



## ADAPTATION FUND

### Guidance document for Implementing Entities on compliance with the Adaptation Fund Environmental and Social Policy

#### 1. The Adaptation Fund Environmental and Social Policy

The Adaptation Fund (the Fund) finances climate adaptation projects and programmes<sup>1</sup> for vulnerable communities in developing countries that are Parties to the Kyoto Protocol. The Fund's Environmental and Social Policy (ESP)<sup>2</sup>, approved in November 2013 and revised in March 2016, ensures that projects and programmes supported by the Fund promote positive environmental and social benefits, and mitigate or avoid adverse environmental and social risks and impacts. Managing these risks is integral to the success of the projects/programmes and the desired outcomes are described in the 15 environmental and social principles (principles) of the ESP.

The ESP is operationalized at the Fund level at two key stages: during the process of accrediting Implementing Entities (IEs); and during the process of project and programme review, both at the IE and the Adaptation Fund Board (the Board) levels. At the time of project/programme proposal review, it should be clear that: 1) the IE has the capacity and the commitment to comply with the ESP<sup>3</sup>; 2) the IE has identified the environmental and social risks associated with the project/programme; and 3) the IE has, at least, initiated the process of managing these risks in a collaborative way, where possible, and has a clear prospect of success within a reasonable timeframe.

This document is **not intended to help IE candidates demonstrate compliance with the ESP during the accreditation process**, which is briefly described in Box 1 below. It is rather intended to provide supplemental information about the ESP and to support IEs in screening, identifying, and managing environmental and social risks of projects/programmes under their supervision. This document provides practical guidance to IEs on achieving and demonstrating compliance with the ESP in the project and programme cycle whenever project implementation has the potential to trigger environmental and/or social risks. IEs may screen/assess compliance in any reasonable manner they deem appropriate; the guidance provided in this document is not intended to be prescriptive.

This document provides practical examples, suggestions, and recommendations for achieving and assessing compliance with ESP. Section 2 discusses the screening and

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<sup>1</sup> An adaptation project/programme is defined as a set of activities that address the adverse impacts of and risks posed by climate change. An adaptation programme is a process, plan, or approach for addressing climate change impacts that is broader in scope than an individual project.

<sup>2</sup> Available at [https://adaptation-fund.org/sites/default/files/Environmental%20&%20Social%20Policy%20\(approved%20Nov2013\).pdf](https://adaptation-fund.org/sites/default/files/Environmental%20&%20Social%20Policy%20(approved%20Nov2013).pdf)

<sup>3</sup> Capacity and commitment to comply with the ESP are normally assessed during the process of accreditation of Implementing Entities whose applications were submitted after the approval of the ESP in November 2013, or during the re-accreditation process. See Operational Policies and Guidelines for Parties to Access Resources from the Adaptation Fund (Amended in Oct. 2014), para. 34.

risk assessment process that allows IEs to undertake a categorization of projects/programmes. Section 3 includes the main focus of the guidance provided in this document: the 15 Principles on which the ESP is founded. Finally, Section 4 covers the requirements in the project/programme proposal submitted for funding.

## 2. Self-screening and self-assessment of compliance with the Environmental and Social Policy

### **Box 1: Elements of IE compliance with the ESP during the accreditation process**

The IEs are responsible for the environmental and social risk management of projects/programmes under their supervision. **During the accreditation process, the Accreditation Panel will assess whether the IE has the capacity and commitment to address environmental and social risks, and whether a grievance mechanism is available in order to either be accredited or to maintain accreditation.**

The IE may demonstrate, in a written statement issued at the highest managerial level, its commitment that it will abide by the ESP in all projects/programmes funded by the Fund.

The IE needs to demonstrate its capacity to screen and assess risks, avoid adverse impacts where possible, develop an environmental and social management plan, and monitor the work done by the Executing Entity/Entities (EE).<sup>1</sup>

During accreditation, the Accreditation Panel will review the environmental and social management system (ESMS) of the IE to determine whether it is capable of delivering compliance with the ESP in the implementation of the Fund’s projects/programmes. The elements of an ESMS are: identification of risks through screening and of impacts through assessment; formulation and implementation of environmental and social management plans; IE organizational capacity and competence; stakeholder engagement; monitoring and reporting; and a grievance mechanism.

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<sup>1</sup>Risk management has several aspects, including technical identification and assessment of risks, effective consultation of stakeholder, a process for affected people to express grievance with the project/programme, monitoring and adaptive management

Compliance with the ESP is an overall requirement for project/programme proposals submitted for funding by the Fund. This is evident from the “Request for Project/Programme Funding from the Adaptation Fund”<sup>4</sup> (Proposal) and the “Instructions for Preparing a Request for Project or Programme Funding from the Adaptation Fund”<sup>5</sup> (Instructions).

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<sup>4</sup> <https://www.adaptation-fund.org/content/request-projectprogramme-funding-adaptation-fund-amended-november-2013>

<sup>5</sup> <https://www.adaptation-fund.org/page/instructions-preparing-request-projectprogramme-funding-amended-november-2013>

**Prior to the submission of a project/programme proposal for funding, the IE will conduct a self-screening and self-assessment process in order to determine compliance with the ESP.**

Projects and programmes may include activities or components that are not identified at the proposal stage to the level where adequate and comprehensive environmental and social risk assessment is possible. This may be the case, for example, with a small grants facility, or with a programme where community-based identification of adaptation activities is an integral part of programme implementation. Such components are referred to here as ‘sub-projects’ and must also comply with the ESP.

*Environmental and Social Management System*

The IE will review compliance of project/programme proposals with the ESP through its environmental and social management system (ESMS).

For projects/programmes with activities/sub-projects unidentified at the time of submitting a proposal for funding, the IE will develop an ESMS for the project/programme and describe it with details in the proposal. In such cases, the project/programme ESMS will contain a process for identifying environmental and social risks for the unidentified activities/sub-projects and, when needed, the development of commensurate environmental and social management elements that will complement and be integrated in the overall ESMP. The project/programme ESMS will specify any other related procedures, roles, and responsibilities.

The ESMS may comprise the following functions:

- a) Screening;
- b) Impact assessment.
- c) Monitoring<sup>6</sup>

*Screening: identification of risks and applicable principles*

The first function of an ESMS is to screen project/programme proposals to identify potential adverse impacts and risks early in the project cycle. This process begins with assessing a project/programme according to Principle 1, which is to screen against applicable domestic and international laws. The process continues with screening against the 14 other principles to determine which are applicable to the project/programme. A host country may have national regulations of risk assessment that use a variety of screening tools, including threshold lists and sectoral requirements. Under the principle 1, the IE is required to demonstrate compliance with the national regulations, but this may not be sufficient to show conformity with all 15 Principles.<sup>7</sup> The IE will explain which Principles have been triggered during the screening process. Additional documentation including the full IE screening procedure can be included in an Annex to the Proposal. No further assessment actions are required for Principles that are not applicable at this stage.

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<sup>6</sup> See *infra* section 4.

<sup>7</sup> Section 3 of this document provides guidance to consider when assessing the potential risks of the project/programme against the 15 principles.

### *Environmental and Social Impact Assessment*

After the screening process, the IE will assess the Principles that may be applicable, in order to better understand the magnitude of the risks and potential adverse impacts and how to mitigate and manage them. There may also be similar national regulatory requirements relating to Environmental and Social Impact Assessment (assessment). In so far as the assessment requirements of the ESP are met, these assessments may be completed together. The costs of undertaking these assessments are part of the project/programme formulation.

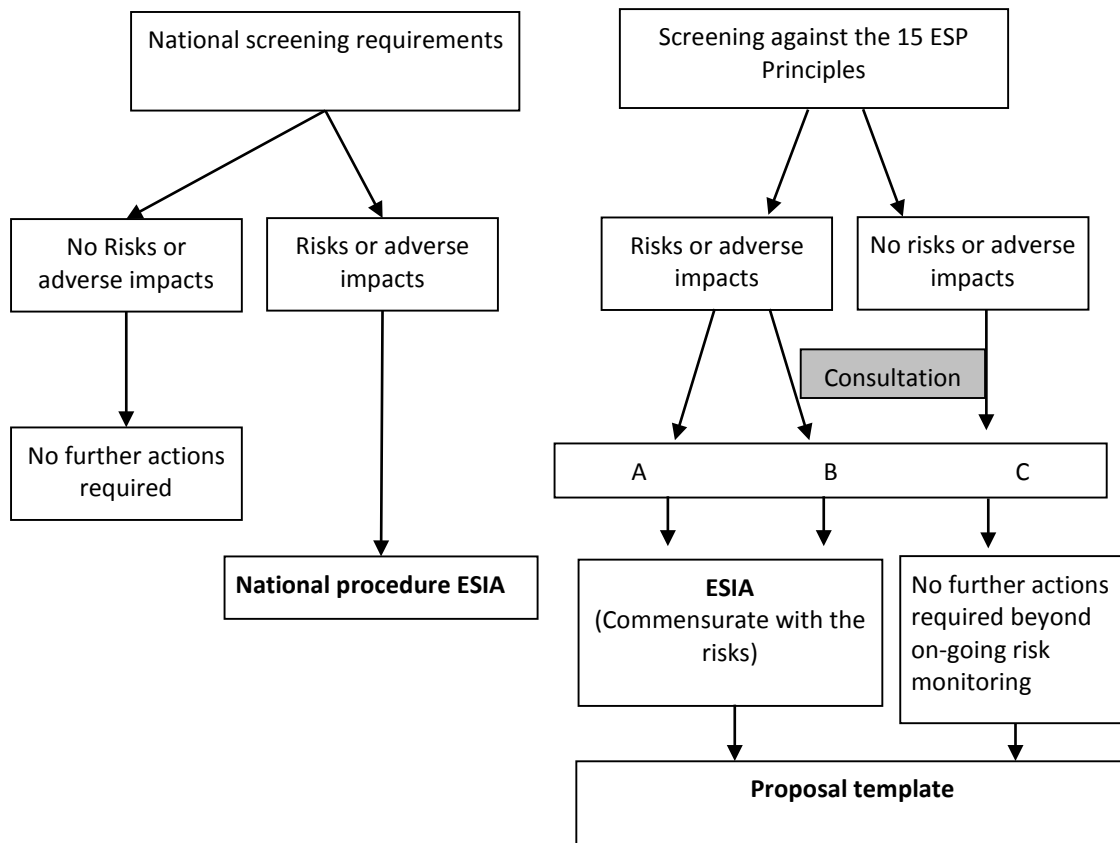
The findings of the screening will determine the scope of the assessment. The extent and the scale of the assessment will be commensurate with the risks. The assessment will be carried out to internationally accepted standards of methods and practice, involving all relevant stakeholders, to the extent possible. This implies that findings are evidence-based and can be substantiated. Risks and adverse impacts need to be identified and assumptions in the risk assessment need to be stated and justified. To the greatest extent possible, interpretation needs to be separate from the presentation of facts and data. Knowledge gaps should be identified, and where these prevent adequate risk assessment, an explanation should be included on how this was addressed. Expert opinion may be necessary when objectively verifiable information is not available. Expert opinion must be clearly identified as such.

#### **Box 2: The Assessment Document:**

The assessment document should contain an executive summary that clearly outlines the information necessary for the general public to understand the decision-making process leading to the proposed project. The executive summary should be concise, analytical, and avoid excessively technical jargon. It should be easily readable by lay people. It is recommended to include graphics and pictures. **Bear in mind that the ESIA document must be submitted for public review; therefore clarity is essential.**

One of the outcomes of the screening and assessment process is that the IE will have information about the level of impacts on which to determine the categorization of the project/programme, which is discussed in Section 4 of this document. Figure 1 illustrates the transition from screening to assessment process and then to completing the Proposal.

**Figure 1: Screening and Assessment Process**



### 3. The Environmental and Social Principles

The 15 environmental and social principles that are part of the ESP form the basis for identifying and managing environmental and social risks. Not all projects/programmes will encounter the issues addressed in each of the 15 principles. These principles provide end points for the IEs, but there may be various paths to achieving these outcomes.

By their nature, principles underpinning a policy are typically broad and general. Guidance is provided below on the meaning of each of the 15 ESP Principles and on how they should be interpreted in the practical and concrete context of Fund-supported projects/programmes. In particular, during project/programme preparation a correct interpretation of the ESP Principles is important to identify effectively the aspects of the policy for which further assessment and/or management is required. While an IE may assess compliance with the ESP and its principles using the most suitable and appropriate means that it chooses, examples are provided below to provide further clarity.

The Principles can be divided into two categories:

- 1) those that always apply, i.e.: Principle 1 - compliance with the law; Principle 4 - human rights; and Principle 6 - core labour rights; and

- 2) those that are more specific principles and that may or may not be relevant to a particular project/programme.

The IE's assessment process should result in a clear demonstration that either:

- 1) a Principle does not apply to the specific project/programme;
- 2) justification that the project/programme meets the standards of the Principle; or
- 3) justification that the Principle applies to the specific project/programme but that risk mitigation actions need to be taken in order to comply with the expected outcome of the Principle. These actions will be documented in an environmental and social management plan (ESMP).

Bear in mind that the assessment of compliance with the ESP is essentially a self-assessment by the IE. It is not necessary to include detailed information about every Principle in the project/programme document; only what is relevant to risk identification and management. The secretariat may request additional information if needed.

**Principle 1: Compliance with the Law.** *Projects/programmes supported by the Fund shall be in compliance with all applicable domestic and international law.*

The IE will ensure that the project/programme will comply with applicable domestic and international law.

In support of the Proposal, the IE will provide, when relevant, a description of the legal and regulatory framework for any project activity that may require prior permission (such as planning permission, environmental permits, construction permits, permits for water extraction, emissions, and use or production or storage of harmful substances). For each such a requirement, the IE will describe the current status, any steps already taken, and the plan to achieve compliance with relevant domestic and international laws.

**Principle 2: Access and Equity.** *Projects/programmes supported by the Fund shall provide fair and equitable access to benefits in a manner that is inclusive and does not impede access to basic health services, clean water and sanitation, energy, education, housing, safe and decent working conditions, and land rights. Projects/programmes should not exacerbate existing inequities, particularly with respect to marginalized or vulnerable groups.*

The *process* of allocating access to project/programme benefits should be fair and impartial. A fair process treats people equally without favouritism or discrimination, and an impartial process treats all rivals or disputants equally. Furthermore, the project/programme will be designed and implemented in a way that will not impede access of any group to the essential services and rights mentioned in the Principle.

*Possible elements that may be considered*

The IE can demonstrate compliance of the project/programme by describing the process of allocating and distributing project/programme benefits, and by showing how this process ensures fair and impartial access to benefits. It may also state clearly that there will be neither discrimination nor favouritism in accessing project/programme benefits. The IE may demonstrate that the project/programme does not impede access of any group to the essential services and rights indicted in the principle.

In addition, the project/programme can use a risk analysis to identify and assess the risk of impeding access to essential rights and services, and of exacerbating existing inequalities.

The IE may conduct stakeholder mapping in order to identify the potential beneficiaries, rivals, disputants, marginalized, or vulnerable people.

**Principle 3: *Marginalized and Vulnerable Groups.*** *Projects/programmes supported by the Fund shall avoid imposing any disproportionate adverse impacts on marginalized and vulnerable groups including children, women and girls, the elderly, indigenous people, tribal groups, displaced people, refugees, people living with disabilities, and people living with HIV/AIDS. In screening any proposed project/programme, the implementing entities shall assess and consider particular impacts on marginalized and vulnerable groups.*

Impacts on marginalized and vulnerable groups must be considered so that such groups do not experience adverse impacts from the project/programme that are disproportionate to those experienced by others.

Marginalized groups are groups of people who are excluded from the normal economic and social fabric of societies, thus lacking access to basic essential services and facilities. Furthermore, they lack the means to improve themselves (motivation, social capital, skills and knowledge) and have low resilience.

Vulnerable groups are groups of people unable or with diminished capacity to anticipate, cope with, resist, and recover from the impacts of (external) pressures, facing a higher risk of poverty and social exclusion than the general population. Vulnerability can stem from belonging or being perceived to belong to a certain group or institution, and is a relative and dynamic concept.

Using accepted methods based on disaggregated data, where possible, the IE should identify and quantify the groups mentioned in the principle (children, women and girls, the elderly, indigenous people, tribal groups, displaced people, refugees, people living with disabilities, and people living with HIV/AIDS) as well as any groups identified additionally such as seasonal migrants or illegal aliens.

If any are present, the IE should:

- Describe the characteristics of the marginalized or vulnerable groups.
- Identify adverse impacts that each marginalized and vulnerable group are likely to experience from the project/programme, taking into consideration the specific needs, limitations, constraints and requirements of each group. For example, a small detour or the construction of a minor obstacle for most able-bodied people could be an insurmountable obstacle to wheelchair users or persons with certain disabilities. These are examples of disproportionate adverse impacts.
- Describe how the impacts are not disproportionate compared to non-marginalized and non-vulnerable groups, or how they can be mitigated or prevented so as not to be disproportionate. These mitigation measures could be design or operational features of infrastructure, or access guarantees to

project benefits for those without complete administrative files such as refugees and internally displaced persons or tribal groups.

- Describe monitoring that may be needed during project/programme implementation for the possible occurrence of disproportionate adverse impacts on marginalized and vulnerable groups, as situations may change over time (e.g. the arrival of refugees or internally displaced persons).

**Principle 4: Human Rights.** *Projects/programmes supported by the Fund shall respect and where applicable promote international human rights.*

The Universal Declaration of Human Rights (UDHR) of 10 December 1948 provides a common standard of achievements for all peoples and all nations by setting out fundamental human rights to be universally protected.

A number of human rights bodies were created based on the UN Charter, including the Human Rights Council, and under the international human rights treaties to monitor their implementation. The Office of the High Commissioner for Human Rights (OHCHR) supports the different human rights monitoring mechanisms in the United Nations system.<sup>8</sup>

Promotion of human rights in the project/programme will be achieved by creating awareness with all involved in the project/programme operations, including design, execution, monitoring, and evaluation, about the Universal Declaration of Human Rights as an overarching principle in the implementation of the project/programme. The text of the UDHR is freely available in 438 languages.<sup>9</sup>

*Possible elements that may be considered*

Information that the IE may consider when assessing the project/programme potential risks with regard to this principle:

- When the host country or countries of the project/programme are cited in any Human Rights Council Special Procedures, be they thematic<sup>10</sup> or country<sup>11</sup> mandates, the IE may provide an overview of the relevant human rights issues that are identified in the Special Procedures and describe how the project/programme will address any such relevant human rights issues.
- Human rights issues should be an explicit part of consultations with stakeholders during the identification and/or formulation of the project/programme. The findings on human rights issues of the consultations should then be included in the project/programme document, and details of the consultations added as an annex.

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<sup>8</sup> The Human Rights Council uses so-called Special Procedures, which are mechanisms to address either specific country situations or thematic issues in all parts of the world. Special Procedures' mandates usually call on mandate-holders to examine, monitor, advise and publicly report on human rights situations in specific countries or territories, known as country mandates, or on major phenomena of human rights violations worldwide, known as thematic mandates. There are 30 thematic mandates and 8 country mandates. All report to the Human Rights Council on their findings and recommendations.

<sup>9</sup> <http://www.ohchr.org/EN/UDHR/Pages/SearchByLang.aspx>

<sup>10</sup> <http://www.ohchr.org/EN/HRBodies/SP/Pages/Themes.aspx>

<sup>11</sup> <http://www.ohchr.org/EN/HRBodies/SP/Pages/Countries.aspx>



- Even if the country or countries where the project/programme will be implemented is not a Party to any of the nine core international human rights treaties,<sup>12</sup> compliance with UDHR, at a minimum, will be monitored.

**Principle 5: Gender Equality and Women’s Empowerment.** *Projects/programmes supported by the Fund shall be designed and implemented in such a way that both women and men 1) have equal opportunities to participate as per the Fund gender policy; 2) receive comparable social and economic benefits; and 3) do not suffer disproportionate adverse effects during the development process.*

In many societies, different roles are allocated to men and women based on cultural, traditional, religious, or other grounds. Gender equality refers to the equal rights, responsibilities, opportunities and access of women and men and boys and girls as well as the equal consideration of the respective interests, needs, and priorities. To ensure gender equality, measures often need to be taken to compensate for or reduce disadvantages that prevent women and men from otherwise operating on an equitable basis. Gender equality and women’s empowerment must be applied in the project/programme design and its implementation regardless of the legal and regulatory framework in which the project/programme is set.

Principle 5 is guided by Article 2 of the United Nations Framework Convention on Climate Change (UNFCCC), which refers to “anthropogenic interaction” — therefore interaction of women and men — within the climate system. The UNFCCC has adopted a number of decisions on gender since 2001. The Paris Agreement acknowledged that Parties in their climate actions should be guided by respect for human rights, gender equality and the empowerment of women in its Preamble while stressing the importance of following “a country-driven, gender-responsive, participatory and fully transparent approach” for adaptation action in Article 7(5). Principle 5 is intended to be consistent with other international conventions, in particular with the Universal Declaration of Human Rights (UDHR), the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the International Labour Organization (ILO) core conventions, the Millennium Development Goals (MDGs) and follow-up Sustainable Development Goals (SDGs), and the 2030 Agenda for Sustainable Development.<sup>13</sup>

The design and implementation of the project/programme should ensure that it:

- 1) Does not include elements that are known to exclude or hamper a gender group based on legal, regulatory, or customary grounds
- 2) Does not maintain or exacerbate gender inequality or the consequences of gender inequality. For example, unequal access to education based on gender may result in lower literacy rates among the disadvantaged group. This lack of literacy may, as a secondary effect of gender inequality, limit access to benefits or increase adverse effects of the project for that particular group.

*Possible elements that may be considered*

Information that may be considered by the IE when assessing the potential risks with regard to this principle:

<sup>12</sup> <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CoreInstruments.aspx>

<sup>13</sup> <https://sustainabledevelopment.un.org/post2015/transformingourworld>

- An analysis of the legal and regulatory context with respect to gender equality and women's empowerment in which the project/programme will take place will identify any obstacles to compliance. In addition, analysis of the cultural, traditional, religious, or any other grounds that might result in differential allocation of benefits between men and women, or of the disproportionate adverse impacts from the project/programme may be appropriate.
- Actively pursue equal participation in project/programme activities and stakeholder consultation. Ensure that all positions in the project/programme are effectively equally accessible to men and women, and that women are encouraged to apply and take up positions.
- The project/programme design and implementation arrangements will ensure equal access to benefits and that there are no disproportionate adverse effects. This may be achieved by any appropriate means, including, e.g.:
  - Conducting a gender analysis of the sector the project/programme will support;
  - Describing the current situation of the allocation of roles and responsibilities in the project/programme sector or area;
  - Showing how the project/programme will pro-actively take measures to promote gender equality e.g. by organising separate working groups or conducting separate stakeholder consultations at times and locations conducive to soliciting opinions of all.

**Principle 6: Core Labour Rights.** *Projects/programmes supported by the Fund shall meet the core labour standards as identified by the International Labour Organization.*

The ILO core labour standards are stated in the 1998 ILO Declaration of Fundamental Principles and Rights at Work.<sup>14</sup> The Declaration covers four fundamental principles and rights, which are further developed in eight fundamental rights conventions:<sup>15</sup>

- Freedom of association and the effective recognition of the right to collective bargaining (conventions ILO 87 and ILO 98);
- Elimination of all forms of forced or compulsory labour (conventions ILO 29 and ILO 105);
- Elimination of worst forms of child labour (conventions ILO 138 and ILO 182);<sup>16</sup>
- Elimination of discrimination in respect of employment and occupation (conventions ILO 100 and ILO 111).

Regardless of whether the countries where Fund's projects/programmes are implemented have ratified the conventions, in the context of the Fund's

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<sup>14</sup> More information on the core labour rights can be found at <http://www.ilo.org/declaration/lang--en/index.htm>

<sup>15</sup> The full text of the eight conventions (ILO Conventions 29, 87, 98, 100, 105, 111, 138 and 182) is available from the ILO information system on international labour standards <http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:1:0>

<sup>16</sup> ILO 182 includes not employing children in forced, economically exploitive or hazardous work; or in a way that interferes with educations or is harmful to health or physical, mental, spiritual, moral, or social development.

project/programme operations the IE will respect, promote, and realize in good faith the principles mentioned above and ensure that they are respected and realized in good faith by the EE and other contractors.

Where applicable, the project/programme will incorporate the ILO core labour standards in the design and implementation of the project/programme and create awareness with all involved on how these standards apply.

The IE will summarize in the Proposal how they are ensuring that the EE is implementing the ILO core labour standards.

*Possible elements that may be considered*

Information the IE may consider when assessing the project/programme potential risks with regard to this principle:

- If the project/programme host country has ratified the eight ILO core conventions, the risks involved may be smaller. National compliance makes it more likely that a project/programme can and will achieve compliance.
- The latest ILO assessments of application of the standards in the project/programme country is available in the reports of the two ILO bodies, *The Committee of Experts on the Application of Conventions and Recommendations* and *The International Labour Conference's Tripartite Committee on the Application of Conventions and Recommendations*. Other assessments by reputable sources (e.g. the World Bank or regional development banks) may also be used.
- Past/present/planned ILO assistance to meet the standards through social dialogue and technical assistance.
- Information on any ILO Special procedures relevant to the Member nation or to the project/programme, including details on the triggering representation or complaints.
- Demonstration on how the ILO core labour standards will be incorporated in the design and the implementation of the project/programme, as appropriate.
- In the case of problematic assessments by ILO of compliance or in the case of Special procedures at the national level, the IE will provide information on how these issues will be addressed, if they are relevant to the project/programme. Reference may be made to a monitoring process during project/programme implementation for future possible problematic ILO assessments or new Special procedures.

**Principle 7: Indigenous Peoples.** *The Fund shall not support projects/programmes that are inconsistent with the rights and responsibilities set forth in the UN Declaration on the Rights of Indigenous Peoples and other applicable international instruments relating to indigenous peoples.*

The 2007 UN Declaration on the Rights of Indigenous Peoples (UNDRIP) has its legal foundation in ILO Convention 169 concerning Indigenous and Tribal Peoples in Independent Countries. As part of the system of thematic Special Procedures, the Human Rights Council has appointed a Special Rapporteur on the rights of indigenous

peoples. The Special Rapporteur promotes good practices, reports on the overall human rights situations of indigenous peoples in selected countries, addresses specific cases of alleged violations of the rights of indigenous peoples, and conducts or contributes to thematic studies.

“Other applicable international instruments relating to indigenous peoples” means any treaties, conventions, protocols, or other international instruments related to indigenous peoples to which the project/programme country is a party and that are currently in force. These include but are not limited to the following United Nations (UN) conventions:<sup>17</sup>

- Convention against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment;
- Convention on the Elimination of All Forms of Discrimination against Women;
- Convention on the Rights of the Child;
- International Covenant on Civil and Political Rights;
- International Covenant on Economic, Social, and Cultural Rights;
- International Convention on the Elimination of All Forms of Racial Discrimination.

If indigenous peoples are present in the project/programme implementation area the IE will:

- 1) Describe how the project/programme will be consistent with UNDRIP, and particularly with regard to Free, Prior, Informed Consent (FPIC)<sup>18</sup> during project/programme design, implementation and expected outcomes related to the impacts affecting the communities of indigenous peoples.
- 2) Describe the involvement of indigenous peoples in the design and the implementation of the project/programme, and provide detailed outcomes of the consultation process of the indigenous peoples.
- 3) Provide documented evidence of the mutually accepted process between the project/programme and the affected communities and evidence of agreement between the parties as the outcome of the negotiations. FPIC does not necessarily require unanimity and may be achieved even when individuals or groups within the community explicitly disagree.
- 4) Provide a summary of any reports, specific cases, or complaints that have been made with respect to the rights of indigenous peoples by the Special Rapporteur and that are relevant to the project/programme. This summary should include information on subsequent actions, and how the project/programme will specifically ensure consistency with the UNDRIP on the issues that were raised.

*Possible elements that may be considered*

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<sup>17</sup> Links to these conventions are available at [www2.ohchr.org/english/law](http://www2.ohchr.org/english/law). The ratification status of each convention by country is available at <http://treaties.un.org/Pages/Treaties.aspx?id=4&subid=A&lang=en>

<sup>18</sup> Free, Prior, Informed Consent (FPIC) is the principle that a community has the right to give or withhold its consent to proposed projects that may affect the lands they customarily own, occupy or otherwise use.

Information that the IE may consider when assessing the project/programme potential risks:

- Status of ratification of ILO Convention 169 by the country or countries in which the project/programme will be implemented.
- Project/programme consistency with the UNDRIP may further be enhanced by creating awareness about the rights of indigenous peoples and how it is a general principle in the implementation of the project/programme.

**Principle 8: *Involuntary Resettlement.*** *Projects/programmes supported by the Fund shall be designed and implemented in a way that avoids or minimizes the need for involuntary resettlement. When limited involuntary resettlement is unavoidable, due process should be observed so that displaced persons shall be informed of their rights, consulted on their options, and offered technically, economically, and socially feasible resettlement alternatives or fair and adequate compensation.*

Involuntary resettlement refers to both physical displacement (relocation or loss of shelter) and to economic displacement (loss of assets or access to assets that leads to loss of income sources or other means of livelihood). 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 physical or economic displacement because of either: 1) lawful expropriation or temporary or permanent restrictions on land use, and 2) negotiated settlements in which the buyer can resort to expropriation or impose legal restrictions on land use if negotiations with the seller fail. This principle does not apply to resettlement resulting from voluntary land transactions in which the seller is not obligated to sell and the buyer cannot resort to expropriation or other compulsory processes sanctioned by the legal system of the host country if negotiations fail.

The IE should determine if physical or economic displacement is required by the project/programme and if it is voluntary or involuntary. If it is involuntary, the IE will:

- 1) Provide justification for the need for involuntary resettlement by demonstrating any realistic alternatives that were explored, and how the proposed involuntary resettlement has been minimized and is the least harmful solution.
- 2) Describe in detail the extent of involuntary resettlement, including the number of people and households involved, their socio-economic situation and vulnerability, how their livelihoods will be replaced, and the resettlement alternatives and/or the full replacement cost compensation required whether the displacement is temporary or permanent.
- 3) Describe in detail the involuntary resettlement process that the project/programme will apply, and the built-in safeguards to ensure that displaced persons shall be informed of their rights in a timely manner, made aware of the grievance mechanism, consulted on their options, and offered technically, economically, and socially feasible resettlement alternatives or fair and adequate compensation. This also should include an overview of the applicable national laws and regulations.
- 4) Justify the conclusion that the involuntary resettlement is feasible.

- 5) Describe the adequacy of the project/programme organisational structure to successfully implement the involuntary resettlement as well as the capacity and experience of the project/programme management with involuntary resettlement.
- 6) Build awareness of involuntary resettlement and the applicable Principles and procedures of the project/programme.

**Principle 9: Protection of Natural Habitats.** *The Fund shall not support projects/programmes that would involve unjustified conversion or degradation of critical natural habitats, including those that are (a) legally protected; (b) officially proposed for protection; (c) recognized by authoritative sources for their high conservation value, including as critical habitat; or (d) recognized as protected by traditional or indigenous local communities.*

The Convention on Biological Diversity defines a ‘habitat’ as the place or type of site where an organism or population naturally occurs. “Critical natural habitat” refers to habitats that are not man-made and that fulfil a critical role for an organism or a population that in the absence or disappearance of that habitat might be severely affected or become extinct.

Specific knowledge about a habitat (either common knowledge, traditional insights, or the result of formal scientific research) is always the basis for identifying critical natural habitats. Often, but by no means always, this has resulted in assigning a protected status to such a critical habitat. The principle refers to legal protection at all levels of governance. The absence of legal protection alone cannot be used to conclude that a habitat is not to be considered a critical natural habitat. Reference is made to knowledge about the importance and intrinsic value of a habitat. The precautionary principle prevails where such knowledge is inadequate or inconclusive.

The IE will identify: 1) the presence in or near the project/programme area of natural habitats, and 2) the potential of the project/programme to impact directly, indirectly, or cumulatively upon natural habitats.

If such habitats exist and there is a potential of the project/programme to impact the habitat, the IE will:

- 1) Describe the location of the critical habitat in relation to the project and why it cannot be avoided, as well as its characteristics and critical value.
- 2) For each affected critical natural habitat, provide an analysis on the nature and the extent of the impact including direct, indirect, cumulative, or secondary impacts; the severity or significance of the impact; and a demonstration that the impact is consistent with management plans and affected area custodians.

*Possible elements that may be considered*

Information that may assist the IE in decision-making include:

- The laws and regulations within the country that protect natural habitats, including the different forms of protection, and the institutional arrangements for their implementation and enforcement that apply to the habitat.



- The critical natural habitats nationwide, their location, characteristics and critical value. These areas may be identified based upon their actual or proposed legal protection status, on common knowledge or traditional or indigenous knowledge, or on scientific information on their value. The legal protection refers to all levels of government, as well as international conventions and agreements like the Convention on Wetlands (Ramsar, Iran, 1971). Scientific knowledge may be in the form of peer-reviewed, published scientific research, or inventory lists prepared by authoritative sources like the UNESCO Man and the Biosphere Programme, the International Union for Conservation of Nature (IUCN) and the United Nations Environment Programme (UNEP). Large non-governmental conservation organizations like the World Wide Fund for Nature, BirdLife International, and Conservation International may also be sources of useful information.

**Principle 10: Conservation of Biological Diversity.** *Projects/programmes supported by the Fund shall be designed and implemented in a way that avoids any significant or unjustified reduction or loss of biological diversity or the introduction of known invasive species.*

The Convention on Biological Diversity (CBD) defines biological diversity as “the variability among living organisms from all sources including, *inter alia*, terrestrial, marine and other aquatic ecosystems and the ecological complexes of which they are part; this includes diversity within species, between species and of ecosystems.” This definition implies that biological diversity concerns not only living organisms of all taxa but also ecosystem processes, habitats, hydrological cycles, processes of erosion and sedimentation, landscapes, etc.

The Cartagena Protocol on Biosafety to the Convention on Biological Diversity is an international treaty governing the movements of living modified organisms (LMOs) resulting from modern biotechnology from one country to another.

The IE will identify: 1) the presence in or near the project/programme area of important biological diversity; 2) potential of a significant or unjustified reduction or loss of biological diversity, and 3) potential to introduce known invasive species.

If important biological diversity exists and will be significantly or unjustifiably impacted or if the project/programme will introduce known invasive species, the IE will:

*Biological diversity*

- Describe the elements of known biological diversity importance in the project/programme area, using any relevant sources of information, such as protection status, status on the IUCN Red List of Threatened Species<sup>19</sup> and other inventories, recognition as a UNESCO Man and the Biosphere Programme reserve<sup>20</sup>, Ramsar site,<sup>21</sup> etc.
- Describe why the biological diversity cannot be avoided and what measures will be taken to minimize impacts.

<sup>19</sup> International Union for Conservation of Nature, [www.iucnredlist.org](http://www.iucnredlist.org)

<sup>20</sup> United Nations Educational, Scientific and Cultural Organization, [www.unesco.org/new/en/natural-sciences/environment/ecological-sciences/man-and-biosphere-programme](http://www.unesco.org/new/en/natural-sciences/environment/ecological-sciences/man-and-biosphere-programme)

<sup>21</sup> Convention on Wetlands of International Importance, called the Ramsar Convention, [www.ramsar.org](http://www.ramsar.org)

### *Invasive Species*

- Describe the invasive species that either may or will be introduced and why such introduction cannot be avoided.
- Provide evidence that this introduction is permitted in accordance with the existing regulatory framework<sup>22</sup> and the results of a risk assessment analysing the potential for invasive behaviour.
- Describe the measures to be taken to minimize the possibility of spreading the invasive species

**Principle 11: Climate Change.** *Projects/programmes supported by the Fund shall not result in any significant or unjustified increase in greenhouse gas emissions or other drivers of climate change.*

The main drivers of climate change that are considered here are the emission of carbon dioxide gas from the use of fossil fuel and from changes in land use, methane and nitrous oxide emissions from agriculture, emission of hydrofluorocarbons, perfluorocarbons, sulphur hexafluoride, other halocarbons, aerosols, and ozone.

### *Compliance*

Compliance with the principle may be demonstrated by a risk-based assessment of resulting increases in the emissions of greenhouse gasses or in other drivers of climate change.

Projects/programmes<sup>23</sup> in the following sectors require a greenhouse gas emissions calculation using internationally recognized methodologies:<sup>24</sup> energy, transport, heavy industry, building materials, large-scale agriculture, large-scale forest products, and waste management. The calculations will be used as a basis for a substantiated evaluation of the significance and justification of any increase.

Other projects/programmes may demonstrate compliance by carrying out a qualitative risk assessment for each of the mentioned drivers of climate change, plus any impact by the project/programme on carbon capture and sequestration capacity.

**Principle 12: Pollution Prevention and Resource Efficiency.** *Projects/programmes supported by the Fund shall be designed and implemented in a way that meets applicable international standards for maximizing energy efficiency and minimizing material resource use, the production of wastes, and the release of pollutants.*

There are two distinct aspects to this principle. Projects/programmes shall on the one hand minimize in a reasonable and cost-effective way the resources that will be used during implementation. This applies to all sources and forms of energy, to water, and to other resources and materials inputs. On the other hand, the project/programme will minimize the production of waste and the release of pollutants (including GHGs).

### *Possible elements that may be considered*

<sup>22</sup> Including the Cartagena protocol for countries that have ratified it.

<sup>23</sup> If a programme contains one project that is in one of the sectors mentioned, the requirement will apply to the whole programme.

<sup>24</sup> In line with the Guidelines for National Greenhouse Gas Inventories (2006) of the Intergovernmental Panel on Climate Change (IPCC) [www.ipcc-nggip.iges.or.jp/public/2006gl/](http://www.ipcc-nggip.iges.or.jp/public/2006gl/) . Tools are available from a number of sources, including [www.ghgprotocol.org](http://www.ghgprotocol.org), [www.epa.gov/climatechange/emissions/ghgrulemaking.html](http://www.epa.gov/climatechange/emissions/ghgrulemaking.html), and [www.defra.gov.uk/publications/2011/03/26/ghg-guidance-pb13309](http://www.defra.gov.uk/publications/2011/03/26/ghg-guidance-pb13309).



IEs may illustrate the minimization of resource use by showing how this concept has been applied in the project/programme design and how this will be effective during implementation. Such illustration may include references to certain design options/alternatives and implementation arrangements. Where international standards for maximizing energy efficiency and minimizing material resource use apply, these will be listed and a description provided on how the design and implementation arrangements of the project/programme are consistent.

Preventing waste and pollution may be achieved by preparing a waste and pollution prevention and management plan for the whole project/programme. The nature and quantity of the waste, as well as those of possible pollutants the project/programme may produce, will determine the level of detail and the performance requirements of the waste and pollution prevention and management plan. The plan should include the cost of implementation arrangements and as well as implementation and performance monitoring. The guiding principles of the waste and pollution prevention and management plan should be prevention, a precautionary approach, evidence-based monitoring, and participation and consultation. Implementation of the plan will be duly documented and all those involved in project/programme implementation will be familiarized with the plan and its implications.

**Principle 13: Public Health.** *Projects/programmes supported by the Fund shall be designed and implemented in a way that avoids potentially significant negative impacts on public health.*

Possible public health impacts of a project/programme can be determined by assessing its impact on a range of so-called determinants of health.<sup>25</sup> Public health is determined not just by access to medical care and facilities and lifestyle choices, but also by a much broader set of social and economic conditions in which people live.

*Possible elements that may be considered*

The project/programme may demonstrate that it will not cause potentially significant negative impacts on public health by screening for possible impacts and including the results of the screening in the Proposal.

Health impact screening is a process of rapidly and systematically identifying the project/programme's potential impacts on public health. It will typically also elucidate the risk of such effects and determine if a further thorough public health impact assessment and the development of a management plan is needed to prevent potentially significant impacts and to demonstrate compliance with the principle. This screening can thus be the first step in a full health impact assessment, depending on the outcome of the screening. A range of health impact assessment and screening tools exist. For the purpose of demonstrating compliance, a checklist for health impact assessment screening may be used. Such a checklist considers the potential impact of the project/programme on a comprehensive range of health determinants for the population as a whole and for groups within the population.

A health impact-screening checklist should include at least the following sections: 1) a section on the background and context of the project/programme; 2) a section with an adequate list of health determinants, with space for a nuanced assessment, for each determinant, the likelihood of impact occurring; and 3) a section identifying the group(s) most likely to be affected by each health determinant

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<sup>25</sup> Further information on determinants of health is available e.g. from the World Health Organization website <http://www.who.int/hia/evidence/doh/en/>

If the outcome of the screening is that no potentially significant negative impacts on public health are likely, then the screening may be used to demonstrate compliance. If on the other hand the screening concludes that further health impact assessment is needed, then the outcome of that process may be used to demonstrate compliance. Both screening and possibly health impact assessments must comply with the relevant WHO recommended practices.<sup>26</sup>

**Principle 14: Physical and Cultural Heritage.** *Projects/programmes supported by the Fund shall be designed and implemented in a way that avoids the alteration, damage, or removal of any physical cultural resources, cultural sites, and sites with unique natural values recognized as such at the community, national or international level. Projects/programmes should also not permanently interfere with existing access and use of such physical and cultural resources.*

The reference for international recognition of physical and cultural heritage is the 1972 UNESCO Convention Concerning the Protection of the World Cultural and Natural Heritage. Convention Articles 1 and 2 provide definitions of what is considered cultural<sup>27</sup> and natural<sup>28</sup> heritage. The List of World Heritage in Danger<sup>29</sup> (Article 11 (4) of the Convention) also provides a reference.

The IE will identify the presence of cultural heritage in or near the project/programme. If cultural heritage exists, the IE will:

- Describe the cultural heritage, the location and the results of a risk assessment analysing the potential for impacting the cultural heritage; and
- Describe the measures to be taken to ensure that cultural heritage is not impacted, and if it is being accessed by communities, how this access will continue.

*Possible elements that may be considered*

Information that may assist the IE when assessing the project/programme potential risks include:

- Status of ratification and entry into force of the Convention Concerning the Protection of the World Cultural and Natural Heritage by the country or countries in which the project/programme will be implemented.

<sup>26</sup> <http://www.who.int/hia/en/>

<sup>27</sup> monuments: architectural works, works of monumental sculpture and painting, elements or structures of an archaeological nature, inscriptions, cave dwellings and combinations of features, which are of outstanding universal value from the point of view of history, art or science;

groups of buildings: groups of separate or connected buildings which, because of their architecture, their homogeneity or their place in the landscape, are of outstanding universal value from the point of view of history, art or science;

sites: works of man or the combined works of nature and man, and areas including archaeological sites which are of outstanding universal value from the historical, aesthetic, ethnological or anthropological point of view.

<sup>28</sup> natural features consisting of physical and biological formations or groups of such formations, which are of outstanding universal value from the aesthetic or scientific point of view;

geological and physiographical formations and precisely delineated areas which constitute the habitat of threatened species of animals and plants of outstanding universal value from the point of view of science or conservation;

natural sites or precisely delineated natural areas of outstanding universal value from the point of view of science, conservation or natural beauty.

<sup>29</sup> <http://whc.unesco.org/en/danger>

- National legal and regulatory framework for recognition and protection of physical and cultural heritage in the country or countries where the project/programme is implemented.
- Inventory of the physical and cultural heritage present in the wider project/programme area that enjoys recognition at community, national, or international levels.

**Principle 15: *Lands and Soil Conservation.*** *Projects/programmes supported by the Fund shall be designed and implemented in a way that promotes soil conservation and avoids degradation or conversion of productive lands or land that provides valuable ecosystem services.*

Principle 15 concerns the stewardship of land to either be maintained in its natural state, where possible, or if it is converted to promote and protect its functioning. Soil conservation refers to a set of measures to prevent, mitigate or control soil erosion and degradation.<sup>30</sup> There are two aspects to the principle: promotion of soil conservation and avoidance of degradation or conversion of valuable lands. This applies to soils and lands directly affected by the project/programme as well as those influenced indirectly, or as a secondary or cumulative effect. Soil conservation should be incorporated in project/programme design and implementation.

#### *Soil conservation*

The IE will identify: 1) the presence of fragile soils (e.g. soils on the margin of a desert area, coastal soils, soils located on steep slopes, rocky areas with very thin soil) within the project area or 2) project/programme activities that could result in the loss of otherwise non-fragile soil. If such soils exist and potential soil loss activities will take place, the IE will:

- Identify and describe:
  - o Soils that may be impacted by the project/programme;
  - o Activities that may lead to loss of soils;
  - o Reasons why soil loss is unavoidable and
  - o Measures that will be taken to minimize soil loss.
- Describe how soil conservation has been promoted to the EE.

#### *Valuable lands*

The IE will identify: 1) productive lands and/or lands that provide valuable ecosystem services within the project/programme area. If such lands exist, the IE will:

- Identify and describe:
  - o The lands;
  - o Project/programme activities that may lead to land degradation;
  - o Reasons why using these lands is un-avoidable and the alternatives that were assessed, and
  - o Measures that will be taken to minimize productive land degradation or ecosystem service impacts.

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<sup>30</sup> The Food and Agriculture Organization of the United Nations defines soil degradation as a change in the soil health status resulting in a diminished capacity of the ecosystem to provide goods and services for its beneficiaries.

#### **4. Demonstrating compliance with the ESP in the project/programme proposal document**

This section describes how the IE can present the relevant environmental and social risk information in the funding proposal to the Board, at both concept and fully-developed proposal stages.

In the Proposal Section II.K, from the concept stage, the IE will document and summarize the findings of the screening/assessment process and categorization, including completing the checklist provided in that section of the proposal. Detailed information on the screening process and findings should be made available as an annex.

##### *Categorization*

The outcome of the screening and assessment process is used to determine the environmental and social categorization of the risk for the project/programme. This should be done at the concept stage. The criteria for categorization are described in paragraph 8 of the ESP.<sup>31</sup> The IE may present the findings of the screening/assessment process to substantiate and support its determination of the category for a project/programme. It is not possible to provide universal reference points to quantify severity of environmental and social impacts. Therefore, the IE will provide rationales to support their determination of severity and acceptability so that the determination can be reviewed as necessary. Category C projects/programmes are those for which no adverse environmental or social impacts are anticipated at the time of screening, and that do not require further impact assessment. Nevertheless, during the implementation of category C projects/programmes, low-level monitoring for unexpected environmental or social impacts will be included in the project/programme design and will be reported on annually.

##### *Conducting environmental and social assessments*

As a general rule, the IE, when required, should conduct impact assessment before submitting the fully-developed project/programme document.

##### *Environmental and Social Management Plan*

Risks and/or impacts that are identified and determined as unavoidable in the assessment process should be captured in an environmental and social management plan. This may be a single plan or a collection of plans. This plan should be submitted at the fully-developed proposal stage.

The environmental and social management plan should describe the risk mitigation measures that will be taken to ensure consistency with the ESP Principles and applicable host country laws and regulations. Much of the content of an environmental and social management plan will consist of the specific management plans and related activities that have been identified during the impact assessment in accordance with the separate Principles. The Instructions provide additional detail on management and monitoring plans.

In some Category B projects/programmes, where the proposed activities requiring an environmental or social assessment represent a minor part of the project, and when the assessment and/or management plan cannot be completed in time or where

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<sup>31</sup> See footnote 2 *supra*.

mitigation measures extend into project/programme implementation, the requirement to submit the management plan along with the proposal document can be waived. In such cases, the Board can approve the project/programme. However, the agreement signed between the Board and the implementing entity will contain provisions requiring that any environmental and social risks be adequately and timely addressed through a management plan or changes in project/programme design.

#### *Public Consultation*

Public consultation is a key and integral part of a successful project/programme. The Instructions, Part II, Section H <sup>32</sup> include additional information on stakeholder engagement, which should be used in the assessment process and also in identifying mitigation measures.

#### *Grievance Mechanism*

The fully-developed project/programme document will include a description of a grievance mechanism, which is accessible by employees and affected communities. The mechanism will be designed to receive and facilitate grievances in a transparent manner and will be commensurate to the complexity of the risks. This mechanism is particularly important in projects with involuntary resettlement or indigenous peoples,.

#### *Monitoring, Reporting and Evaluation*

The IE will develop a monitoring program commensurate with actions identified in the ESMP and will report on the monitoring results to the Fund in the mid-term, annual, and terminal performance reports. Monitoring will be done to ensure that actions are taken in a timely manner and to determine if actions are appropriately mitigating the risk/impact or if they need to be modified in order to achieve the intended outcome.

The essence of the impact assessments, the environmental and social management plan, and the risk monitoring system will be described in Section III.C of the Proposal<sup>33</sup> at the fully-developed proposal stage.

In addition to the information included in the fully-developed project/programme proposal, the IE can consolidate all the information demonstrating compliance with the ESP in a single separate document or annex. This annex could have the following structure:

- Summary description of the project/programme
- Screening and categorization,
- Environmental and social impact assessment
- Environmental and social management plan
- Monitoring and evaluation arrangements.

This annex can also include further details of public consultations and their outcomes, and the institutional, operational and financial arrangements for the environmental and social safeguarding activities.

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<sup>32</sup> See footnote 5 *supra*.

<sup>33</sup> See footnote 4 *supra*.