may be differentially or disproportionately affected by the project or groups of the population with specific information needs (such as, disability, literacy, gender, mobility, differences in language or accessibility).

Meaningful Consultation

21. The Borrower will undertake a process of meaningful consultation in a manner that provides stakeholders with opportunities to express their views on project risks, impacts, and mitigation measures, and allows the Borrower to consider and respond to them. Meaningful consultation will be carried out on an ongoing basis as the nature of issues, impacts and opportunities evolves.

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GN21.1 Meaningful consultation processes are free of coercion and intimidation, offer safe spaces for dialogue, including criticism or disagreement of the project or project components, without fear of any repercussions or retaliations, and as such take all necessary steps to prevent, monitor, and respond to reprisals. A meaningful consultation is designed with special considerations for women, children and other disadvantaged or vulnerable individuals or groups, including people with disabilities.

GN21.2. Consultation processes are a means to an end, not an end in itself. To ensure that the voices of both project-affected parties and other interested parties are not only heard but will also find expression in the project design and recommendations on whether/how to proceed or, for that matter, to withdraw from the project, a transparent process needs to be devised that will assure those affected by the project that their objections and concerns have also found appropriate expression in the decision making process and plan.

22. *Meaningful consultation is a two-way process, that:*
- (a) *Begins early in the project planning process to gather initial views on the project proposal and inform project design;*
 - (b) *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;*
 - (c) *Continues on an ongoing basis, as risks and impacts arise;*
 - (d) *Is based on the prior disclosure and dissemination of relevant, transparent, objective, meaningful and easily accessible information in a timeframe that enables meaningful consultations with stakeholders in a culturally appropriate format, in relevant local language(s) and is understandable to stakeholders;*
 - (e) *Considers and responds to feedback;*
 - (f) *Supports active and inclusive engagement with project-affected parties;*
 - (g) *Is free of external manipulation, interference, coercion, discrimination, and intimidation; and*
 - (h) *Is documented and disclosed by the Borrower.*

GN22.1. The aim of consultations is to engage in a meaningful dialogue with stakeholders, receive input on analysis and proposed plans, discuss ideas and concerns, negotiate benefits and mitigation measures, inform the decision-making process and agree upon next steps for the project to continue. Not all stakeholder groups can agree on impacts and mitigation, so the goal of the engagement is not always to achieve consensus, however, all possible efforts should be made to build consensus and to hear from stakeholder groups and to take their comments and concerns into account in making the most appropriate project decisions. Security and accessibility are expected to be considered when designing a consultation program, especially in fragile and conflict situations.

GN22.2. As a Bank-financed project, it is expected that any individual or organization that criticizes, speaks up against, or seeks/supports redress for grievances against the project or project components at any stage of the project, will have their views and concerns listened to and responded to by the Borrower, and will not face harm, retaliation, or repercussions by the Borrower or project proponents directly or indirectly.

B. Engagement during Project Implementation and External Reporting

Commented [O13]: The GN should also reference best practices on consultation

Commented [O15]: Meaningful consultation is important, but experience tells us that most consultation is interest-driven in the pursuit of objectives ("to get on with the project as soon as possible and keeping costs at a minimum"). External manipulation, interference, subtle coercion, corruptive actions (cash for votes), discrimination and intimidation are routinely used to gain consent. Therefore, the GN should set out clear expectations for Borrowers that Bank staff will engage at their discretion as impartial observers to ensure that no foul play is taking place under the guise of 'meaningful consultation' and that women are not being coerced or threatened into silence.

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23. *The Borrower will continue to engage with, and provide information to, project-affected parties and other interested parties throughout the life-cycle of the project, in a manner appropriate to the nature of their interests and the potential environmental and social risks and impacts of the project.⁸*

Footnote 8. Additional information may need to be disclosed at key stages in the project cycle, for example prior to start-up of operations, and on any specific issues that the disclosure and consultation process or grievance mechanism have identified as of concern to stakeholders.

GN23.1. As implementation of a project progresses, new impacts may arise, while other impacts may be eliminated. Borrowers provide regular updates to stakeholders on project performance and changes in scope or schedule following the agreed upon procedures of the SEP.

24. *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 environmental and social performance of the project, and the implementation of the mitigation measures in the ESCP.*

GN24.1. Stakeholder feedback is useful to assess the effectiveness of the measures designed to mitigate environmental and social risks and impacts. Consultations will also be used to assess whether the requirements of the ESCP regarding mitigation measures have been fulfilled and whether additional issues have arisen and how these are addressed.

25. *If there are significant changes to the project that result in additional risks and impacts, particularly where these will impact project-affected parties, the Borrower will provide information on such risks and impacts and consult with project-affected parties as to how these risks and impacts will be mitigated. The Borrower will disclose an updated ESCP, setting out any additional mitigation measures.*

GN25.1. The information will be disclosed in relevant local languages and in a manner that is accessible and culturally appropriate, taking into account any specific needs of groups that may be differentially or disproportionately affected by the project or groups of the population with specific information needs (such as disability, literacy, gender, mobility, differences in language or accessibility).

C. Grievance Mechanism

26. *The Borrower will respond to concerns and grievances of project-affected parties related to the environmental and social performance of the project in a timely manner. For this purpose, the Borrower will propose and implement a grievance mechanism⁹ to receive and facilitate resolution of such concerns and grievances.*

Footnote 9. The grievance mechanism to be provided under this ESS may be utilized as the grievance mechanism required under other ESSs (see ESSs 5 and 7). However, the grievance mechanism for project workers required under ESS2 will be provided separately.

GN26.1. A grievance mechanism is a system, process or procedure that receives and acts upon complaints and suggestions for improvement, and facilitates resolution of concerns and grievances arising in connection with a project. An effective grievance mechanism provides project-affected parties redress,

Commented [O16]: References to the good will of the Borrower abound “will continue to engage”, “will seek feedback from stakeholders”, “encourages stakeholder feedback”, but what are the penalties when there is systematic failure to honor the promises? The GN should set clear expectations and guide the Borrower and Bank staff on how to engage when systematic failure occurs. The GN need to clarify that all consultations need to be documented and available on request, and Borrowers held to account for managing and responding to the stakeholder consultation process.

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and helps address issues at an early stage and ensures that the most marginalized are informed and have access to the grievance mechanism. A grievance mechanism is gender-responsive, transparent, independent and protected against political and other types of influence.

27. *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. Further details on grievance mechanisms are set out in Annex 1.*

- (a) 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, at no cost and without retribution. The mechanism, process or procedure will not prevent access to judicial or administrative remedies. The Borrower will inform the project-affected parties about the grievance process in the course of its community engagement activities, and will make publicly available a record documenting the responses to all grievances received; and*
- (b) Handling of grievances will be done 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 anonymous complaints to be raised and addressed.*

GN27.1. A grievance mechanism is designed based on an understanding of the issues that are likely to be the subject of concerns and grievances. The appropriate design and scale of the grievance mechanism is project-specific. The design depends upon factors such as the project context, scale and scope, the number of project beneficiaries, capacity, cultural attitudes toward lodging grievances, available human and financial resources, and technological constraints. Existing formal mechanisms may be used, provided they are deemed suitable for the project's purposes and, as needed, can be supplemented with project-specific arrangements. In some instances, it may be cost-effective and sustainable to build on and improve such formal mechanisms for grievance redress, identified as part of the environmental and social assessment under ESS1.

GN27.2. An effective grievance mechanism provides specific places and ways whereby grievances would be received and means by which they can be submitted (for example, mail, e-mail, website, telephone, suggestion/complaint boxes); a person, an office, or an institution responsible for processing grievances; establishes timelines and stages for processing a complaint, and a process for registering and monitoring grievances. Grievance mechanisms for larger or more complex projects may have multiple locations, means and methods to receive, process and monitor grievances, an adequately staffed team, and an appeals process.

GN27.3. To make grievance mechanisms accessible to all stakeholders, including and especially to women and to other potentially disadvantaged or vulnerable individuals and groups, the Borrower will : make the procedures to submit grievances simple and easy to understand; advertise them publicly and broadly via newspapers, radio broadcast, etc.; and indicate the expected length of timelines for acknowledgement, response and resolution. The grievance mechanism is free of charge to stakeholders.

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GN27.4. An effective grievance mechanism is responsive, and the action taken on the grievance or suggestion is informed and balanced. The timeframe for grievance resolution depends on factors such as the urgency of the complaint; need for research, investigation, consultation, and funding; and capacity. The grievance mechanism sets out indicative timeframes for acknowledgement, interim responses, and, where possible, final resolution of grievances. Some grievances may require coordination between multiple departments/agencies, often outside the control of the project, or require detailed investigations. Such grievances may take longer to address and this should be communicated to the parties concerned when acknowledging receipt of the grievances. Supporting documents needed to achieve resolution form part of the files related to the grievance/feedback.

GN27.5. A good grievance mechanism requires all grievances to be treated confidentially, impartially, and objectively. In countries where the submission of anonymous grievances is not permitted, it is important to ensure confidentiality; in those cases, the Borrower may consider engaging third party entities to facilitate submission of grievances. Users of a grievance mechanism may not be subject to retaliation, abuse or any kind of discrimination. Allegations of retaliation, abuse or discrimination are expected to be addressed and corrected promptly by the Borrower.

GN27.6. As a Bank-financed project, it is expected that any individual or organization that criticizes, speaks up against, or seeks/supports redress for grievances against the project or project components at any stage of the project, will have their views and concerns listened to and responded to by the Borrower, and will not face harm, retaliation, or repercussions by the Borrower or project proponents directly or indirectly.

GN27.7 The grievance mechanisms is not a substitute for the Bank's Inspection Panel. The Borrower should inform and ensure that all project affected parties are aware of the existence of the Bank's Inspection Panel and how to contact them.

D. Organizational Capacity and Commitment

28. The Borrower will define clear roles, responsibilities and authority as well as designate specific personnel to be responsible for the implementation and monitoring of stakeholder engagement activities and compliance with this ESS.

GN28.1. The Borrower must designate qualified staff to design, implement and monitor stakeholder engagement activities and, if necessary, consider supplementing the staff with external expert assistance, such as gender specialists. The number of staff should be proportionate to the nature of the project, and the types and levels of risks and impacts that are anticipated.

ESS10-ANNEX 1. Grievance Mechanism

1. The scope, scale and type of grievance mechanism required will be proportionate to the nature and scale of the potential risks and impacts of the project.

2. The grievance mechanism may include the following:

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- (a) Different ways in which users can submit their grievances, which may include submissions in person, by phone, text message, mail, email or via a web site;*
- (b) A log where grievances are registered in writing and maintained as a database;*
- (c) Publicly advertised procedures, setting out the length of time users can expect to wait for acknowledgement, response and resolution of their grievances;*
- (d) Transparency about the grievance procedure, governing structure and decision makers; and*
- (e) An appeals process (including the national judiciary) to which unsatisfied grievances may be referred when resolution of grievance has not been achieved.*

3. *The Borrower may provide mediation as an option where users are not satisfied with the proposed resolution.*

GN3.1 The grievance mechanisms is not a substitute for the Bank's Inspection Panel. The Borrower should inform and ensure that all project affected parties are aware of the existence of the Bank's Inspection Panel and how to contact them.

FPIC Resources List

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I. FPIC resources produced by Oxfam

- [Testing Community Consent: Tullow Oil project in Kenya](#)
- [Community Consent Index 2015](#)
- [FPIC in Africa: An emerging standard for extractive industry projects](#)
- [FPIC in the Philippines: Regulations and Realities](#)
- [Community Consent Index 2012](#) (with a recording of the 2012 report launch event featuring comments from Rio Tinto mining company and Calvert Investments available [here](#)).
- [From Controversy to Consensus?](#) Lessons learned from government and company consultations with indigenous organizations in Peru and Bolivia
- [Oxfam Guide to Free Prior Informed Consent](#) (a resource primarily targeted to communities and available in a number of languages on Oxfam Australia's website)
- [Strengthening Community Understanding of FPIC: Trainers Manual](#)
- [The Right to Decide: Company commitments to community consent](#) (includes Australian companies)
- [Free, Prior Informed Consent: A review of free prior informed consent in Australia](#) (Also see on the same website OAus case study on Didipio in the Philippines and *Free Prior and Informed Consent: The Role of Mining Companies* (2007))
- [The Right to Free, Prior and Informed Consent in Latin America](#), 2015 (English summary of Due Process of Law Foundation report funded by Oxfam)
- [The Right of Indigenous Peoples to Prior Consultation: The Situation in Bolivia, Colombia, Ecuador, and Peru \(2012 version\)](#)

II. NGO and other FPIC resources

- Piplinks and the University of Middlesex
 - *Indigenous Peoples and the Extractive Sector: Towards a rights-respecting engagement:* <http://tebtebba.org/index.php/content/322-indigenous-peoples-a-the-extractive-sector-towards-a-rights-respecting-engagement>
 - *Making FPIC a Reality: Indigenous Peoples and the Extractives Sector* (2013) <http://www.piplinks.org/report%3A-making-free-prior-%2526amp%3B-informed-consent-reality-indigenous-peoples-and-extractive-sector>
- Forest Peoples Program www.forestpeoples.org
 - "They want to take our bush": An independent assessment of processes to obtain the FPIC from communities in the Mundemba and Nguti Subdivisions in South West Cameroon for palm oil developments overlapping their customary territories
 - *Free, Prior and Informed Consent – Making FPIC Work for Forests and Peoples* (2010) <http://www.forestpeoples.org/topics/rights-land-natural-resources/publication/2010/free-prior-and-informed-consent-making-fpic-wo>
 - *FPIC and the Roundtable on Sustainable Palm Oil: A guide for companies* (2008)
- UN Special Rapporteur on the Rights of Indigenous Peoples

- Responsibilities of the States and Private Sector with respect to prior consultation with indigenous peoples and FPIC, [statement December 2017](#)
- *FPIC: A local to global issue*, [video recording of speech in Canada](#)
- Country reports and more on indigenous peoples rights and FPIC here: <http://unsr.vtaulicorpuz.org/site/>
- IIED
 - *Biodiversity and culture: exploring community protocols, rights and consent (PLA 65)* <http://pubs.iied.org/14618IIED.html>
 - *FPIC and the extractive industries: a guide to applying the spirit of free, prior and informed consent in industrial projects (2013)* <http://pubs.iied.org/16530IIED.html>
- Expert Advisory panel organized by RESOLVE, [FPIC within a human rights framework: Lessons from a Suriname Case Study](#) (2017)
- Conservation International, [Guidelines for Applying FPIC](#)
- The University of Queensland (CSRM)
 - [Lessons from implementing FPIC in the Philippines: A case study for teaching purposes](#)
 - [Mining and local level development](#): Examining the gender dimensions of agreement making and benefit sharing
- World Resources Institute (www.wri.org):
 - *Breaking Ground: Engaging Communities in Extractive and Infrastructure Projects* (2009)
 - *Development without Conflict: The Business Case for Community Consent* (2007)
- Foley Hoag LLP, *Implementing a corporate FPIC policy: benefits and challenges* http://www.foleyhoag.com/NewsCenter/Publications/eBooks/Implementing_Informed_Consent_Policy.aspx
- Legal Resources Centre, *Customary communities as 'peoples' and their customary tenure as 'culture': What we can do with the Endorois decision* <http://www.womin.org.za/images/the-alternatives/free-prior-and-informed-consent/African%20Human%20Rights%20Law%20Journal%20-%20Customary%20Communities%20and%20Tenure.pdf>
- North-South Institute (www.nsi-ins.ca):
 - *Tipping the Power Balance, Making Free Prior Informed Consent Work* (2011), Vivienne Wietzner
 - *Bucking the Wild West – Making Free, Prior and Informed Consent Work* (2009), Vivienne Wietzner, Speaking notes for Free Prior and Informed Consent Panel, Prospector and Developer's Association of Canada annual convention, p. 3.
- *Free Prior and Informed Consent in REDD+: Principles and Approaches for Policy and Project Development* (February 2011), Patrick Anderson: http://www.recoftc.org/site/uploads/content/pdf/FPICinREDDManual_127.pdf

- Natural Justice website with information on biocultural community protocols: www.community-protocols.org
- *IBA Community Toolkit: Negotiation and Implementation of Impact and Benefit Agreements*, Ginger Gibson and Ciaran O’Fairchealleigh (2010)
- Environmental Law Institute, *Prior Informed Consent and Mining: Promoting Sustainable Development of Local Communities* (2004)
http://www.elistore.org/reports_detail.asp?ID=10965
- Lisa Laplante and Suzanne Spears, *Out of the Conflict Zone: The Case for Community Consent Processes in the Extractive Sector*, Yale Human Rights and Development

III. Key FPIC policies and standards for indigenous peoples

- **UN-REDD¹ Programme Guidelines on Free, Prior Informed Consent** (January 2013) - <https://www.unclearn.org/sites/default/files/inventory/un-redd05.pdf>
- **FAO, Respecting FPIC: Practical guidance for governments, companies, NGOs, indigenous peoples and local communities in relation to land acquisition** -- <http://www.fao.org/3/a-i3496e.pdf>
- **UN Global Compact Business Reference Guide on UNDRIP** (with separate practical supplement with case examples and guide on FPIC) – http://www.unglobalcompact.org/Issues/human_rights/indigenous_peoples_rights.html
- **Roundtable on Sustainable Palm Oil** (multi-stakeholder initiative, 2005) – [http://www.rsपो.org/file/RSP0%20Principles%20&%20Criteria%20for%20Sustainable%20Palm%20Oil%20\(final%20public%20release\).pdf](http://www.rsपो.org/file/RSP0%20Principles%20&%20Criteria%20for%20Sustainable%20Palm%20Oil%20(final%20public%20release).pdf), with **FPIC guidelines for RSPO members** (2016): <http://www.forestpeoples.org/sites/fpp/files/publication/2016/01/rsपो-free-prior-and-informed-consent-fpic-companies-2015-english.pdf>
- **Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security** (2012) – http://www.fao.org/fileadmin/user_upload/nr/land_tenure/pdf/VG_Final_May_2012.pdf
- **ICMM indigenous peoples and mining position statement** – <http://www.icmm.com/document/5433> with accompanying good practice guide [here](#).
- **IFC Performance Standard 7** – http://www.ifc.org/wps/wcm/connect/1ee7038049a79139b845faa8c6a8312a/PS7_English_2012.pdf?MOD=AJPERES

¹ Reducing Emissions from Deforestation and forest Degradation

- **IFC Guidance Note to Performance Standard 7 –**

http://www.ifc.org/wps/wcm/connect/50eed180498009f9a89bfa336b93d75f/Updated_GN7-2012.pdf?MOD=AJPERES

- **Forest Stewardship Council** (multi-stakeholder initiative), http://www.fsc.org/fileadmin/web-data/public/document_center/national_FSC_standards/FSC-GUI-60-004_EN_V1-0_Structure_Content_FSS.pdf (FSC Principle 3 references indigenous communities in particular)
- **World Commission on Dams**, *Dams and Development: A New Framework for Decision-making* (2000) – http://www.internationalrivers.org/files/attached-files/world_commission_on_dams_final_report.pdf
- **Climate, Community and Biodiversity Project Design Standards** (CCB Standards – members include CARE, Rainforest Alliance, WCS, TNC, and CI) www.climate-standards.org

IV. Policies and standards on participation and/or consent relevant to both indigenous peoples and local communities that do not self-identify as indigenous peoples

- **ECOWAS Directive on the harmonization of guiding principles and policies in the mining sector (CDIR.3/05/09)** – Article 16.3 references FPIC: “Companies shall obtain free, prior and informed consent of local communities before exploration begins and prior to each subsequent phase of mining and post-mining operations.” (relevant to both mining and oil development) http://www.comm.ecowas.int/sec/en/directives/ECOWAS_Mining_Directives.pdf
- **Resolution from the African Commission on Human and Peoples’ Rights** calling on States to take measures to ensure participation, “including the free, prior and informed consent of communities, in decision making related to natural resources governance.” (May 2012) <http://www.achpr.org/sessions/51st/resolutions/224/>
- **Resolution from the Pan-African Parliament** urging for rules on foreign direct investments in land and natural resources, including “ensuring effective consultations with local communities...and ensuring that any investment is approved through free, prior and informed consent of affected communities” (January 2012, 6th Ordinary Session) http://www.pan-africanparliament.org/DocumentsResources_DisplayDocument.aspx?Type=Docs&ID=1263

V. Case studies (all indigenous peoples, with the exception of the US case)

- *Free Prior Informed Consent and Sustainable Forest Management in the Congo Basin: A feasibility study conducted in the DRC, Republic of Congo, and Gabon regarding the operationalization of FCS principles 2 and 3 in the Congo Basin*
<http://www.intercooperation.ch/offers/download/forest-management-congo/view>
- *Free Prior and Informed Consent in the Development Process in Indigenous Peoples Communities of Nomdulkiri and Ratanakiri Province, The NGO Forum of Cambodia (January 2012)* <http://www.ngoforum.org.kh/eng/viewpubshadow.php?id=20>
- Paraguay Proposal for Consultation Protocol
http://www.unredd.net/index.php?option=com_docman&task=doc_details&Itemid=&gid=6825
- *Applying the Principle of Free, Prior and Informed Consent in the UN-REDD Programme in Viet Nam (2010)* http://www.unredd.org/Newsletter7_Viet_Nam_FPIC/tabid/3930/language/en-US/Default.aspx
- *Community Consultation: The Case of Darien, Panama (2002)*, Carlos Perafán and Heli Nessim <http://idbdocs.iadb.org/wsdocs/getdocument.aspx?docnum=361987>