

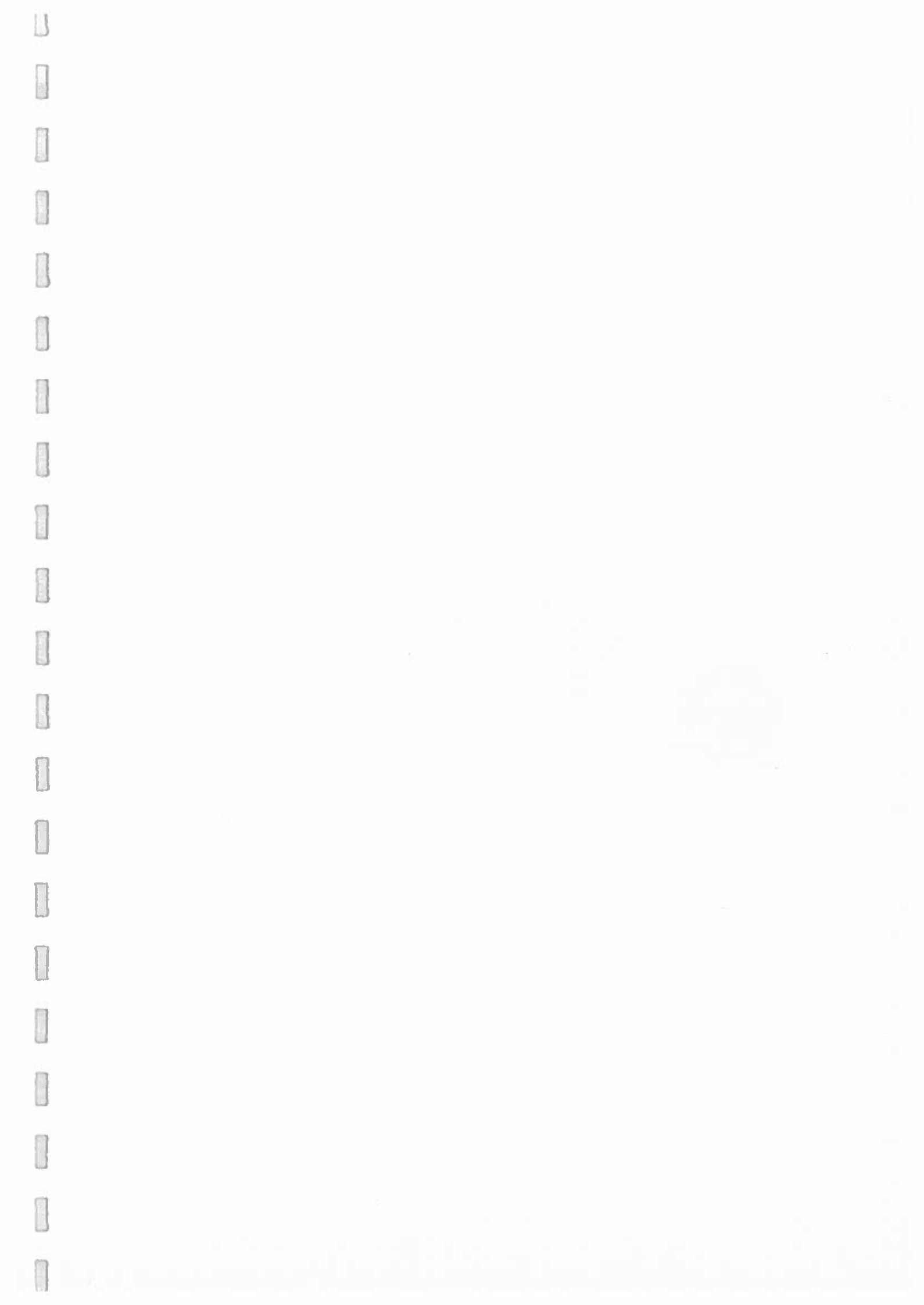
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## ANNEX K: MCC ENVIRONMENTAL AND SOCIAL POLICIES

### Annex K Table of Contents

ATTACHMENT	NAME
K-1	MCC Environmental Guidelines 2012
K-2	Counter-Trafficking in Persons Policy
K-3	MCC Gender Policy (2011)
K-4	IFC Performance Standards on Environmental and Social Sustainability (2012)





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MCC Environmental Guidelines 2012



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# Environmental Guidelines



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## 1. Statement of Principles

The Millennium Challenge Corporation (“MCC”) recognizes that the pursuit of sustainable economic growth and a healthy environment are necessarily related. These guidelines set forth the process for the review of environmental and social impacts<sup>1</sup> to ensure that the projects undertaken as part of programs funded under Millennium Challenge Compacts with eligible countries (“Compacts”) are environmentally sound, are designed to operate in compliance with applicable regulatory requirements, and, as required by the legislation establishing MCC, are not likely to cause a significant environmental, health, or safety hazard.<sup>2</sup>

MCC is committed to program design that reflects the results of public participation in host countries during all phases of the program, integrating governmental interests with those of private business and civil society. In this spirit, MCC will work to ensure that the preparation of Environmental and Social Impact Assessments will include consultation with affected parties and public disclosure of the associated documents.

Finally, MCC is committed to the principle of host-country ownership of a Compact, including host-country responsibility for measures to mitigate adverse environmental and social impacts. A Compact project is expected to comply with host-country laws, regulations and standards, as well as requirements by which the host country is bound under international agreements.

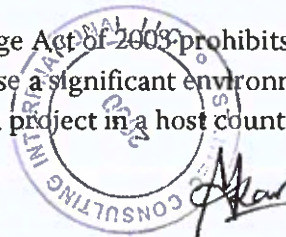
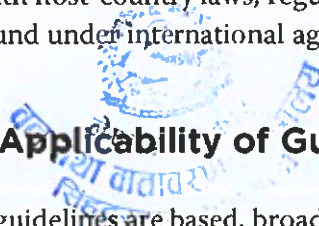
## 2. Sources of Policy; Applicability of Guidelines

The policies reflected in these guidelines are based, broadly speaking, on sound sustainable development project design principles and international best practices in this field, including, but not limited to the following:

- the “Principles of Environmental Impact Assessment Best Practices” of the International Association for Impact Assessment;
- the environmental policies and guidelines of other United States government development assistance and financing entities;
- the environmental and social policies and guidelines of the multilateral development banks, the *Common Approaches* developed by export credit agencies through the Organization for Economic Cooperation and Development (OECD); and
- the *Equator Principles* in use by international commercial banks.

In addition, these guidelines reflect the following:

- Section 605(e)(3) of the Millennium Challenge Act of 2003 prohibits MCC from providing assistance for any project that is “likely to cause a significant environmental, health, or safety hazard.” Consequently, the presence of such a project in a host country’s proposal will preclude





MCC funding (or continued funding) of that project. (See the discussion of “environmental, health or safety hazard” in Appendix A.)

- Executive Order 12114, January 4, 1979, 44 Fed. Reg. 1957 (January 9, 1979) requires every federal agency taking actions encompassed by that Executive Order to establish procedures to implement it with respect to certain major federal actions having significant effects on the environment outside the geographical borders of the United States and its territories and possessions. It is expected that the Executive Order will have limited applicability to MCC programs, but where the terms of the Executive Order apply, the procedures described in Appendix B will be used.

In those instances where MCC's actions or a project undertaken or funded under a Compact may significantly affect the quality of the environment of the United States, including its territories or possessions, MCC will require adherence to the environmental review procedures established by the Council on Environmental Quality under the National Environmental Policy Act (NEPA), 40 CFR Part 1500, in lieu of these guidelines.

In addition to the foregoing, and to the extent consistent with these guidelines and any applicable additional guidance issued by MCC from time to time, the projects MCC finances under a compact will be developed and implemented in a manner consistent with the environmental and social performance standards set forth in the *Performance Standards on Environmental and Social Sustainability* of the International Finance Corporation, as amended from time to time (IFC Performance Standards). Consistent with MCC's principle of country ownership, the host country is responsible for managing environmental and social risks and impacts consistent with the requirements of the IFC Performance Standards.

MCC seeks to ensure, through its due diligence and implementation oversight efforts, that Compact activities it finances are implemented in accordance with the requirements of the IFC Performance Standards. MCC will only support Compact activities that are expected to meet the requirements of the IFC Performance Standards within a prescribed timeframe.

These guidelines are primarily intended to describe the principles of environmental and social impact assessment that Compact-eligible countries will be expected to apply in the context of a Compact. These guidelines are not intended to describe MCC's internal implementation procedures, which MCC will develop to reflect experience with these guidelines.

MCC will review and revise these guidelines from time to time to reflect lessons learned in their application as well as relevant changes in international standards and norms of practice. In addition, MCC may provide such additional guidance to a host country during the implementation of a program as may be advisable in light of host-country norms and international standards, such as the Environmental, Health, and Safety Guidelines of the World Bank Group (2007, or as amended from time to time) or World Health Organization guidelines and standards.

### 3. Environmental and Social Review







These guidelines will apply to the review of each project described in a Compact or proposed Compact (generally referred to herein as a “project” or, collectively, as “projects”). The application of these guidelines to specific projects and the breadth, depth, and type of environmental and social impact review to be completed will depend on the nature, scale, and potential environmental and social impact of proposed projects.

MCC’s process of environmental and social review should take into account specific host-country conditions, the findings of host-country environmental studies, National Environmental Action Plans (NEAPs), the host country’s overall policy framework and national legislation, the capabilities of the entities implementing the project and managing its environmental and social impacts, and obligations of the host country under relevant international agreements.

#### 4. Environmental and Social Screening

As early as possible in the Compact proposal review process, MCC will screen each project as described in these guidelines. As part of its review of Compact proposals, MCC funding decisions will be informed by the results of screening and, where needed, an Environmental and Social Impact Assessment or other environmental and social impact analysis. To that end, MCC will not fund a project unless there is provision for appropriate screening and appropriate environmental and social impact analysis.

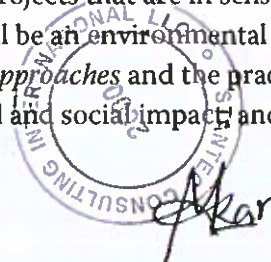
While the completion of the requisite environmental and social impact analysis is the responsibility, either directly or indirectly, of the host country, MCC will advise and consult on the requirements of an Environmental and Social Impact Assessment. MCC will review the findings and recommendations of the Environmental and Social Impact Assessment to ensure their consistency with these guidelines, and where appropriate, may require additional assessment work, including public consultation and information disclosure (see below).

##### 4.1 Categorical Prohibition

As stated above, MCC may not provide assistance for any project that is “likely to cause a significant environmental, health, or safety hazard.” Accordingly, as part of its environmental and social screening, MCC will identify and exclude such a project from MCC funding, using the definition contained in Appendix A. Such a project will be classified as a Categorical Prohibition.

##### 4.2 Determination of Project Category

MCC will screen all Compact proposals to identify projects that require further review due to their potential adverse environmental and social impacts, and projects that are in sensitive sectors or in or near sensitive locations. The result of this screening process will be an environmental classification following the recommendations contained in the OECD *Common Approaches* and the practices of the World Bank, classifying in accordance with the potential environmental and social impact and the extent of the environmental and social review required.



**Category A**

A project is classified as Category A if it has the potential to have significant adverse environmental and social impacts that are sensitive, diverse, or unprecedented. These impacts may affect an area broader than the sites or facilities subject to physical works. Category A, in principle, includes projects in sensitive sectors or located in or near sensitive areas. An illustrative list of sensitive sectors and sensitive locations is set out in Appendix C.

For **Category A** projects, MCC will require an Environmental and Social Impact Assessment in accordance with these guidelines. An Environmental and Social Impact Assessment evaluates the potential environmental and social risks and impacts of a specific project in its area of influence; examines alternatives to the project, including ways of improving project selection, siting, planning, design, and implementation in order to prevent, minimize, mitigate, or compensate for adverse environmental and social impacts and enhance positive impacts; and includes an Environmental and Social Management Plan, which describes the process of mitigating and managing adverse environmental and social impacts during the implementation of a project. The recommended contents of an Environmental and Social Impact Assessment report are included in Appendix D.

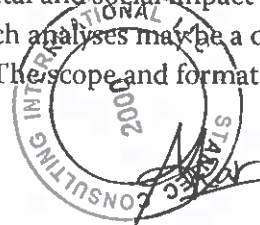
An Environmental and Social Impact Assessment should be initiated as early as possible in project development and be integrated closely with the economic, financial, institutional, social, and technical analyses of a proposed project. An Environmental and Social Impact Assessment should take into account the natural environment (air, water, and land); human health and safety; social aspects (involuntary resettlement, indigenous peoples and cultural property); natural disaster risk and vulnerability assessment; and transboundary and global environmental aspects.

For a Category A project, disbursement of some or all of the MCC funding for that project will be contingent upon completion of an Environmental and Social Impact Assessment. In deciding whether to provide some MCC funding for the project in advance of completion of the Environmental and Social Impact Assessment, MCC may consider funding costs of the assessment itself as well as costs of some other project elements (e.g., initial project administration) that can be prudently undertaken before the Environmental and Social Impact Assessment is completed. In the event that it is not possible to complete the Environmental and Social Impact Assessment, MCC will define procedures for addressing such a case on a Compact-specific basis. In any event, the project will be subject to the other requirements of these guidelines.

**Category B**

A project is classified as Category B if its potential environmental and social impacts are less adverse than those of Category A projects. Typically, these impacts are site-specific, few if any of them are irreversible, and mitigation measures are more readily available.

For a **Category B** project, MCC will require specific environmental and social impact analyses, including Environmental and Social Management Plans, as appropriate. Such analyses may be a condition for disbursement of some or all of the MCC funding for the project. The scope and format of the analyses will





depend on the project and its potential environmental and social impacts. Like an Environmental and Social Impact Assessment for a Category A project, the analysis for a Category B project must examine the potential negative and positive environmental and social impacts of the project and recommend any measures needed to prevent, minimize, mitigate, or compensate for adverse impacts and enhance positive impacts. Generally, the scope of such work will be narrower than for Category A projects.

### Category C

A project is classified as Category C if it is unlikely to have adverse environmental and social impacts.

While MCC generally will not require environmental and social impact analysis for a Category C project, MCC reserves the right to require specific environmental and social impact studies, reporting, or training where relevant or where positive environmental and social impacts may be enhanced.

### Category D

A proposed project is classified as Category D, if it will involve an intermediate facility (such as a municipal public grant fund) that will use MCC funding to finance subprojects that may potentially result in adverse environmental and social impacts.

The host country must require that subprojects under a Category D project comply, at a minimum, with the environmental and social impact analysis standards, as well as relevant laws and regulations, of the host country. MCC reserves the right to set additional environmental and social performance standards and monitoring requirements for subprojects on a case-by-case basis, depending on the nature of the intermediate facility. For all subprojects, the intermediate facility will ensure that environmental and social impact analyses and associated documents are developed with public consultation and made available in a public place accessible to potentially affected parties.

The host country must require the intermediate facility to monitor the environmental and social performance of its subprojects and submit to MCC periodic (usually annual) reports on the implementation of its environmental and social procedures and the environmental and social performance of its portfolio.

In addition to or in lieu of the determinations described above, MCC will determine during the environmental screening whether Appendix B of these guidelines, the National Environmental Policy Act, or other requirements or procedures must apply to the proposed project.

## 5. Public Consultation and Disclosure

Consistent with MCC's principle of host-country ownership of the projects implemented under a Compact, implementing entities will be expected to incorporate timely, participatory, and meaningful public consultation in the development of Compact-related Environmental and Social Impact Assessments, analyses, and associated Management Plans. They will also be expected to make these documents publicly available and easily accessible.



## 6. Monitoring

In order to ensure compliance with measures to mitigate any adverse environmental and social impacts of projects undertaken pursuant to a Compact, as part of the Compact and related documents, MCC may condition disbursement of some or all of the MCC funding for the project on satisfactory implementation of those mitigation measures. The means of ensuring compliance with measures to mitigate any adverse environmental and social impacts of a given project, including any conditions for disbursement, will be specified in the Compact and related documents.

The host country will be responsible for appropriate monitoring of project mitigation plans (e.g., Environmental and Social Management Plan) during the term of the Compact. Recognizing that not all Compact-eligible countries may have this capacity, MCC can, where appropriate, provide funds within the Compact to help ensure proper oversight and implementation of mitigation measures. MCC will monitor compliance through the review of information provided by the implementing entity and through site visits.

In addition, MCC may require, where appropriate, an environmental audit in order to assess the impact of prior or existing activities not funded with MCC funds or of an MCC-funded project to determine the status of regulatory compliance and environmental performance, as well as potential environmental and health and safety risks, liabilities, and opportunities associated with the activities or project.

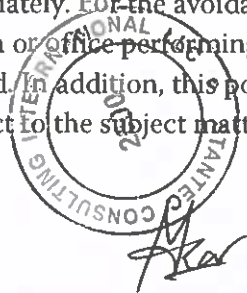
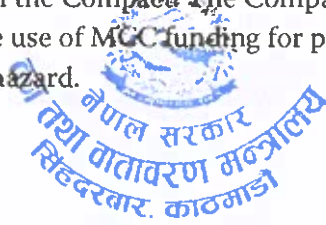
These guidelines will be referenced and reflected in the Compact. The Compact will include a prohibition, for the full term of the Compact, on the use of MCC funding for projects deemed likely to cause a significant environmental, health, or safety hazard.

## 7. Reporting

The host country must report regularly to MCC, describing how the activities funded under the Compact are being carried out in compliance with these guidelines and the environmental and social requirements described in the Compact and related documents. The reports should provide detailed information on realized environmental and social impacts and the status of the implementation of mitigation plans (e.g., Environmental and Social Management Plan), including associated costs. MCC may modify its guidance regarding project implementation following the review of such reports.

## 8. Effectiveness

This policy was approved as of June 28, 2012 and is effective immediately. For the avoidance of doubt, this policy will remain in effect with respect to any successor position or office performing the functions of its predecessor until this policy is modified, revoked, or superseded. In addition, this policy supersedes any prior policy, guidance, and/or delegation of authority with respect to the subject matter hereof.





## Appendix A: Definitions

1. **Environmental, Health, or Safety Hazard**—A project is deemed “likely to cause a significant environmental, health, or safety hazard” and, therefore, prohibited from receiving MCC funding, if:

- a. as a result of the project, even with mitigation efforts and proper use, there exists or will exist a substance, condition, or circumstance that represents a likely risk of significant harm to the environment or to human health because of the physical, chemical or biological effects of such substance, condition or circumstance;
- b. the project involves or will involve the production, procurement, or intentional release of any pesticide, industrial or consumer chemical or other product (including an emission or effluent)
  - i. that is listed for elimination or restriction under the Stockholm Convention on Persistent Organic Pollutants;
  - ii. that is banned or severely restricted under the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade;
  - iii. that is listed or nominated for inclusion under the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade;
  - iv. that includes an active ingredient that is classified as “extremely hazardous” (Class Ia) or “highly hazardous” (Class Ib) in “The WHO Recommended Classification of Pesticides by Hazard,” as revised from time to time; or
  - v. that is a pesticide that includes an agent that the United States Environmental Protection Agency has classified in Toxicity Class I, has classified as a Restricted Use Pesticide, or has not registered for use in the United States; or
- c. the project is a physical project that, in the United States, is prohibited or strictly regulated by federal law to protect the environment from radioactive substances;

unless MCC has made a final determination, taking into consideration an appropriate environmental and social review in accordance with the criteria in the “Environmental and Social Review” section of these guidelines, that the project is not likely to cause a significant environmental, health, or safety hazard.

2. **Environmental and Social Impact Assessment**—Analysis that identifies the potential environmental and social impacts of a specific project in its area of influence; examines alternatives to the project; identifies ways of improving project selection, siting, planning, design, and implementation in order to prevent, minimize, mitigate, or compensate for adverse environmental and social impacts and enhance positive impacts; and includes the process of mitigating and managing adverse environmental and social impacts during the implementation of a project. The scope and level of detail in an Environmental and Social Impact Assessment should be commensurate with a project’s potential impact. At a minimum, an Environmental and Social Impact Assessment should include the information outlined in Appendix D: Environmental and Social Impact Assessment Reports.

3. **Environmental and Social Management Plan (ESMP)**—An Environmental and Social Management Plan describes mitigation, monitoring and institutional measures to be taken during project implementation to eliminate adverse impacts, offset them, or reduce them to acceptable levels.

4. **Project**—For the purposes of environmental and social screening and determination of the applicable project category and scope of analysis under these guidelines, a project, depending on the applicable circumstances as determined by MCC,

- a. may be the same as a “Project” as defined in the applicable Compact;
- b. may be an identifiable component or activity of a broader Compact-defined Project; or
- c. may comprise two or more Compact-defined Projects (for example, where there is close interdependence such as sharing the same site or infrastructure).

For the purposes of determining the applicable project category and assessing the environmental and social impact of a project, a project must have independent utility and should not be segmented as a means to reduce the significance or magnitude of environmental and social impacts.

The environmental and social impact assessment or the resettlement action plan for a project must cover all components of the project, regardless of the source of financing. The assessment must cover other activities that in the judgment of MCC are directly and significantly related to the MCC-funded project, are necessary to achieve its objectives and are carried out, or planned to be carried out, contemporaneously with the project.






## Appendix B: Procedures Implementing Executive Order 12114

This Appendix sets forth the procedures that MCC will use to implement Executive Order 12114, January 4, 1979, 44 Fed. Reg. 1957 (January 9, 1979) (the "Executive Order").

### 1. Actions Covered

The MCC officer having the ultimate responsibility for authorizing and approving actions will take into consideration an appropriate environmental impact analysis before authorizing and approving any:

- a. MCC action that significantly affects the environment of the global commons outside the jurisdiction of any nation (*e.g.*, the oceans or Antarctica);
- b. MCC action that significantly affects the environment of a foreign nation not involved or participating with the United States in the action; or
- c. MCC action outside the United States that significantly affects natural or ecological resources of global importance which have been designated for protection by the President or, in the case of resources protected under a binding international agreement, by the Secretary of State.

### 2. Type of Environmental Review

Subject to section 4,

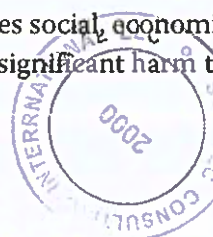
- a. For actions specified in section 1(a) above, MCC will take into consideration an Environmental Impact Assessment.
- b. For actions specified in sections 1(b) or 1(c) above, MCC will take into consideration an appropriate environmental review in accordance with the criteria in the "Environmental Review" section of these guidelines.

### 3. State Department Coordination

MCC will contact the State Department for coordination of all communications with foreign governments concerning environmental agreements and other arrangements to implement sections 1 and 2 above.

### 4. Meaning of Certain Terms

This section 4 applies to this Appendix B and to no other part of these guidelines. For purposes of applying the Executive Order and this Appendix B, "environment," as specified in the Executive Order, means the natural and physical environment and excludes social, economic and other environments; and an action significantly affects the environment if it does significant harm to the environment even though



on balance the action is believed to be beneficial to the environment.

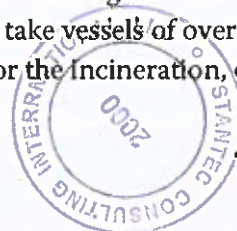





## Appendix C: Illustrative List of Sensitive Sectors and Sensitive Locations<sup>3</sup>

The following list provides examples of projects with the potential to cause significant negative environmental impacts due to their type, location, sensitivity and scale. This list is indicative and the types of projects it contains are examples only. This list is not intended to be exhaustive.

- Crude oil refineries (excluding undertakings manufacturing only lubricants from crude oil) and installations for the gasification and liquefaction of 500 tons or more of coal or bituminous shale per day.
- Thermal power stations and other combustion installations with a heat output of 300 megawatts or more and nuclear power stations and other nuclear reactors, including the dismantling or decommissioning of such power stations or reactors (except research installations for the production and conversion of fissionable and fertile materials, whose maximum power does not exceed 1 kilowatt continuous thermal load).
- Installations designed for the production or enrichment of nuclear fuels, the reprocessing, storage or final disposal of irradiated nuclear fuels, or for the storage, disposal or processing of radioactive waste.
- Integrated works for the initial smelting of cast-iron and steel; installations for the production of nonferrous crude metals from ore, concentrates or secondary raw materials by metallurgical, chemical or electrolytic processes.
- Installations for the extraction of asbestos and for the processing and transformation of asbestos and products containing asbestos: for asbestos-cement products, with an annual production of more than 20,000 tons finished product; for friction material, with an annual production of more than 50 tons finished product; and for other asbestos utilization of more than 200 tons per year.
- Integrated chemical installations, *i.e.*, those installations for the manufacture on an industrial scale of substances using chemical conversion processes, in which several units are juxtaposed and are functionally linked to one another and which are for the production of any of the following: basic organic chemicals; basic inorganic chemicals; phosphorous-, nitrogen- or potassium-based fertilizers (simple or compound fertilizers); basic plant health products and biocides; basic pharmaceutical products using a chemical or biological process; explosives.
- Construction of motorways, express roads and lines for long-distance railway traffic and of airports with a basic runway length of 2,100 meters or more; construction of a new road of four or more lanes, or realignment and/or widening of an existing road so as to provide four or more lanes, where such new road, or realigned and/or widened section of road would be 10 kilometers or more in a continuous length.
- Pipelines, terminals, and associated facilities for the large-scale transport of gas, oil, and chemicals.
- Sea ports and inland waterways and ports for inland-waterway traffic which permit the passage of vessels of over 1,350 tons; trading ports, piers for loading and unloading connected to land and outside ports (excluding ferry piers) which can take vessels of over 1,350 tons.
- Waste-processing and disposal installations for the incineration, chemical treatment or landfill of



hazardous, toxic or dangerous wastes.

- Large<sup>4</sup> dams and other impoundments designed for the holding back or permanent storage of water.
- Groundwater abstraction projects or artificial groundwater recharge schemes in cases where the annual volume of water to be abstracted or recharged amounts to 10 million cubic meters or more.
- Industrial plants for the (a) production of pulp from timber or similar fibrous materials; (b) production of paper and board with a production capacity exceeding 200 air-dried metric tons per day.
- Peat extraction, quarries and open-cast mining, and processing of metal ores or coal.
- Extraction of petroleum and natural gas for commercial purposes.
- Installations for storage of petroleum, petrochemical, or chemical products with a capacity of 200,000 tons or more.
- Large-scale logging.
- Municipal wastewater treatment plants with a capacity exceeding 150,000 population equivalent.
- Municipal solid waste-processing and disposal facilities.
- Large-scale tourism and retail development.
- Construction of overhead electrical power lines.
- Large-scale land reclamation.
- Large-scale primary agriculture/silviculture involving intensification or conversion of natural habitats.
- Plants for the tanning of hides and skins where the treatment capacity exceeds 12 tons of finished products per day.
- Installations for the intensive rearing of poultry or pigs with more than: 40,000 places for poultry; 2,000 places for production pigs (over 30 kilograms); or 750 places for sows.
- Projects that are planned to be carried out in sensitive locations or are likely to have a perceptible impact on such locations, even if the project category does not appear in the above list. Such sensitive locations include national parks and other protected areas identified by national or international law, and other sensitive locations of international, national or regional importance, such as wetlands, forests with high biodiversity value, areas of archaeological or cultural significance, and areas of importance for indigenous peoples or other vulnerable groups.

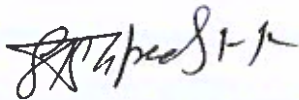


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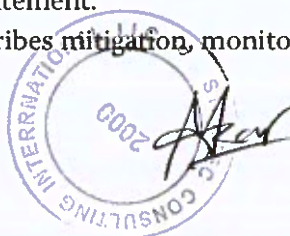
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## Appendix D : Environmental and Social Impact Assessment Reports <sup>5</sup>

The scope and level of detail of an Environmental and Social Impact Assessment should be commensurate with the potential impacts of the project. The Environmental and Social Impact Assessment report should include the following items (not necessarily in the order shown):

- **Executive summary:** concisely discusses significant findings and recommended actions.
- **Scoping:** identifies the issues and impacts that are likely to be important and establishes the terms of reference for the Environmental Impact Assessment.
- **Policy, legal and administrative framework:** discusses the policy, legal, and administrative framework within which the Environmental Impact Assessment is carried out.
- **Project description:** describes the proposed project and its geographic, ecological, social, and temporal context, including any offsite investments that may be required (e.g., dedicated pipelines, access roads, power plants, water supply, housing, and raw material and product storage facilities); indicates the need for any resettlement or social development plan; and normally includes a map showing the project site and the project's area of influence.
- **Baseline data:** assesses the dimensions of the study area and describes relevant physical, biological, and socio-economic conditions, including any changes anticipated before the project commences. Also, it takes into account current and proposed development projects within the project area but not directly connected to the project. Data should be relevant to decisions about project location, design, operation, or mitigatory measures; the section indicates accuracy, reliability and sources of the data.
- **Environmental and social impacts:** predicts and assesses the project's likely positive and negative impacts on the surrounding natural environment and on the humans reliant on that environment, to include effects on cultural property, indigenous peoples, and involuntary resettlement, as well as the impacts on human health and safety, in quantitative terms to the extent possible. This may also include significant induced, indirect, and cumulative impacts and reasonably foreseeable effects that may be associated with or ancillary to the project. It identifies mitigation measures and any residual negative impacts that cannot be mitigated. It explores opportunities for environmental enhancement. It identifies and estimates the extent and quality of available data, key data gaps, and uncertainties associated with predictions, and specifies topics that do not require further attention.
- **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; the feasibility of mitigating these impacts; their capital and recurrent costs; their suitability under local conditions; and their institutional, training and monitoring requirements. For each of the alternatives, it quantifies the environmental and social impacts to the extent possible and attaches economic values where feasible. It states the basis for selecting the particular project design proposed and justifies recommended emission levels and approaches to pollution prevention and abatement.
- **Environmental and Social Management Plan:** describes mitigation, monitoring and institutional



measures to be taken during project implementation to eliminate adverse impacts, offset them, or reduce them to acceptable levels.

- **Consultation:** lists and describes consultation meetings, including consultations for obtaining the informed views of the affected people, local nongovernmental organizations and regulatory agencies. Project-level consultation should begin at scoping and continue through implementation.



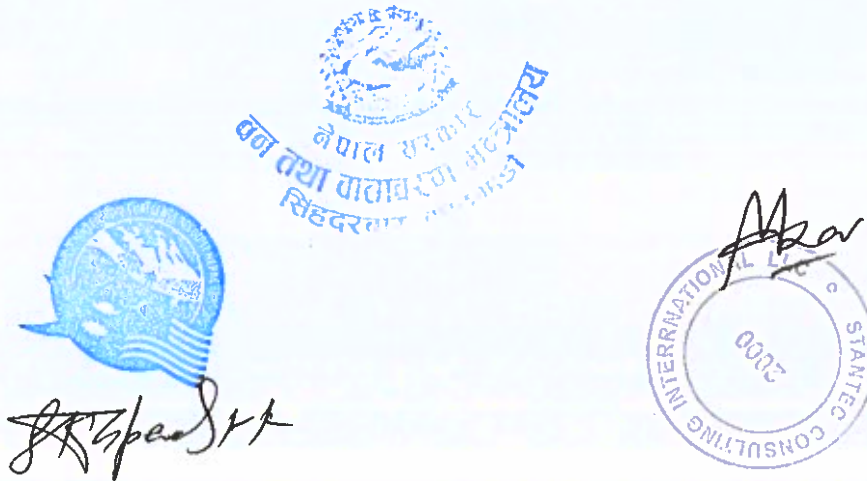
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## Endnotes

1. "Environmental and social impacts" include the effects of a project on the surrounding natural environment and on the humans reliant on that environment, to include effects on cultural property, indigenous peoples, and involuntary resettlement, as well as the impacts on human health and safety. They may also include significant induced, indirect, and cumulative impacts and reasonably foreseeable effects that may be associated with, or ancillary to the project.
2. Appendix A sets forth definitions of words and phrases used in these guidelines.
3. Source: EBRD "Environmental Policy" (January 2003), also in use under the OECD "Common Approaches."
4. A large dam is a dam with a height of 15 meters or more from the foundation or a dam that is between 5 and 15 meters high with a reservoir volume of more than three million cubic meters (the definition used by the International Commission on Large Dams (ICOLD)).
5. This Appendix is based on the World Bank Operational Manual, OP 4.01.





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Counter-Trafficking in Persons Policy



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## 1 Purpose

The Millennium Challenge Corporation (“MCC”) is committed to working with partner countries to ensure appropriate steps are taken to prevent, mitigate and monitor trafficking in persons (“TIP”) risks in the projects it funds. MCC’s core mission, reducing poverty through economic growth, does not directly address human trafficking. However, MCC investments do aim to enhance economic opportunities and increase incomes, two factors that reduce people’s susceptibility to TIP risks. In addition, appropriate responses to TIP are consistent with overall criteria MCC uses for selecting partner countries: just governance, investments in people, and economic freedom.

MCC has adopted an approach that includes incorporating TIP into determining country eligibility for MCC funding as well as assessing and managing TIP risks on MCC-funded projects.

The purpose of this policy is to provide operational guidance to accountable entities (“MCAs”) and MCC for assessing and managing TIP risks on MCC-funded projects. This policy provides detailed information on how to: (1) assess TIP risks in projects; (2) categorize projects (either as low-risk or high-risk); and (3) manage risks through counter-TIP minimum requirements and the TIP Risk Management Plan (as defined in Annex A).

## 2 Scope

This policy applies to all MCC-funded projects. The Counter-TIP Minimum Compliance Requirements (as defined in Annex A) will be incorporated into all MCA’s solicitation documents and contracts for works, non-consulting services, and consulting services. In addition, for works, non-consulting services, and consulting services contracts for projects that are categorized as high-risk, the MCA is required to develop a TIP Risk Management Plan (as defined in Annex A).

## 3 Authorities

### 3.1 Acts

- a. The Victims of Trafficking and Violence Protection Act (“TVPA”) of 2000, enacted by Pub. Law 106-386
- b. The TVPA Reauthorization Act of 2003, enacted by Pub. Law 108-193 (H.R. 2620)
- c. The TVPA Reauthorization Act of 2005, enacted by Pub. Law
- d. The William Wilberforce TVPA Reauthorization Act of 2008, enacted by Pub. Law 110-457 (H.R. 7311)
- e. Violence Against Women Reauthorization Act of 2013, enacted by Pub. Law 113-4

### 3.2 Federal Government Regulations, Standards, and Other Guidance



- a. Executive Order 13627 on “Strengthening Protections Against TIP in Federal Contracts”

### 3.3 Related MCC Policies and Procedures

- a. MCC Gender Policy, DCO-2011-1.3  
b. MCC Environmental Guidelines, DCO-2012-1.2  
c. MCC Program Procurement Guidelines,  
d. MCC Suspension and Termination Policy,  
e. IFC Performance Standards



## 4 Overview of TIP

### 4.1 Trafficking in Persons (TIP ) Defined

The Victims of Trafficking and Violence Protection Act defines “severe forms of trafficking in persons” as:

- (S)ex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; or
- (T)he recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

A victim need not be physically transported from one location to another in order for the crime to fall within these definitions.

For the purposes of this policy, the terms set forth below are defined as follows:

- “coercion” means (a) threats of serious harm to or physical restraint against any person; (b) any scheme, plan, or pattern intended to cause a person to believe that failure to perform an act would result in serious harm to or physical restraint against any person; or (c) the abuse or threatened abuse of the legal process.
- “commercial sex act” means any sex act on account of which anything of value is given to or received by any person.
- “debt bondage” means the status or condition of a debtor arising from a pledge by the debtor of his or her personal services or of those of a person under his or her control as a security for debt, if the value of those services as reasonably assessed is not applied toward the liquidation of the debt or the length and nature of those services are not respectively limited and defined.
- “employee” means an employee of a bidder, supplier, contractor, subcontractor, consultant, or sub-consultant directly engaged in the performance of work under the contract who has other than a minimal impact or involvement in contract performance.
- “forced labor” means knowingly providing or obtaining the labor or services of a person (a) by threats of serious harm to, or physical restraint against, that person or another person; (b) by means of any scheme, plan, or pattern intended to cause the person to believe that, if the person



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did not perform such labor or services, that person or another person would suffer serious harm or physical restraint; or (c) by means of the abuse or threatened abuse of law or the legal process.

- “fraud” means any act or omission, including any misrepresentation, in order to influence (or attempt to influence) any person to engage (knowingly or unknowingly) in any of the activities prohibited by this Policy. Examples of fraud include, but are not limited to, false promises for specific employment; promises of money or other compensation that is never paid; working conditions that are not as promised; and a person being told he or she would receive legitimate immigration papers or legal authorizations necessary to work that are never received.
- “involuntary servitude” includes a condition of servitude induced by means of (a) any scheme, plan, or pattern intended to cause a person to believe that, if the person did not enter into or continue in such conditions, that person or another person would suffer serious harm or physical restraint; or (b) the abuse or threatened abuse of the legal process.
- “trafficking in persons” means (a) sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; or (b) the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.
- “sex trafficking” means the recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act.

## 4.2 U.S. State Department's TIP Report

The U.S. State Department is responsible for producing the Trafficking in Persons Report<sup>1</sup>, which is the U.S. Government's principal diplomatic tool to engage foreign governments on human trafficking. It represents an updated, global look at the nature and scope of trafficking in persons and the broad range of government actions to confront and eliminate it. The U.S. Government uses the TIP report to engage foreign governments in dialogues to advance anti-trafficking reforms and to combat trafficking and to target resources on prevention, protection and prosecution programs. MCC's Initial Social and Gender Assessment report includes a brief section on the overall TIP situation in the country (based on the U.S. State Department's TIP Report and other additional sources), including the country's TIP rating.

## 5 Country Eligibility

This policy is not intended to provide guidance on the process used to evaluate or respond to TIP as a country eligibility issue. Should a partner country's policy performance on TIP, or any other policy issue included in MCC's selection criteria, become a significant concern, MCC would rely on its Suspension and Termination Policy to guide MCC's response to the issue.

However, MCC does consider the importance of taking measures to address TIP concerns when evaluating a potential partner's policy performance and eligibility for an MCC compact or threshold program. MCC formally integrates the U.S. Department of State's Trafficking in Persons Report into its selection process and uses the World Bank's rule of law indicator, an aggregate indicator that considers human trafficking as one of its factors, as a part of the selection criteria. By law, a country determined by



the U.S. Department of State to rank in Tier 3 and has had sanctions applied cannot be included on MCC's annual candidate country list. For high-risk TIP countries, MCC's Board of Directors reviews supplemental information on the TIP rankings and TIP -related practices, such as changes to regulations, enforcement and monitoring requirements, and provisions made to protect victims of trafficking.

## 6 Potential TIP Risks in MCC-Funded Compacts

The information provided below offers a description of some of the most relevant TIP -related risk factors for MCAs and MCC, and it is not intended to be an exhaustive list. Additional risk factors not included in this policy may exist. Therefore, each project must be thoroughly assessed. It is important to note that some of these risks, especially those relating to direct project impact on communities, are discussed in the IFC Performance Standards on Environmental and Social Sustainability<sup>2</sup>, which have been adopted by MCC. These standards cover eight areas, several of which are relevant to TIP (especially Performance Standard 2 on Labor and Working Conditions).

### 6.1 Recruitment and labor practices

The most direct way in which TIP can impact projects funded by MCC is through exploitative recruitment practices and/or labor conditions for workers, particularly construction workers. Exploitative practices include but are not limited to: abuses in the migrant labor recruitment chain, such as charging workers large recruitment fees that place them in debt and effectively bind them to the workplace; denying workers access to their travel documents; penalizing workers for leaving the workplace; violence or threats of violence against workers; restriction of movement of workers; non-payment or delayed payment of wages of workers; mandatory overtime for workers; and the use of child labor.

The Executive Order on "Strengthening Protections Against TIP in Federal Contracts", explicitly recognized that many exploitative labor practices are not readily detectable on labor sites, but instead are grounded in practices within the labor migration chain. These practices generally involve the charging of large and (usually) illegal recruitment fees, which place workers in a situation of debt and therefore essentially bind them to the workplace even when they are not physically restricted from leaving. Once a worker is bound to the workplace, this fosters such practices as withholding of payment, contract substitution, unpaid overtime, and even physical abuse. Although MCA contracts do not need to follow the Federal Acquisition Regulations (FAR), MCC's policy adheres to the spirit of this Executive Order.

Amongst other issues, the previously mentioned Executive Order prohibits<sup>3</sup>:

- using misleading or fraudulent recruitment practices during the recruitment of employees, such as failing to disclose basic information or making material misrepresentations regarding the key terms and conditions of employment, including wages and fringe benefits, the location of work, living conditions and housing (if employer provided or arranged), any significant costs to be charged to the employee, and, if applicable, the hazardous nature of the work;
- charging employees recruitment fees;
- destroying, concealing, confiscating, or otherwise denying access by an employee to the employee's



identity documents; and

- failure to “pay return transportation costs upon the end of employment, for an employee who is not a national of the country in which the work is taking place and who was brought into that country for the purpose of working on a U.S. Government contract or subcontract.”

Denying employees access to their identity documents (such as passports) by employers has also been flagged as a labor exploitive mechanism. There are situations when the employers “store” the employees’ identity documents, due to safety reasons. This is a delicate issue and in order to understand each situation it is important to have a clear understanding that employees have continued and unlimited access to their own identity documents. In this regard, MCC recognizes that this practice can place workers at risk for exploitation but also acknowledges that some workers prefer to have the employers store identity documents due to privacy and safety reasons. Therefore, MCC recommends that when foreign workers live and work in project sites, the employer provides a neutral safe space where personal documents can be stored safely and privately, if the employee freely decides to do so.

## 6.2 Project implementation processes

A project can have a TIP-related impact on the community during implementation in two ways: a failure in project safeguards leading to community members becoming more vulnerable to being trafficked; or the actions of contractors/sub-contractors/workers, intentionally or unintentionally contributing to TIP .

In terms of project safeguards, numerous international development institutions have documented cases of community lifestyles and livelihoods being disrupted by poorly managed resettlement processes or lack of appropriate environmental or social safeguards, leading to risky migration or in some cases to families selling/coercing their daughters into the sex trade<sup>4</sup> .

A clear potential TIP risk is associated with the actions of contractors and workers through increased demand for sex services/sex workers, particularly where the project involves an influx of predominantly male workers. Depending on context, this increased demand for sex services is commonly met by a combination of harmful sexual activity with women in surrounding communities, and commercial sex with those in prostitution, each of which carries its own set of risks. It is important, however, to highlight that an increase in demand for commercial sex is not analogous with an increase in sex trafficking. In this context, it is considered TIP when adults engage in sexual activities through force, fraud or coercion. It is also considered sex trafficking when the person induced to perform such act has not attained 18 years of age.

Risk is also present in the practice of project workers offering transport to community members as this opens the possibility that project vehicles could be used in the transporting of trafficking victims (as well as the possibility of direct exploitation of passengers by drivers). MCC’s policy in this regard is to prohibit the practice on all projects unless there are compelling reasons to not do so. It may also be possible that workers themselves may contribute to TIP by, for example, bringing in child domestic workers, or luring unsuspecting community members into a trafficking situation through techniques ranging from false promises of a better job or life elsewhere.



### 6.3 Project location

The location of a project in an area where trafficking is an existing problem, as identified during the TIP risk assessment, is a clear indicator of the potential for project-related risk. At the same time, it is possible for a project to be located in an area with a pre-existing high TIP risk and have no obvious consequences in terms of increasing this risk. This might, for example, include an agricultural project in an area with high-risk seasonal out-migration. (Such a project may in fact serve to create more attractive alternatives to risky migration, thus reducing vulnerability to trafficking.) There may also be cases where the project works with a specific population perceived as at risk of being trafficked, such as employment-seeking youth.

Where a significant TIP problem already exists in the community, there may be an opportunity to contribute to anti-trafficking efforts even where there are no risks specifically associated with the project. For example, inclusion of a TIP education component in a youth employment program that is part of a MCC-funded compact.

### 6.4 Conclusion of project implementation phase

There is the possibility that a project might inadvertently help to create conditions that facilitate trafficking upon completion of its implementation phase. This is most particularly relevant to transport and tourism projects. While increased transport connectivity brings more opportunities for local communities, it also brings more opportunities for traffickers to access target populations. Among the documented effects of some road building and tourism developments are:

- An increase in risky migration practices leading to trafficking. New migration patterns are often less safe than established ones as communities have not yet developed their own practices to identify and manage risk;
- Increased exposure to the cash economy, which can fuel a range of negative behaviors aimed at generating quick cash. Many of these behaviors have potential TIP implications, including pushing children into prostitution, risky migration, and selling of family or community land;<sup>5</sup>

Infrastructure development can also increase the extent of the sex trade. As noted above, this can happen during the construction phase where there is an influx of unaccompanied male workers. On completion, an increase in transitory populations and the increase of contact between those with wide income disparities can further contribute to the development of the sex trade particularly if combined with the exposure of local communities to new material goods, creating demand for quick cash. There are documented examples of infrastructure leading to the development of a sex trade involving minors, and subsequently the trafficking of young women and girls to other locations.<sup>6</sup>

## 7 Project Risk Assessment and Categorization

TIP risk assessment will be conducted in all MCC-funded projects. To the extent possible, TIP risks should be assessed as part of existing processes, notably due diligence by MCC's Social and Gender







Assessment unit (“SGA”) and Environmental and Social Performance unit (“ESP”). However, TIP-specific assessments may be required in some case, for example, when the community surrounding the project area is particularly vulnerable or the standard ESP and SGA studies do not yield enough information. Under the leadership of MCC’s SGA team, both the MCC’s ESP and sector leads will support a TIP risk assessment for each project following the protocols outlined in Annex A, section 2.

Projects will be assessed for TIP risks by MCC, with support from MCAs, and categorized by MCC SGA either as low-risk or high-risk for TIP (in consultation with MCA SGA).

**Low-Risk:** A project will be categorized as low-risk when it is determined that there are no TIP-specific risk factors related to the project and there are no significant TIP problems already present in the area where the project will be implemented. An example might be a water system rehabilitation project involving predominantly local workers in an area of low TIP risk.

When a project is categorized as low-risk for TIP, only the Counter-TIP Minimum Compliance Requirements will need to be included in the solicitation documents and contracts, as detailed in Annex A, section 3.

**High-Risk:** A project will be categorized as high-risk when it is determined that the project could contribute to an increase in TIP either during project development and/or implementation phases. In addition, a high-risk project may also contribute to an increase in TIP once the project implementation phase is completed and/or may present high-risk if the project is implemented in an area with a strong TIP problem.

When a project is categorized as high-risk for TIP, in addition to the Counter-TIP Minimum Compliance Requirements, MCA staff or contractor/consultants must develop a specific TIP Risk Management Plan to be approved by MCC prior to issuing the solicitation for procurement, and implemented by the contractor (under direct supervision from MCA) (See Annex A, section 4). Counter-TIP Minimum Compliance Requirements and adherence with and implementation of the TIP Risk Management Plan will be included in the technical specifications as a task in the Statement of Work and Terms of Reference for contractor/consultants, and in the bill of quantities/specifications works, and non-consulting solicitation documents. These requirements will be discussed during negotiations with the selected contractor/consultants, and be included as deliverables in the contracts that will be monitored by MCAs and MCC.

## 8 Risk Management

TIP risk management will depend on two factors: (1) project risk category, and (2) items required to implement the project. Project risk category refers to low-risk or high-risk projects for TIP. Items procured (in accordance with MCC’s Program Procurement Guidelines (“PPG”)) refers to: (1) works (large and small); (2) goods; (3) consulting services; and (4) non-consulting services; these items are procured through different procurement and contract mechanisms as outlined in the PPG.



All projects that use contract mechanisms for works (both large and small works), non-consulting, and consulting services are required to incorporate Counter-TIP Minimum Compliance Requirements in their solicitations and contracts. In addition, for works and consulting services contracts for projects that are categorized as high-risk, MCAs are also required to develop and require the contractor/consultants to implement a TIP Risk Management Plan per instructions in Annex A, section 4.

## 9 Responsible Parties

Due to the complexity of TIP, both MCC and MCA will require a multi-sectorial approach to the assessment, classification and management of TIP risks in MCC-funded projects. However, within the Department of Compact Operations ("DCO"), SGA has the ultimate responsibility for leading this process and ensuring relevant sector staff provide input and support.

MCC and the core teams/MCAs will be responsible for conducting TIP risk assessment on each project during the compact development phase. Based on the assessment, MCC (in consultation with MCA) will categorize each project as high-risk or low-risk. Many aspects of TIP mitigation are part of the IFC Performance Standards, therefore, this will require SGA and ESP to work together to manage any identified risks accordingly.

Each MCA will be responsible for implementing the Counter-TIP Minimum Compliance Requirements on all projects, with support and supervision from MCC. For high-risk projects, MCAs will be responsible for developing the TIP Risk Management Plan (in addition to the Counter-TIP Minimum Compliance Requirements) and the corresponding contractor(s) will be responsible for implementing the plan. MCC will approve the TIP Risk Management Plan prior to its implementation.

## 10 Effectiveness

This policy was approved as of November 25, 2014 and is effective upon the date of signing and supersedes any prior policy, guidance, and/or delegation of authority with respect to the subject matter hereof.

This policy will remain in effect with respect to any successor position or office performing the functions of its predecessor until this policy is modified, revoked, or superseded.

## 11 Amendments to This Policy

This policy may be modified or amended in writing following a process defined by MCC's Policy on Creating and Maintaining Policies.

## Annex A: Procedures for Implementing the C-TIP Policy





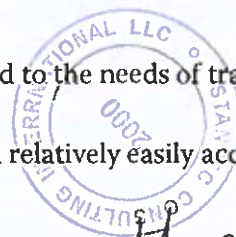
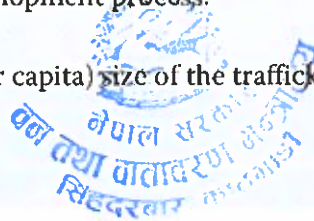
## 1. Purpose

This document establishes the procedures that the MCC and MCA staff will follow with respect to assessing, categorizing, managing and mitigating TIP risks in MCC-funded projects. To the extent possible, TIP risks should be assessed as part of existing processes during compact development, notably due diligence conducted by SGA and ESP. However, TIP-specific assessment may be required in cases where the community is at increased risk for TIP or when more information is needed in addition to what is provided by the ESP and SGA studies. Assessments of the TIP situation in a country during the project development and due diligence phases are covered in detail in section 2 of this annex. All projects that use contract mechanisms for works (both large and small), non-consulting, and consulting services are required to follow the Counter-TIP Minimum Compliance Requirements as outlined in section 3 of this annex. For those projects categorized as high-risk by the MCC SGA with support from the MCA, a TIP Risk Management Plan is required in addition to the Counter-TIP Minimum Compliance Requirements as described in section 4 of this annex.

## 2. Risk Assessment

TIP risk assessment will be conducted in all MCC-funded projects. The Initial Social and Gender Assessment report will include a brief section on the overall TIP situation in the country (based on the U.S. State Department's TIP Report and other additional sources), including the country's TIP rating. In addition, MCC utilizes the following questions to assess the overall context of the TIP situation in a country early in the compact development process:

- What is the relative (or per capita) size of the trafficking/forced labor problem in the country?
- Forced/indentured labor
- Sexual exploitation
- Child labor
- Sexual exploitation of children
- What are the main patterns of trafficking/exploitation in the country? As a source? As a destination? As a transit?
- What are the primary causal factors involved in each of these patterns?
- To what extent does the justice system act as a deterrent to traffickers?
- To what extent does the justice system protect the rights of the population, including victims of trafficking?
- To what extent is there trust between the population and justice actors (police, judges, etc.)?
- Are there government bodies or civil society organizations that assist citizens in accessing their rights?
- Do they work with trafficking victims?
- Do they work with migrants?
- Do they search for trafficking victims or simply respond to the needs of trafficking victims after being directly approached?
- Are their locations and contact details well-known and relatively easily accessible by trafficking victims?



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During the project development and due diligence phases, the MCC SGA team, in collaboration with ESP and sector leads, is to utilize the following questions to assess TIP risks. These questions are to be considered when conducting the assessment and can be adapted as needed. Appropriate tools for assessing these risks include Environmental and Social Impact Assessment (ESIA), feasibility studies, TIP-specific studies, or other social and gender-related studies.

1. Project location risk

- Is there an existing problem or pattern of TIP (or related forms of exploitation such as indentured/child labor) in the project area? If so, what are these?
- What is the extent/nature of in and out migration in the project area?
- Are the populations in these areas marginalized in any way (e.g. ethnic minorities)?
- Is the area prone to natural or man-made disasters?
- Are there other factors existing in the community that could facilitate trafficking and related forms of exploitation (e.g. attitudes that children should earn money to support parents, exploitative or corrupted traditional practices?)

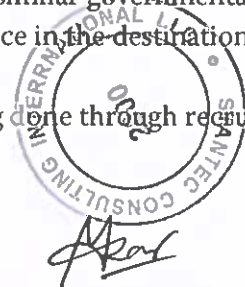
2. Project implementation related risk

- Is the project likely to involve a significant number of migrant laborers, particularly from another country?
- Does the project involve improvements in transport infrastructure or another factor that might lead to an increase in migration?
- Is there a possibility that project vehicles may be used for the transport of trafficked persons, either purposefully or inadvertently?
- Is the project likely to increase demand for commercial sex? To what extent is this demand likely to be met by forced/coerced women and/or minors?
- Are there TIP risks relating to resettlement?
- Does the project involve resettlement?
- Is this resettlement likely to involve the loss of community livelihoods and/or significant changes to community lifestyle that present TIP risks?
- Are there other factors that add risk to the resettlement process (e.g. the involvement of a marginalized population)?
- Are there any other relevant factors in relation to community TIP risks?
- Are there any other relevant factors in relation to potential TIP risks faced by communities outside of the project area?

3. Recruitment and Labor practices related risk

- What is the likelihood that foreign labor will be needed to staff the project?
- If so, what information is available on the situation of migrant workers from that country? (Including recruitment processes and payments).
- What is the legal framework under which third party laborers are hired, including the requirements of the Ministry of Labor or Immigration (or similar governmental entity) for work visas, etc. In particular, is there a policy and/or practice in the destination country of the employer holding the identity documents of workers?
- How is labor being recruited for the project? If this is being done through recruiting agents, are the workers required to pay fees?

4. Possible TIP risks following project completion





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- Does the project involve the development of new transport routes that create new migration paths and/or involve previously remote communities?
- Is there is reason to believe the project will lead to significant changes in the lifestyles of local communities?
- Is the project likely to increase demand for paid sex? To what extent is this demand likely to be met by forced/coerced women and/or minors?

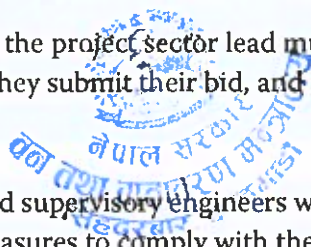
It is important to note that some projects may need to be re-assessed once there is more information available on the project or community, or even during project implementation if specific situations arise that require additional attention. In cases where a re-assessment is conducted and the level of risk changes from low to high, MCAs are expected to comply with all requirements associated with high-risk projects.

### 3 Counter-TIP Minimum Compliance Requirements

The compliance requirements set forth in this section apply to all MCC-funded projects that use works, non-consulting, and consulting contracts regardless of whether they are categorized as low-risk or high-risk for TIP , including those under grant facilities or commercial facilities.

The MCA SGA team is responsible for ensuring that potential bidders are explicitly alerted through clear requirements in the solicitation documents; questions and answers clarified during pre-bid meetings; and the requirements discussed during negotiations with the selected winner of the contract including through briefing by MCA on their contractual responsibilities. Guidance and support will be provided by MCC to MCA as needed throughout the entire contracting and implementation process.

MCA through its SGA team and the project sector lead must notify bidders of the following counter-TIP minimum requirements before they submit their bid, and ensure compliance throughout project implementation.



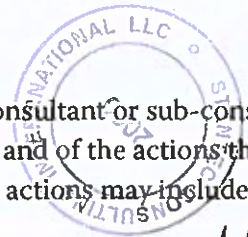
MCA staff, project managers, and supervisory engineers will conduct periodic site visits to certify that the contractor is taking specified measures to comply with the counter-TIP minimum requirements.

#### Prohibition

Bidders, contractors, subcontractors, consultants, sub-consultants and any of their respective employees shall not engage in any form of trafficking in persons during the period of performance of any contract funded, in whole or in part, with MCC funding and must also comply with those prohibitions described in U.S. laws and Execute Orders regarding TIP , including using misleading recruitment practices; charging employees recruitment fees; or destroying, concealing, confiscating, or otherwise denying access by an employee to the employee's identity documents.

#### Requirements

1. Each bidder, supplier, contractor, subcontractor, consultant or sub-consultant shall:
  1. notify its employees of MCC's C-TIP Policy and of the actions that will be taken against employees for violations of this policy. Such actions may include, but are not limited to,



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- removal from the contract, reduction in benefits, or termination of employment; and
2. take appropriate action, up to and including termination, against employees or subcontractors or sub-consultants that violate the prohibitions set out in this policy.
2. Each bidder (whether to be a supplier or contractor) or consultant as part of its bid or proposal shall:
1. certify that it is not engaged in, facilitating, or allowing any activities constituting trafficking in persons (defined in section 4.1 of the main body of this policy), or related activities also prohibited under this policy, for the duration of the contract;
  2. provide assurances that activities constituting trafficking in persons, or related activities also prohibited under this policy, will not be tolerated on the part of employees, subcontractors or sub consultants (as the case may be), or their respective employees; and
  3. acknowledge that engaging in such activities is cause for suspension or termination of employment or of the contract.

### Notification

A bidder, supplier, contractor, subcontractor, consultant or sub-consultant shall inform the MCA immediately of:

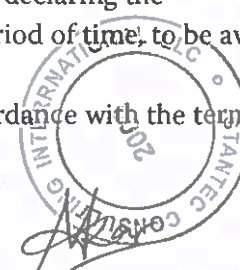
- any information it receives from any source (including law enforcement) that alleges its employee, subcontractor, sub-consultant, or the employee of a subcontractor or sub-consultant, has engaged in conduct that violates this policy; and
- any actions taken against any employee, subcontractor, sub-contractor/consultant, or the employee of a subcontractor or sub-consultant, pursuant to these requirements.

When a contract breach regarding TIP has occurred, the MCA is required to notify MCC within 24 hours of becoming aware of the incident.

### Remedies

Once the incident has been confirmed and depending on the severity of each case, MCA will apply remedies, which could include:

- the MCA requiring the contractor/consultant to remove the involved personnel, sub-consultant or any of its involved personnel, or any involved agent or affiliate;
- the MCA requiring the termination of a subcontract or sub-award;
- suspension of contract payments until the breach is remedied to the satisfaction of the MCA;
- loss of incentive payment, consistent with the incentive plan set out in the contract, if any, for the performance period in which the MCA determined non-compliance
- the MCA pursuing sanctions of the contractor/consultant, including declaring the contractor/consultant ineligible, either indefinitely or for a stated period of time, to be awarded any MCC-funded contract; and
- termination of the contract by the MCA for default or cause, in accordance with the termination clause of the contract





The response to a breach of contractual obligations in relation to TIP should be proportional to the violation and potential consequences to the workers.

### Subcontracts

The supplier, contractor, subcontractor, consultant or sub-consultant shall include the substance of all of the provisions of this policy, in all subcontracts.

### 3.1 Monitoring and Reporting Responsibilities

MCC-funded projects must offer the possibility for all employees working on these projects to: (1) report TIP instances to the contractor; (2) report TIP instances to the corresponding MCA (in order to initiate an investigation), and/or (3) report TIP instances to an independent/third party through an anonymous mechanism (such as a hotline or anonymous suggestion/complaint comment box). In turn, MCAs are required to respond to any TIP situations within 24 hours after the incident is initially reported.

It is necessary to establish clear and effective reporting mechanisms for employees, contractors, supervisory engineers, project managers, independent engineers, and MCAs.

#### Contractors

Contractors must provide employees working on MCC-funded projects with the following information to report instances of TIP (in a clear and simple manner):

- Contractor – name and contact information;
- MCA—name and contact information;
- Anonymous TIP-hotline (if existing)—telephone number/email address of a working TIP-hotline, reporting site; and
- Anonymous comment box that will be locked; only MCA-Sector/SGA Directors and the project manager of the supervisory engineer will have a key to the box.

Note on monitoring compliance: MCA SGA, project managers, supervisory engineer, independent engineer, and MCC SGA visiting the sites need to verify that the required information outlined above is readily available to employees.

Contractors also must clearly establish who will be responsible for communicating to MCA potential TIP incidents that need to be further investigated and/or reports of TIP incidents received by employees, community members, NGOs, or any other relevant party. Such mechanism will include the name and contact information of the contracting firm personnel assigned to TIP issues and responsible for communications to MCA. The MCA must notify the contractor of who the MCA point of contact will be for TIP-reports (it may be the MCA SGA, ESP, or legal staff).

Additionally, the contractor needs to define prior to contract signing who and how it will engage with the potential victim or person doing the reporting. For example, this involves ensuring that the victim receives adequate and prompt assistance or ensuring whistleblower protection. It is recommended that the person



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responsible for informing the MCA of any TIP situations/reports is also the person following-up on the situation and providing assistance to victims.

Note on monitoring compliance: MCA SGA needs to ensure that the contractor has appointed a person to oversee TIP reporting processes and that this is reflected in the contract. In addition, when conducting site visits, MCA SGA staff, supervisory engineer, project manager, independent engineer, and MCC SGA staff should ask who this point person is and confirm it matches the records or contract information.

**Project Manager:**

Under guidance from MCA SGA staff, and with support from relevant project directors, the project manager must:

- Establish a process for conducting site visits that explicitly observe contractor's compliance with the Counter-TIP Minimum Compliance Requirements and the TIP Risk Management Plan (if applicable);
- Establish a process where TIP oversight efforts are reported, for example, through periodic reports; and
- Establish a process for quickly reporting to MCA any instances of observed TIP violations/incidents.

**Supervisory Engineer:**

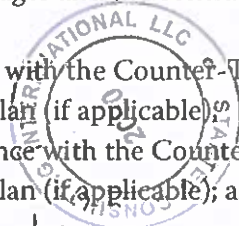
On behalf of the MCA, the supervisory engineer must:

- Conduct periodic site inspection to certify that the contractor is taking specified measures to comply with counter-TIP requirements;
- Review compliance with the Counter-TIP Minimum Compliance Requirements and the TIP Risk Management Plan (if applicable);
- Assist in gathering more information on observed or reported TIP violation or incident, as needed; and
- The bidders for supervisory engineer contracts will be required to propose staffing and plan for this effort.

**Independent Engineer:**

Under guidance from MCC SGA team and relevant MCA project directors, the independent engineer must:

- Review the various processes established by the MCA, the project manager and the contractors for adequacy and effectiveness and the supporting documentation;
- Review the adequacy and quality of resources allocated for compliance with the Counter-TIP Minimum Compliance Requirements and the TIP Risk Management Plan (if applicable);
- Make a quarterly assessment of the quality of the contractor's compliance with the Counter-TIP Minimum Compliance Requirements and the TIP Risk Management Plan (if applicable); and



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- Assist MCC with gathering more information on a reported TIP violation or incident, if requested by MCC while investigating a specific incident.

**MCA:**

MCAs are ultimately responsible for ensuring that TIP reports are appropriately addressed. When any TIP incident is reported to the MCA, the MCA is required to respond within 24 hours after the incident is initially reported. MCA also must report to MCC RCM and MCC SGA Team and TIP incidents within 24 hours or as soon as reasonably possible, followed-up with a summary report to be submitted no later than 7 days after the incident occurred.

When an incident is reported, the MCA must be prepared to quickly provide a three-pronged response:

- Ensure victim/potential victim is receiving professional assistance/support and will not be penalized for reporting the fact that someone is engaging in TIP-related activities, or that s/he has been trafficked or for having engaged in the activities entailed in his or her trafficking (this support can be provided by linking the victim to an institution/organization that provides this type of professional assistance);
- Report the incident to the previously identified entity responsible for conducting an investigation (this institution could be local law authorities, human rights NGO, advocacy organization, or other institution working on counter-TIP efforts). When necessary, an independent investigator may be hired to conduct an investigation. The MCA and MCC will determine the appropriate institution/mechanism for investigating actual or potential TIP violations based on careful consideration of various factors, including technical skills for conducting investigations, presence of local organizations with TIP expertise, as well as the degree to which local law enforcement may be complicit in TIP; and
- Notify MCC within 24 hours. The MCA SGA Director, MCA CEO, MCA Legal Counsel, or MCA Project Lead are responsible for notifying MCC SGA, MCC Legal Counsel, and the Resident Country Mission ("RCM") of the reported incident and providing information/reports on the issue.

The MCA SGA Director is responsible for following up on TIP reports with the relevant contractor and project director. This involves confirming that the alleged victim is safe and has received the necessary assistance. In order to provide prompt and helpful assistance to the victim, the MCA, in coordination with the contractor, should identify existing institutions that have expertise in TIP and are able to provide assistance. Neither MCC nor MCA will be financially responsible for this assistance.

**MCC:**

MCC will provide support and oversight to MCA in ensuring that TIP-related reports are appropriately addressed. In order to accomplish this, MCC SGA must:

- Provide guidance and support to MCA SGA in the establishment of clear reporting mechanisms to be adopted by contractors and supervisory engineering firms;
- Provide guidance and support to MCC project directors and corresponding independent engineers, identifying clear mechanisms for monitoring and reporting TIP instances to MCC;





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- Work closely with the RCM, MCC's Office of General Counsel, ESP, project directors and relevant contractor/consultants to support MCAs in investigation processes and determining appropriate response to contract breaches;
- When a TIP incident is reported, ensure that MCAs are conducting the necessary investigations and gathering information, as well as providing appropriate assistance to the victim(s); and
- When a TIP incident is confirmed, work with the MCA to ensure the appropriate processes are followed when a contractor does not comply with the terms and conditions and requirements of its contract.

Care should be taken to distinguish the causes of migration (poverty, inequality, etc.) with the causes of trafficking (such as opportunities for/presence of traffickers, lack of options for safe migration, failure of protective services)



This is intended as a broad category recognizing that across a wide range of different contexts and with a problem that is constantly evolving, it is impossible to capture all possibilities in a list of prescribed questions. For example, there may be practices such as virginity selling that have recently arisen in a project area, or a community norm for sending young children away as domestic workers for wealthy relatives, or acceptability of forced/early marriage.

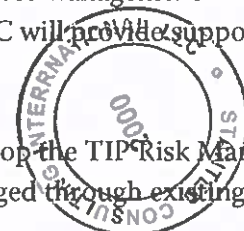
#### 4 TIP Risk Management Plan

For projects classified as "high risk," the MCA must develop a TIP Risk Management Plan in addition to meeting the Counter-TIP Minimum Compliance Requirements.

##### 4.1 Developing the TIP Risk Management Plan

The TIP Risk Management Plan will be developed by the MCA SGA Director or by a suitably qualified expert or organization engaged by the MCA. The TIP Risk Management Plan must be finalized, and included in the technical specifications with clear cost items and deliverables linked with it – prior to initiating the bidding processes for the corresponding contracts in order for potential bidders to have the necessary information to submit a complete proposal. The contractor is responsible for implementing the TIP Risk Management Plan. The MCA SGA Director is ultimately responsible for monitoring the implementation of the TIP Risk Management Plan, with support from project management contractor/consultants, and supervisory engineers (where applicable). MCC will provide support and oversight throughout this process.

In making the decision about whether outside assistance is needed to develop the TIP Risk Management Plan, the MCA should consider two main points: (1) can the risks be managed through existing processes,





and (2) if the risks cannot be managed entirely through existing processes, does the MCA SGA Director have the necessary resources (time/expertise) to develop the TIP Risk Management Plan? The TIP Risk Management Plan should incorporate (to the extent possible) the C-TIP best practices described in Annex B.

#### 4.2 Review and Approval of the TIP Risk Management Plan

The MCA SGA Director, as well as the MCA ESP staff and the MCA project director, should review and provide input into development of the TIP Risk Management Plan. MCA is expected to own the content of the TIP Risk Management Plan, as well as validate collective understanding between its staff, implementing entities, contractors, project managers, MCC, and NGOs (when relevant) on the completed plan. MCC must approve the TIP Risk Management Plan before it is implemented.

#### 4.3 Structure of the TIP Risk Management Plan

Where necessary, MCC SGA may hire contractors to work as independent auditors. The MCA SGA unit will be responsible for reporting any suspected occurrences of TIP to the RCM and MCC SGA. MCC SGA, in turn, will forward the information to the MCC Office of the General Counsel and project director, working jointly in order to formulate the appropriate response.

##### 1. Country Background (1-2 pages)

Brief summary of:

- The main TIP trends and patterns affecting the country and their relevance to the project.
- The country's response to TIP, including the legal framework, law enforcement, victim identification and support, policy responses and prevention initiatives.
- Key actors responsible for responding to TIP, with a brief description of their capacity.

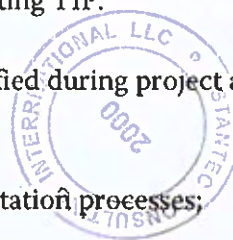
##### 2. Project Context (2 pages)

- TIP risks related to the project
- Existing community capacity to respond to TIP.
  - Level of knowledge among different population segments within the project communities about TIP, including how to identify it and how to avoid being trafficked.
  - Level of knowledge in project communities about TIP risks connected with migration, and how to avoid them.
  - Existing organizations and initiatives working on TIP in or close to the project location.
  - Whether there is a legal framework for prohibiting and punishing TIP.
  - Whether authorities are engaged in / facilitating TIP.

##### 3. Identified Project Risks (2 to 5 pages)

This section must include a description of the risks identified during project assessment. Risks will be organized into the following categories:

- Risks related to recruitment and labor practices;
- Risks related to project development and implementation processes;
- Risks related to project location; and



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- Risks after project implementation phase concludes.
4. TIP Risk Management Plan Work Plan (5 to 10 pages)

The work plan identifies focal issues and concrete activities to address potential TIP risks across the project. The TIP Risk Management Plan work plan will specify the TIP risk identified and all risks will be organized according to the four risks categories listed above. It is not necessary to populate every category; instead, it is recommended that the work plan focus on risks identified in the assessment period.

After a risk has been identified, the next step is to determine the activities to address each risk. Each activity must include a target audience as well as the timing and frequency. This will help relevant parties monitor and report on progress made. If an activity is recurrent, the frequency should be clearly stated.

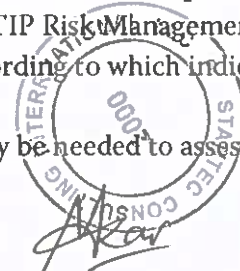
Each activity must also specify who will be the responsible party for its execution. The contractor will usually be responsible for conducting the activities. The MCA and supervisory engineers or project managers will be responsible for monitoring and ensuring compliance. However, for risks that are likely to occur after the project implementation phase concludes, the MCA will be responsible for arranging mitigation measures to protect communities and vulnerable groups. If any activities require budgetary allocation, the budgetary needs should be noted in the work plan. For ease of reference, the work plan should be presented as a table and should also include narrative descriptions, as needed.

Annex C contains a sample TIP Risk Management Plan work plan table for a roads project located in a community that is high-risk for TIP. This sample table illustrates the different components of the TIP Risk Management Plan work plan. This sample is not intended to be replicated and MCAs/contractors should not limit the scope of their work to the activities listed in the sample.

5. Monitoring and Reporting Strategy (1 to 2 pages)

This section must include a list of key progress measures and specify reporting responsibilities. The MCA SGA Director, supported by the MCA's M&E, ESP, and the corresponding project director, is responsible for overseeing the monitoring and reporting process. The MCA may need to hire local supervision contractor/consultants to help ensure contractor compliance with the TIP Risk Management Plan. This monitoring and reporting strategy should also describe the process for reviewing and updating the TIP Risk Management Plan, including dates by which annual plan updates will be prepared. At a minimum, this section will:

- Propose progress indicators to be included in the monitoring and reporting strategy; additional indicators to be added to the work plan amendments (if the work plan requires changes, or approval has occurred prior to completion of the TIP Risk Management Plan), and specify the parameters (social category, gender, etc.) according to which indicators should be disaggregated.
- Recommend if and what additional studies or evaluations may be needed to assess





- implementation of the TIP Risk Management Plan.
- Describe the process for reviewing and updating the TIP Risk Management Plan.
- 6. Communications Strategy (1 page or less)
  - Include brief section on communication and outreach activities. This plan should be developed in close collaboration with the MCA Communications Specialist.
- 7. Budget (half a page or a table)
  - Indicate the specific budget from which funds for each activity have been or will be allocated and whether additional resources are required.
- 8. Training and Capacity Building Strategy (1 page or less)
  - Assessment of the capacity of the MCA, Implementing Entity, contractors, communities, and other related stakeholders so that appropriate training can be developed to increase their awareness and acceptance of how TIP relates to their work, as well as their knowledge of the effective responses. In developing this assessment, MCAs should seek out appropriate local NGOs or local government institutions who have knowledge of the local context.
  - Description of a strategy to provide training and capacity building to the different actors involved.

#### 4.5 Implementing and Monitoring the TIP Risk Management Plan

Each contractor is responsible for implementing the TIP Risk Management Plan. Working in close collaboration with supervisory and independent engineers and/or project managers, the MCA (with support from the supervisory engineer and independent engineer) will monitor the contractors' compliance.

#### 4.6 Updating the TIP Risk Management Plan

The TIP Risk Management Plan should be reviewed and updated on an annual basis (at a minimum), with participation of all relevant stakeholders, including MCC. The MCA SGA Director is responsible for leading the updating process of the TIP Risk Management Plan and MCC SGA is responsible for approving the revised TIP Risk Management Plan. For each of the proposed activities, the annual update should describe progress made, note any implementation issues, and describe how these will be resolved. The plan should describe recent developments in TIP trends and responses relevant to the project. It should also state whether additional consultations with MCC, MCA, and affected populations in project areas are required, and specify when these will be held.

If any such update results in changes or additions to any requirements or responsibilities levied on contractor/consultants, MCC and MCA will need to consult (including on procurement and legal matters) to determine whether and to what extent contractor/consultants with existing contracts may be expected to implement such changes (recognizing that such changes are likely to have cost and schedule implications).

### Annex B: Best Practices on Counter-TIP Efforts





The following provisions are intended to be incorporated as relevant to the TIP Risk Management Plan and serve as best practices to prevent trafficking in persons, especially in response to labor exploitation.

## 1. Prevention of Labor Exploitation

### Contractors are prohibited from:

- Destroying, concealing, confiscating, or otherwise denying access by an employee to the employee's identity or immigration documents;
- Using misleading or fraudulent practices during the recruitment of employees or offering of employment;
- Using recruiters that are not licensed in accordance with the standards applicable for the country in which the recruiting takes place;
- Charging employees recruitment fees; and
- Failing to meet the host country housing and safety standards when providing or arranging housing to an influx of workers.

### Contractors are required to:

- Post employee rights (described below) in public spaces, in English and in any foreign language(s) spoken by a significant portion of the workforce;
- Develop hiring and subcontracting policies to protect the rights of their employees and the rights of subcontractor employees;
- Notify their employees and subcontractors of this policy and the prohibited activities, as well as of their responsibility to report TIP violations by the contractor or subcontractor employees, at any tier, with employee protections from retribution for whistleblowing on TIP violations;
- Display counter-TIP posters/materials/information in the languages understood by the significant portion of the employees. These materials should contain details of contacts for information and assistance;
- Develop clear reporting mechanisms for suspected cases of TIP and/or action that violates this policy and ensure that all contract workers understand how and where they should report any cases, including the name and contact information for the person responsible for handling TIP-related issues. Employees should also be given the option to report any TIP-related actions in an anonymous way through an independent third party, for example, through a TIP hotline;
- Notify the appropriate MCA contact upon becoming aware of any action that violates this policy;
- Ensure that all subcontracts include the substance of all of the above components; and in consultation with MCA, make provisions for appropriate remedies in case of contract breach; and
- Provide an employment contract, recruitment agreement, or similar work document in writing in the employee's native language and prior to the employee departing from his or her country of origin.

### Employees working on MCC-funded projects have the right to:

- Hold their own identity or immigration documents or, if they choose to allow their documents to





be held by their employer, the right to unrestricted access to these documents (consider locker facilities);

- Receive agreed upon wages on time;
- Take work-breaks, in accordance to local labor laws;
- Elect to terminate employment at any time;
- Identify grievances without fear of reprisal;
- Have a copy of their employment contract in a language they understand;
- Receive wages that are not below any applicable legal in-country minimum wage;
- Be notified of their rights, wages, and prohibited activities prior to signing their employment contract; and
- If housing is provided, live in housing that meets host-country housing and safety standards.

Note: The contractor shall post these rights in employee work spaces in language(s) spoken by a significant portion of the workforce and in English.

## 2. Considerations on addressing breaches of contractual obligations related to TIP

It is recommended that where there is a clear breach of contractual obligations in relation to labor practices, this be addressed by the concerned MCA as a contract dispute. It is important to note that some behaviors prohibited by the DSG, such as charging of migration fees, may not involve a breach of local law. Upon identification of a prohibited labor practice, the MCA CEO should immediately contact the MCC resident country mission and MCC's SGA staff and inform them of the situation, any necessary verification steps, and the proposed response. The MCC resident country mission will inform MCC's Office of General Counsel, ESP, and project directors of the situation.

Reports on breaches of contractual obligations by contractors/sub-contractors or workers should be handled carefully and by following all appropriate legal procedures. The response should be treated on a case-by-case basis depending on the severity of the breach. An important consideration will be whether the alleged offense is against the law in the country concerned, as well as whether there is a direct connection between this offense and TIP. For example, it is unlikely that the unauthorized transport of people not working on the project would be illegal and where there is no evidence that this has led to trafficking, a warning may suffice for the first offense.

It should also be noted that procurement of commercial sex is also not illegal in many countries. Thus, unless there is a clear basis for suspicion that this involves minors or forced adults, or that the worker has otherwise broken the law, this is essentially a contractual matter and should be addressed as such. This also covers the situation of community complaints about such behavior, which may fall more in the realm of disturbances to the community than TIP.

Where there is clear evidence that a worker or contractor has broken a law, such as being complicit in trafficking, buying sex from a minor or knowingly purchasing sex from a trafficked woman, this should also be reported to the appropriate authorities. Where a worker or contractor is suspected of breaking the law, MCA and MCC should exercise discretion considering the severity of the alleged behavior and the

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capacity of the local criminal justice system.

### 3. Considerations on reporting mechanisms:

The MCA may use existing mechanisms to facilitate reporting and monitoring of TIP, including the environmental and social management plan, health and safety plans, or the social and gender integration plan. In addition, the MCA and contractors could involve the use of an existing TIP hotline (if previously verified as functioning), local law enforcement, or a local NGO. In very rare circumstances, where there is no viable alternative of an independent third party to support the reporting process, the MCA might consider whether the MCA SGA or another staff member is the appropriate point of contact. The MCA should ensure that workers and community members are aware of this mechanism and what it can and cannot offer.

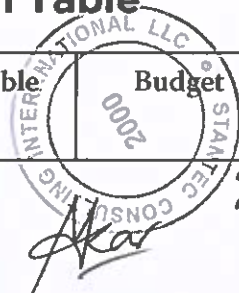
In some situations, communities and cities do not offer safe mechanisms for reporting TIP cases. These situations include when: law enforcement officials are actively engaged in or somehow facilitating trafficking; when trafficking victims are deprived of their liberty by being housed in shelters from which they are not free to leave; or when trafficking victims are given no option, but to return to country of origin. There may also be the possibility of reprisals from traffickers. These examples illustrate how it may not always appear to be in a trafficking victim's best interest to report his or her case to authorities. These potential situations must be reviewed carefully and taken into consideration when developing reporting mechanisms. The most important goal in assessing these situations is determining how best to protect the victims.

The MCA should be sensitive to workers' concerns, keeping in mind that in some cases workers may face longer-term negative consequences of any action taken by MCA, even when the action appears to be in the worker's best interest. Workers who are victims of TIP should not be required to leave the project prior to the completion of their contract. Should a worker who was a TIP-victim wish to discontinue working, the contractor may be required to pay out the remainder of the contract; this should be determined on a case by case basis and in accordance with local laws.

The MCA SGA and MCC SGA will comply with local laws and should jointly decide whether the case should be reported to the local authorities or appropriate human rights organizations working in the area (in cases where local authorities are suspected of being complicit in TIP). This decision should take into account: (1) the likely response of the local authorities; (2) the severity of the breach, again bearing in mind that practices prohibited by MCC regulations may not necessarily be illegal in the country concerned; and (3) the wishes of the workers. When seeking the views of the workers, it is important that the workers are fully informed by the investigator(s) of the implications for them of reporting the case to local authorities.

### Annex C: Sample TIP Risk Management Work Plan Table

TIP Risk	Activity to address risk	Target Audience	Timing/ Frequency	Responsible Party	Budget
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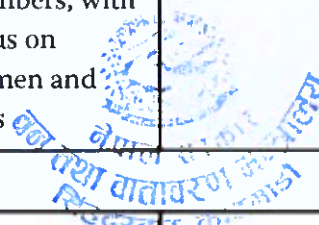






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<i>Risks related to recruitment and labor practices</i>					
Contractor recruits foreign workers	Training/capacity building on employee rights and counter-TIP	Workers	Once, upon initiating work	Contractor	N/A
	Secure locker facilities set-up for employees to save personal documents (including passports), with access 24 hours/day and 7 days/week	Workers	Ongoing	Contractor	\$5,000.00
<i>Risks related to project development and implementation processes</i>					
Worker camp is set-up close to isolated community	Training/capacity building on counter-TIP	Community members, with focus on women and girls	Every 3 months	Contractor	N/A
<i>Risks related to project location</i>					
Community located near international border	In collaboration with local NGO, provide border crossing authorities with technical support to improve border inspection processes	Border crossing employees	Once	MCA	\$10,000.00
<i>Risks after project implementation phase concludes</i>					



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Road will open new routes for international crossing	In collaboration with local NGO, raise TIP awareness among communities and border crossing authorities	Community members and border crossing authorities	Quarterly	MCA responsible for initiating partnership.	N/A
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### Annex D: List of Additional Resources

#### U.S. Department of State

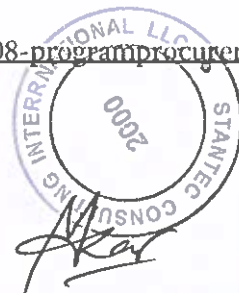
- Annual TIP Report with descriptions of TIP situation and responses in all countries  
<http://www.state.gov/j/tip/rls/tiprpt/index.htm>
- Human Trafficking Awareness Training: "TIP 101"  
<http://www.state.gov/j/tip/training/index.htm>
- Global Government and NGO Human Trafficking Hotlines List  
<http://www.state.gov/j/tip/rls/other/2011/168859.htm>
- Other resources, including: topics of special interest; victim identification; "20 Ways You Can Help"  
[www.state.gov/j/tip](http://www.state.gov/j/tip)

#### U.S. Department of Defense TIP Office

- Interactive training module  
[http://staticma.mil/ctip/trafficking/M/wrap\\_menupage.htm](http://staticma.mil/ctip/trafficking/M/wrap_menupage.htm)
- Other resources including training materials for law enforcement and for contracting/acquisition  
<http://ctip.defense.gov>

#### Millennium Challenge Corporation (MCC)

- Gender Policy  
[www.mcc.gov/documents/guidance/mcc-policy-gender.pdf](http://www.mcc.gov/documents/guidance/mcc-policy-gender.pdf)
- Program Procurement Guidelines  
<https://www.mcc.gov/documents/guidance/mcc-guidelines-021508-programprocurement.pdf>
- MCC Environmental Guidelines  
<http://www.mcc.gov/pages/docs/doc/environmental-guidelines>





## IFC Performance Standards and Guidance Notes

- Performance Standards  
[www.ifc.org/wps/wcm/connect/topics\\_ext\\_content/ifc\\_external\\_corporate\\_site/ifc+sustainability/publications/publications\\_handbook\\_pps](http://www.ifc.org/wps/wcm/connect/topics_ext_content/ifc_external_corporate_site/ifc+sustainability/publications/publications_handbook_pps)
- Guidance Notes (see in particular Guidance Note 2 on Labor and Working Conditions)  
[http://www.ifc.org/wps/wcm/connect/115482804a0255db96fbffd1a5d13d27/PS\\_English\\_2012\\_Full-Document.pdf?MOD=AJPERES](http://www.ifc.org/wps/wcm/connect/115482804a0255db96fbffd1a5d13d27/PS_English_2012_Full-Document.pdf?MOD=AJPERES)
- IFC Labor Toolkit  
<https://assets.mcc.gov/documents/IFC-Labor-Toolkit.pdf>

## Global Slavery Index

- Country estimates of TIP /forced labor, and analysis of response in selected countries  
[www.globalslaveryindex.org](http://www.globalslaveryindex.org)

## Additional Resources

- UN Recommended Principles and Guidelines on Human Rights and Human Trafficking  
<http://www.ohchr.org/Documents/Publications/Traffickingen.pdf>
- United Nations, Human Trafficking and Business: Good Practices to Prevent and Combat Human Trafficking, United Nations Global Initiative to Fight Human Trafficking, 2010.  
[http://www.ilo.org/sapfl/Informationresources/NonILOpublications/WCMS\\_142722/lang-en/index.htm](http://www.ilo.org/sapfl/Informationresources/NonILOpublications/WCMS_142722/lang-en/index.htm)
- Critique of TIP response and recommendations for future: From Experience: How to Combat Slavery in Our Generation  
[http://libertyasia.org/sites/default/files/how-to-combat-slavery-in-our-generation\\_anti-slavery-think-tank\\_final-23feb2014.pdf](http://libertyasia.org/sites/default/files/how-to-combat-slavery-in-our-generation_anti-slavery-think-tank_final-23feb2014.pdf)
- IOM Handbook on assistance for victims of trafficking  
[http://publications.iom.int/bookstore/index.php?main\\_page=product\\_info&cPath=47&products\\_id=116](http://publications.iom.int/bookstore/index.php?main_page=product_info&cPath=47&products_id=116)
- Terre des Hommes handbook on planning projects to prevent child trafficking  
<http://www.tdh.ch/en/documents/a-handbook-on-planning-projects-to-prevent-child-trafficking>
- Supporting child safe tourism  
<http://www.childsafetourism.org>





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## Endnotes

1. <http://www.state.gov/j/tip/rls/tiprpt/>
2. [http://www.ifc.org/wps/wcm/connect/c8f524004a73daeca09afd998895a12/IFC\\_Performance\\_Standards.pdf?MOD=AJPERES](http://www.ifc.org/wps/wcm/connect/c8f524004a73daeca09afd998895a12/IFC_Performance_Standards.pdf?MOD=AJPERES)
3. <http://www.whitehouse.gov/the-press-office/2012/09/25/executive-order-strengthening-protections-against-trafficking-persons-fc>
4. Chamberlain, J. Preventing the Trafficking of Women and Children and Promoting Safe Migration in the Greater Mekong Sub-Region, Vientiane, 2006.
5. Chamberlain, J. Preventing the Trafficking of Women and Children and Promoting Safe Migration in the Greater Mekong Sub-Region, Vientiane, 2006.
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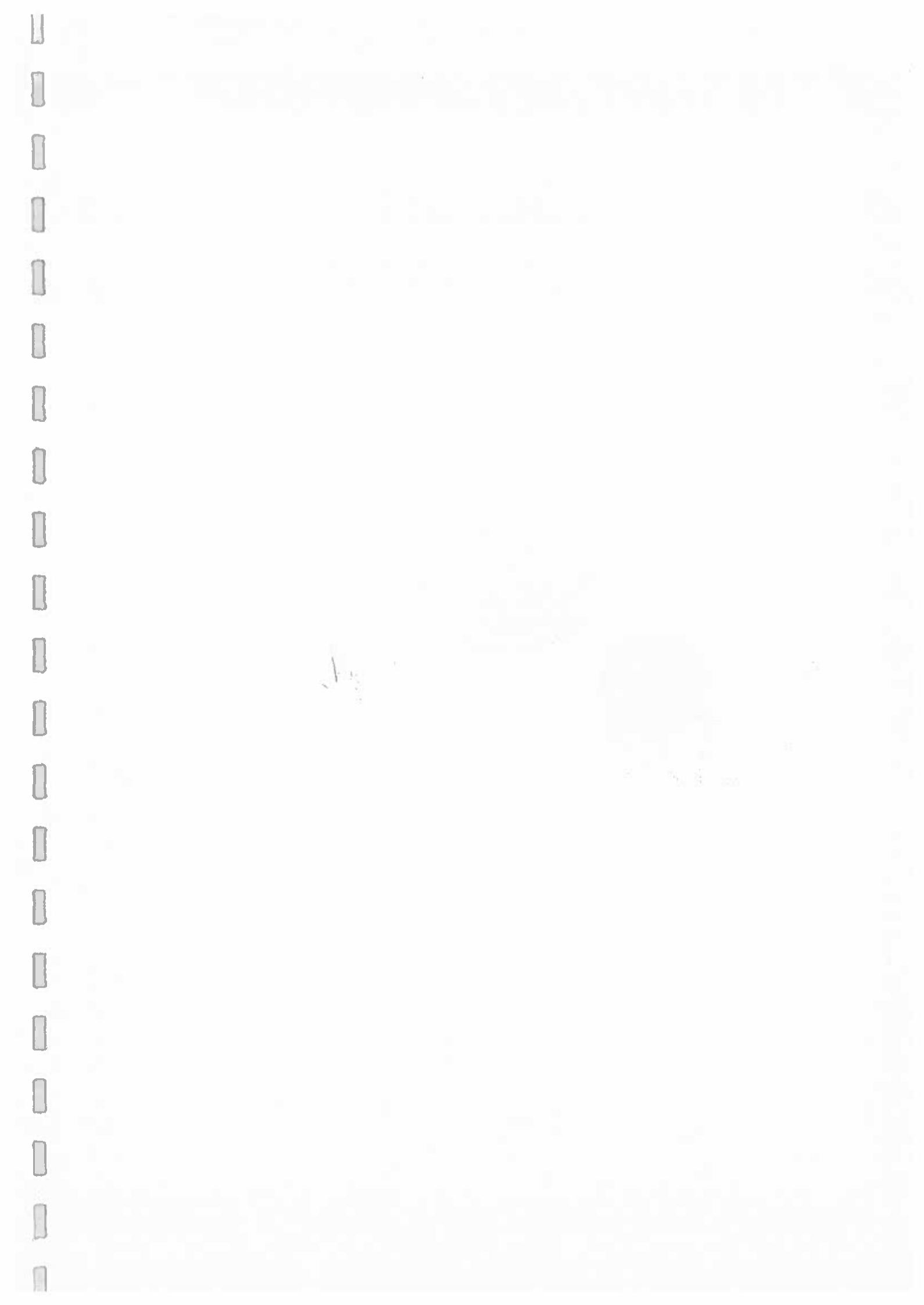


K - 3  
MCC Gender Policy (2011)



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# Gender Integration Guidelines

March 2011



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MILLENNIUM  
CHALLENGE CORPORATION  
UNITED STATES OF AMERICA



## Introduction

Because gender inequality can be a significant constraint to economic growth and poverty reduction, the Millennium Challenge Corporation (MCC) requires that gender is considered in the selection of eligible countries and integrated into the development and design of Compact programs, the assessment and implementation of projects, the monitoring of program results, and the evaluation of program impacts.

In order to ensure that gender is effectively integrated throughout the development and implementation of Compacts, the Millennium Challenge Corporation (MCC) has developed a Gender Policy, released in 2006, and, more recently, the Gender Integration Milestones and Operational Procedures (see Annex 1).

The purpose of this document is to provide operational guidance to MCC's country partners on their role integrating gender in all stages of Compact development and implementation in accordance with MCC's Gender Policy. This reflects MCC's commitment to gender equality as a development objective supporting poverty reduction. Below, we address not only country responsibilities but also how the country Core Team will work with the MCC team to ensure effective and timely gender integration.

## Roles and Responsibilities of the Social & Gender Assessment (SGA) Staff



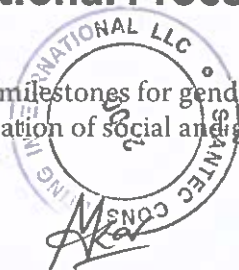
The MCC Social and Gender Assessment (SGA) staff is part of the Technical Services Division within the Department of Compact Operations. The SGA staff work with their country counterparts to proactively identify the social and gender context and the constraints and opportunities these present to poverty reduction. They are responsible for ensuring that gender integration is accomplished throughout Compact development and implementation phases and that gender milestones are met.

The SGA staff work in close collaboration with MCC's Environment and Social Assessment (ESA) staff and they are connected as a 'practice group' through work processes and other mechanisms. SGA also works with other members of MCC's country teams to provide leadership and management of the social and gender assessment and oversight processes, as described in MCC's Gender Policy and this document.

MCC requires that our partner countries have on their Core Team (as well as in the accountable entity after a Compact is signed) a person with similar social and gender analytical, design and project management skills and experience as MCC SGA staff. We have learned that ensuring that social and gender technical expertise is available from the earliest stages of Compact development is a key to successful gender integration and Compact outcomes.

## Gender Integration Milestones and Operational Procedures

What follows is a narrative description of operational procedures and milestones for gender integration that support MCC's Gender Policy. Gender integration is the incorporation of social and gender analyses







throughout development processes and institutions in order to have more sustainable and equitable outcomes. The practical reasons are efficiency and effectiveness: better design leads to lower costs, greater acceptability, smoother implementation, and better results.

### ***Start Up and Preliminary Analyses (Phase 1)***

MCC's Social and Gender Assessment staff provides guidance to the partner country prior to the design of the country's consultative process. The guidance will include (but is not limited to): integrating gender analysis in the design and implementation of consultations; designing the desk review of social and gender constraints and opportunities to poverty reduction; and ensuring that the partner country commits to the position of social scientist with gender expertise on the Core Team.

One of the first tasks of the Core Team is to develop the plan for consultations. A social scientist with gender expertise will be hired before the plan is developed in order to provide technical input to ensure that critical social and gender considerations are included in the plan and that relevant information from the consultations is documented. Once the Core Team finalizes the plan for consultations, MCC's SGA staff will review the plan to ensure that it incorporates gender considerations and policy requirements.

The SGA staff of MCC and the Core Team will then conduct a desk review and targeted external and in-country consultations to identify social/gender inequalities that are constraints to economic growth and poverty reduction. The SGA staff will also be responsible for ensuring that the findings from the desk review are considered by the Core Team before the Concept Papers are submitted to MCC. The objective is to identify legal, policy, institutional and socio-cultural constraints to gender equality, a critical dimension linked to economic growth and poverty reduction.

### ***Project Definition (Phase 2)***

When the Core Team submits the Concept Papers to MCC for review and preliminary selection of projects, MCC's SGA staff will participate in the review of the Concept Papers in order to ensure that the necessary gender considerations (based on the consultations and desk review) were taken into account during the development of the Concept Papers. Additionally, MCC and Core Team SGA staff will contribute to the project definition process based on MCC's Gender Policy and other requirements and relevant social and gender findings.

#### **Phase 1**

1. Initial Guidance from MCC SGA (prior to consultation design).
2. Core Team of partner country has social scientist with gender expertise on staff (prior to consultations).
3. MCC assigns SGA staff to country team (prior to consultation design).
4. MCC SGA staff reviews how consultative process incorporates gender considerations and policy requirements and communicates further action required to Core Team through Country Team Leader (CTL).
5. MCC SGA and Core Team SGA staff conduct a desk review and targeted external and in-country consultations to identify social/gender inequalities that are constraints to growth and poverty reduction and ensure that findings are considered by the Core Team before Concept Papers are submitted to MCC.

#### **Phase 2**

6. MCC's CTL ensures that MCC SGA staff review Concept Papers, communicates any further action required of the Core Team and ensures action is taken.



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### ***Project Development and Appraisal (Phase 3)***

Once specific sector(s) or project(s) from the Concept Papers are selected by MCC, the MCC and Core Team SGA staff will identify the specific gender issues, opportunities and constraints relevant to the specific sector and context, including the socio-cultural context. These preliminary assessments will inform the design phase.

Gender assessment will be conducted independently and/or integrated into relevant ToRs and deliverables for feasibility, ESIA, and due diligence contracts. MCC's SGA staff will ensure that findings from the gender assessments are included in the Investment Memorandum.

Gender will also be integrated into beneficiary analysis and monitoring and evaluation (M&E) work prior to Compact signing, including the design of baseline surveys; Annex III of the Compact document; and impact evaluation concept development. Sex-disaggregated data and gender indicators will be included, where appropriate.

### ***Compact Negotiations and Compact Signing (Phase 4)***

MCC's Country Team Leader (CTL) and the partner country's Core Team will ensure that the Compact language addresses gender considerations identified in Compact development and that relevant gender-related conditions are incorporated. The Compact budget will include resources to address gender integration, where appropriate.

### ***Pre-Entry Into Force Activities Phase (Phase 5)***

After the Compact is signed, the partner country will hire staff for the accountable entity, typically called the Millennium Challenge Account (MCA). With MCC's no objection, the partner country will hire a Senior Social/Gender Specialist as key personnel of the MCA (this is to ensure that this position is part of the MCA early on).

Prior to entry-into-force, MCA's Senior Social/Gender Specialist will develop the Gender Integration Plan and present it to MCC for approval. The Gender Integration Plan will include relevant findings from Compact development, it will

#### **Phase 3**

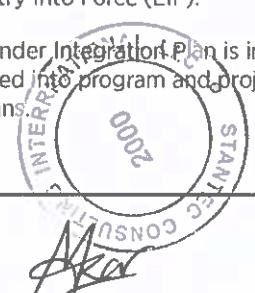
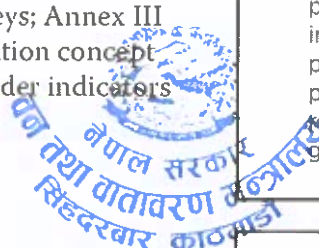
7. Preliminary gender assessment is conducted of relevant sectors and project areas.
8. Gender assessment is conducted independently or integrated into relevant ToRs and deliverables for feasibility, ESIA, and due diligence contracts.
9. Social and gender assessment is integrated in the Investment Memorandum.
10. Gender is integrated into beneficiary analysis and all M&E work including design of baseline surveys conducted prior to signing; gender integrated into Annex III of the Compact and impact evaluation concept development prior to compact signing (including review for sex-disaggregated data and gender indicators where appropriate).

#### **Phase 4**

11. CTL ensures that compact language addresses gender considerations identified in compact development and that relevant gender-related conditions are incorporated.
12. Where appropriate, compact budget includes resources to address gender integration.

#### **Phase 5**

13. With MCC's no objection, MCA hires a Senior Social/Gender Specialist with gender competency as key personnel.
14. Gender Integration Plan is developed by MCA and approved by MCC prior to Entry Into Force (EIF).
15. Gender Integration Plan is incorporated into program and project work plans.



*Step 1*



be updated as implementation proceeds, and it will be incorporated into the program and project work plans.

Gender assessments will also be conducted for relevant Scopes of Work (SOWs) and deliverables for feasibility, design, Environmental and Social Impact Assessment (ESIA), and sector contracts. Additionally, the SGA and M&E staff will work jointly to integrate gender into the M&E plans.

Both MCC and MCA are responsible for ensuring that there will be sufficient budget in implementation agreements and/or Environmental and Social Management Plans (or other relevant budgets) to incorporate gender integration activities.

### **Compact Implementation (Phase 6)**

Once the Compact enters into force, MCC and MCA hold an Implementation Workshop. Gender integration will be a topic in the Implementation Workshop. In addition, MCA SGA staff and leadership will ensure that gender training is provided early on for all MCA staff, implementing partners, and any other relevant stakeholders.

The MCA Senior Social/Gender Specialist will provide technical input on gender integration to other MCA staff, particularly other Environment and Social Assessment staff (such as resettlement) and sector specialists in the MCA, including Monitoring and Evaluation (M&E).

Along with MCC, the MCA's Senior Social/Gender Specialist will review each project for gender integration performance quarterly. The MCA Senior Social/Gender Specialist will also ensure that the Gender Integration Plan is reviewed annually and that problems are addressed to ensure successful gender integration.

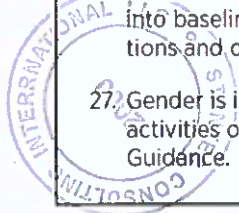
MCC's SGA staff will provide continuous support and oversight to the MCA team. The SGA staff will collaborate with other ESA and M&E colleagues in all necessary tasks.

Once the Compact implementation phase comes to an end, both MCC and MCA's social and gender staff will integrate gender into all relevant Compact closure activities.

The chart below (Annex 1) incorporates the Gender Milestones and Operational Procedures into the Compact development and implementation stages

16. Gender assessments are further integrated into relevant SOWs and deliverables for feasibility, design, ESIA, construction, agriculture, financial services, and other sector contracts.
17. SGA and M&E staff work together to ensure gender is integrated into monitoring and evaluation plans.
18. MCC and MCA ensure that there is sufficient budget in implementation agreements and/or Environmental and Social Management Plans and other budgets to incorporate gender.

- #### **Phase 6**
19. Gender integration is a topic in Implementation Workshop.
  20. Gender training is conducted for all MCA staff and implementing partners.
  21. MCA Senior Social/Gender Specialist provides input on gender integration to other ESA (such as resettlement) and sectoral specialists in the MCA.
  22. MCA Senior Social/Gender Specialist and MCC review each project for gender integration performance quarterly.
  23. MCC SGA staff provides support and oversight to MCA. In some cases, this will be through the social assessment function of the MCC ESA Director on the Country Team.
  24. With MCC ESA, the MCC SGA staff report on gender integration in each quarterly performance review.
  25. MCC SGA staff review performance monitoring data with M&E colleagues, quarterly, when relevant, to ensure analyses of sex-disaggregated data are available.
  26. Gender is integrated appropriately into baseline surveys, impact evaluations and other evaluations.
  27. Gender is integrated into relevant activities of the Compact Closure Guidance.

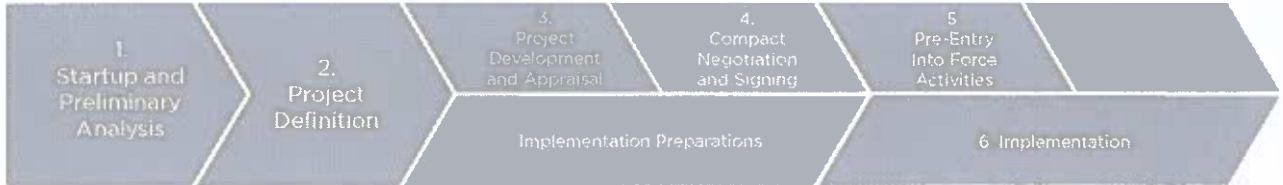


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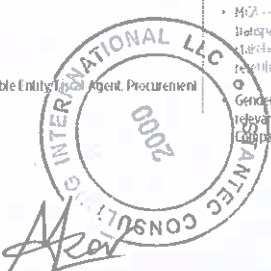
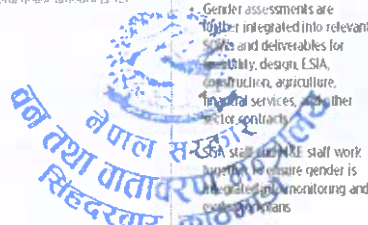
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# Annex 1: Gender Integration Milestones and Operational Procedures in Compact Phases



1. Startup and Preliminary Analysis	2. Project Definition	3. Project Development and Appraisal	4. Compact Negotiation and Signing	5. Pre-Entry Into Force Activities	6. Implementation
<p><b>Getting started:</b></p> <ul style="list-style-type: none"> <li>Country names National Program Coordinator has majority of the country process</li> <li>Initial guidance from MCC Social and Gender assessment (SGA) (prior to consultation design)</li> <li>Country establishes Core Team responsible for country-level country-level</li> <li>Core team of partner country has social scientist with gender expertise on staff (prior to consultations)</li> <li>MCC assigns SGA staff to country team (prior to consultation design)</li> <li>MCC SGA staff reviews how consultative process incorporates gender considerations and policy requirements and communicates further action required to Core Team through Country Team Leader (CTL)</li> <li>Country communicates related public consultations</li> <li>MCC SGA and Core Team SGA staff conduct a desk review and targeted external and in-country consultation to identify social/gender inequalities that are constraints to growth and poverty reduction and ensure that findings are considered by the Core Team before Concept Papers are submitted to MCC.</li> <li>Country conducts targeted targeted consultation to growth</li> <li>MCC conducts feedback analysis of findings constraints to growth</li> <li>MCC provides guidance on how to integrate gender into design documents and tasks</li> </ul>	<p><b>Identifying priorities:</b></p> <ul style="list-style-type: none"> <li>Country identifies stakeholder for operational projects</li> <li>Country develops and provides a Project Concept Paper for each operational project to the project team (MCC) and a set of related feasibility studies</li> <li>MCC conducts a "peer review" of the proposed Project Concept Papers. MCC may undertake further discussions in-country</li> <li>MCC's CTL ensures that MCC SGA staff review Concept Papers, communicates any further action required of the Core Team, and ensures action is taken</li> <li>MCC identifies related findings to Project Concept Paper, identifying related candidates and related findings studies that may be needed</li> <li>MCC identifies related findings if needed for gender development of approved concept</li> </ul>	<p><b>Developing the program:</b></p> <ul style="list-style-type: none"> <li>Preliminary gender assessment is conducted of relevant sectors, project areas</li> <li>Country further develops projects that appear promising for potential investment</li> <li>MCC develops related findings and assesses whether it is necessary to conduct feasibility studies, feasibility studies, environmental impact assessments, and social gender assessment plans, preliminary reports, etc.</li> <li>Gender assessment is conducted independently or integrated into relevant ToRs and deliverables for feasibility, ESIA, and due diligence contracts</li> <li>Country identifies stakeholder for project development and sustainability</li> <li>Country provides related findings, MCC prepares related findings, Country provides related findings to country-level findings</li> <li>MCC conducts formal appraisal of relevant projects, including external "peer review"</li> <li>Social and gender assessment is integrated in the Investment Memorandum</li> <li>Gender is integrated into beneficiary analysis and all MRE work including design of baseline surveys conducted prior to signing; gender integrated into Annex III of the Compact, performance monitoring plans, and any impact evaluation concept development prior to compact signing (including review for sex-disaggregated data and gender indicators where appropriate)</li> </ul>	<p><b>Negotiating the terms of the Compact:</b></p> <ul style="list-style-type: none"> <li>MCC and country conduct contract negotiations (contractual content)</li> <li>MCC prepares and internally reviews Memorandum to MCC Investment Committee</li> <li>MCC negotiates related findings and contract documents (final documents)</li> <li>CTL ensures that compact language addresses gender considerations identified in compact development and that relevant gender-related conditions are incorporated</li> <li>Where appropriate, compact budget includes resources to address gender integration</li> <li>MCC Board approves Contract</li> <li>MCC and country sign the Compact at this point funds are obligated to program activities (as defined and related to the compact)</li> </ul>	<p><b>Getting ready for implementations:</b></p> <ul style="list-style-type: none"> <li>Country initiates if necessary</li> <li>Completion of start up of the country activities (MCA Accountant-Entity)</li> <li>Completion of implementation ready agreement</li> <li>Completion of annual budgets and implementation plan</li> <li>Pre-qualification of consultants and contractors for early implementation</li> <li>With MCC's no objection, MCA hires Senior Social/Gender Specialist with gender competency as key personnel</li> <li>Gender Integration Plan is developed by MCA and approved by MCC prior to EIF</li> <li>Gender Integration Plan is incorporated into program and project work plans</li> </ul>	<p><b>The clock starts:</b></p> <ul style="list-style-type: none"> <li>Country "Enter-into-Force" (EIF) and five-year clock starts</li> <li>Gender integration is a topic in Implementation Workshop</li> <li>Gender training is conducted for all MCA staff and implementing partners</li> <li>Country provides initial treatment effect in the country</li> <li>Accountable entity is responsible for overall implementation of project</li> <li>MCA Senior Social/Gender Specialist provides input on gender integration to other ESA (such as resettlement) and sectoral specialists in the MCA</li> <li>MCA Senior Social/Gender Specialist and MCC review each project for gender integration performance quarterly</li> <li>MCC SGA staff provide support and oversight to MCA. In some cases, this will be through the social assessment function of the MCC ESA Director on the country team</li> <li>With MCC ESA, MCC SGA staff report on gender integration in each quarterly performance review</li> <li>MCC SGA staff review performance monitoring data with MRE colleagues, quarterly, when relevant, to ensure analyses of sex-disaggregated data are available</li> <li>Gender is integrated appropriately into baseline surveys, impact evaluations and other evaluations</li> <li>MCA submits quarterly progress reports</li> <li>MCC authorizes disbursements, EC Treasury transfers funds</li> <li>Generating public updates on progress</li> <li>Monitoring and evaluation of project impacts</li> <li>MCA consultation may include, bi-annually, with the implementing committee, resettlement process, etc.</li> <li>Gender is integrated into relevant activities of the Compact Closure Guidance</li> </ul>

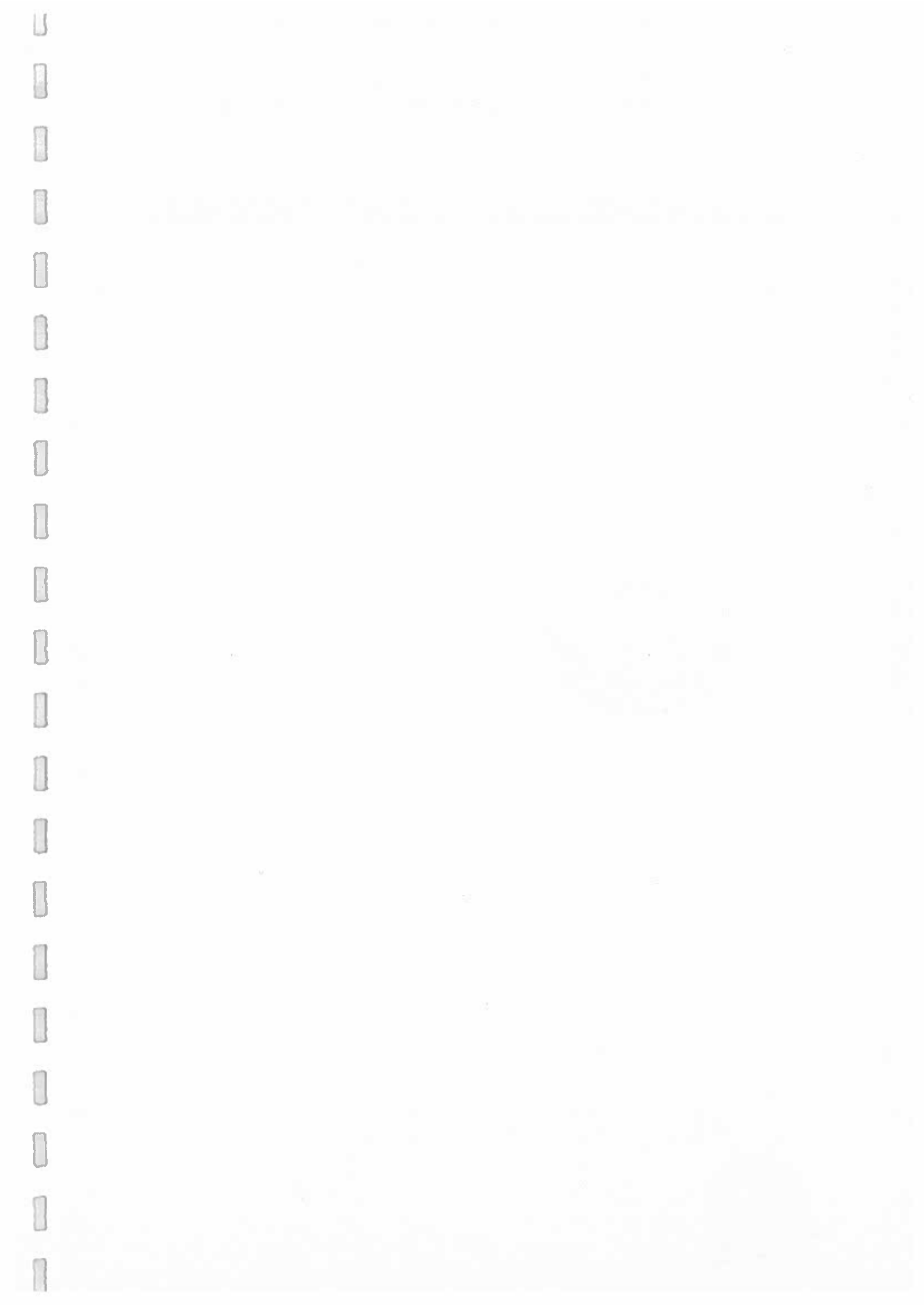


\* As defined under Section 6D of the Millennium Challenge Act of 2003

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IFC Performance Standards on Environmental  
and Social Sustainability (2012)





## Overview of Performance Standards on Environmental and Social Sustainability

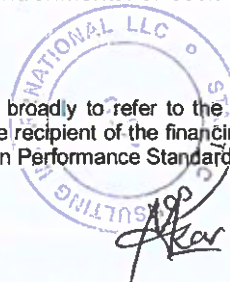
1. IFC's Sustainability Framework articulates the Corporation's strategic commitment to sustainable development, and is an integral part of IFC's approach to risk management. The Sustainability Framework comprises IFC's Policy and Performance Standards on Environmental and Social Sustainability, and IFC's Access to Information Policy. The Policy on Environmental and Social Sustainability describes IFC's commitments, roles, and responsibilities related to environmental and social sustainability. IFC's Access to Information Policy reflects IFC's commitment to transparency and good governance on its operations, and outlines the Corporation's institutional disclosure obligations regarding its investment and advisory services. The Performance Standards are directed towards clients, providing guidance on how to identify risks and impacts, and are designed to help avoid, mitigate, and manage risks and impacts as a way of doing business in a sustainable way, including stakeholder engagement and disclosure obligations of the client in relation to project-level activities. In the case of its direct investments (including project and corporate finance provided through financial intermediaries), IFC requires its clients to apply the Performance Standards to manage environmental and social risks and impacts so that development opportunities are enhanced. IFC uses the Sustainability Framework along with other strategies, policies, and initiatives to direct the business activities of the Corporation in order to achieve its overall development objectives. The Performance Standards may also be applied by other financial institutions.

2. Together, the eight Performance Standards establish standards that the client<sup>1</sup> is to meet throughout the life of an investment by IFC:

- |                         |  |
|-------------------------|--|
| Performance Standard 1: | Assessment and Management of Environmental and Social Risks and Impacts          |
| Performance Standard 2: | Labor and Working Conditions   |
| Performance Standard 3: | Resource Efficiency and Pollution Prevention                                     |
| Performance Standard 4: | Community Health, Safety, and Security   |
| Performance Standard 5: | Land Acquisition and Involuntary Resettlement                                    |
| Performance Standard 6: | Biodiversity Conservation and Sustainable Management of Living Natural Resources |
| Performance Standard 7: | Indigenous Peoples   |
| Performance Standard 8: | Cultural Heritage  |

3. Performance Standard 1 establishes the importance of (i) integrated assessment to identify the environmental and social impacts, risks, and opportunities of projects; (ii) effective community engagement through disclosure of project-related information and consultation with local communities on matters that directly affect them; and (iii) the client's management of environmental and social performance throughout the life of the project. Performance Standards 2 through 8 establish objectives and requirements to avoid, minimize, and where residual impacts remain, to compensate/offset for risks and impacts to workers, Affected Communities, and the environment. While all relevant environmental and social risks and potential impacts should be considered as part of the assessment, Performance Standards 2 through 8 describe potential environmental and social risks and impacts that require particular attention. Where environmental or social risks and impacts

<sup>1</sup> The term "client" is used throughout the Performance Standards broadly to refer to the party responsible for implementing and operating the project that is being financed, or the recipient of the financing, depending on the project structure and type of financing. The term "project" is defined in Performance Standard 1.



# Performance Standards on Environmental and Social Sustainability

January 1, 2012

are identified, the client is required to manage them through its Environmental and Social Management System (ESMS) consistent with Performance Standard 1.

4. Performance Standard 1 applies to all projects that have environmental and social risks and impacts. Depending on project circumstances, other Performance Standards may apply as well. The Performance Standards should be read together and cross-referenced as needed. The requirements section of each Performance Standard applies to all activities financed under the project, unless otherwise noted in the specific limitations described in each paragraph. Clients are encouraged to apply the ESMS developed under Performance Standard 1 to all their project activities, regardless of financing source. A number of cross-cutting topics such as climate change, gender, human rights, and water, are addressed across multiple Performance Standards.

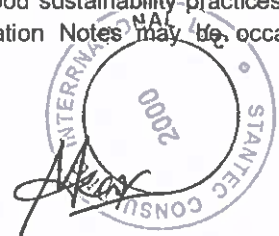

5. In addition to meeting the requirements under the Performance Standards, clients must comply with applicable national law, including those laws implementing host country obligations under international law.

6. The World Bank Group Environmental, Health and Safety Guidelines (EHS Guidelines) are technical reference documents with general and industry-specific examples of good international industry practice. IFC uses the EHS Guidelines as a technical source of information during project appraisal. The EHS Guidelines contain the performance levels and measures that are normally acceptable to IFC, and that are generally considered to be achievable in new facilities at reasonable costs by existing technology. For IFC-financed projects, application of the EHS Guidelines to existing facilities may involve the establishment of site-specific targets with an appropriate timetable for achieving them. The environmental assessment process may recommend alternative (higher or lower) levels or measures, which, if acceptable to IFC, become project- or site-specific requirements. The General EHS Guideline contains information on cross-cutting environmental, health, and safety issues potentially applicable to all industry sectors. It should be used together with the relevant industry sector guideline(s). The EHS Guidelines may be occasionally updated.

7. When host country regulations differ from the levels and measures presented in the EHS Guidelines, projects are expected to achieve whichever is more stringent. If less stringent levels or measures are appropriate in view of specific project circumstances, a full and detailed justification for any proposed alternatives is needed as part of the site-specific environmental assessment. This justification should demonstrate that the choice for any alternative performance level is protective of human health and the environment.

8. A set of eight Guidance Notes, corresponding to each Performance Standard, and an additional Interpretation Note on Financial Intermediaries offer guidance on the requirements contained in the Performance Standards, including reference materials, and on good sustainability practices to help clients improve project performance. These Guidance/Interpretation Notes may be occasionally updated.

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January 1, 2012

### Introduction

1. Performance Standard 1 underscores the importance of managing environmental and social performance throughout the life of a project. An effective Environmental and Social Management System (ESMS) is a dynamic and continuous process initiated and supported by management, and involves engagement between the client, its workers, local communities directly affected by the project (the Affected Communities) and, where appropriate, other stakeholders.<sup>1</sup> Drawing on the elements of the established business management process of "plan, do, check, and act," the ESMS entails a methodological approach to managing environmental and social risks<sup>2</sup> and impacts<sup>3</sup> in a structured way on an ongoing basis. A good ESMS appropriate to the nature and scale of the project promotes sound and sustainable environmental and social performance, and can lead to improved financial, social, and environmental outcomes.

2. At times, the assessment and management of certain environmental and social risks and impacts may be the responsibility of the government or other third parties over which the client does not have control or influence.<sup>4</sup> Examples of where this may happen include: (i) when early planning decisions are made by the government or third parties which affect the project site selection and/or design; and/or (ii) when specific actions directly related to the project are carried out by the government or third parties such as providing land for a project which may have previously involved the resettlement of communities or individuals and/or leading to loss of biodiversity. While the client cannot control these government or third party actions, an effective ESMS should identify the different entities involved and the roles they play, the corresponding risks they present to the client, and opportunities to collaborate with these third parties in order to help achieve environmental and social outcomes that are consistent with the Performance Standards. In addition, this Performance Standard supports the use of an effective grievance mechanism that can facilitate early indication of, and prompt remediation for those who believe that they have been harmed by a client's actions.

3. Business should respect human rights, which means to avoid infringing on the human rights of others and address adverse human rights impacts business may cause or contribute to. Each of the Performance Standards has elements related to human rights dimensions that a project may face in the course of its operations. Due diligence against these Performance Standards will enable the client to address many relevant human rights issues in its project.

### Objectives

- To identify and evaluate environmental and social risks and impacts of the project.
- To adopt a mitigation hierarchy to anticipate and avoid, or where avoidance is not possible, minimize,<sup>5</sup> and, where residual impacts remain, compensate/offset for risks and impacts to workers, Affected Communities, and the environment.

<sup>1</sup> Other stakeholders are those not directly affected by the project but that have an interest in it. These could include national and local authorities, neighboring projects, and/or nongovernmental organizations.

<sup>2</sup> Environmental and social risk is a combination of the probability of certain hazard occurrences and the severity of impacts resulting from such an occurrence.

<sup>3</sup> Environmental and social impacts refer to any change, potential or actual, to (i) the physical, natural, or cultural environment, and (ii) impacts on surrounding community and workers, resulting from the business activity to be supported.

<sup>4</sup> Contractors retained by, or acting on behalf of the client(s), are considered to be under direct control of the client and not considered third parties for the purposes of this Performance Standard.

<sup>5</sup> Acceptable options to minimize will vary and include: abate, rectify, repair, and/or restore impacts, as appropriate. The risk and impact mitigation hierarchy is further discussed and specified in the context of Performance Standards 2 through 8, where relevant.



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# Performance Standard 1

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

January 1, 2012

- To promote improved environmental and social performance of clients through the effective use of management systems.
- To ensure that grievances from Affected Communities and external communications from other stakeholders are responded to and managed appropriately.
- To promote and provide means for adequate engagement with Affected Communities throughout the project cycle on issues that could potentially affect them and to ensure that relevant environmental and social information is disclosed and disseminated.

### Scope of Application

4. This Performance Standard applies to business activities with environmental and/or social risks and/or impacts. For the purposes of this Performance Standard, the term "project" refers to a defined set of business activities, including those where specific physical elements, aspects, and facilities likely to generate risks and impacts, have yet to be identified.<sup>6</sup> Where applicable, this could include aspects from the early developmental stages through the entire life cycle (design, construction, commissioning, operation, decommissioning, closure or, where applicable, post-closure) of a physical asset.<sup>7</sup> The requirements of this Performance Standard apply to all business activities unless otherwise noted in the specific limitations described in each of the paragraphs below.

### Requirements

#### Environmental and Social Assessment and Management System

5. The client, in coordination with other responsible government agencies and third parties as appropriate,<sup>8</sup> will conduct a process of environmental and social assessment, and establish and maintain an ESMS appropriate to the nature and scale of the project and commensurate with the level of its environmental and social risks and impacts. The ESMS will incorporate the following elements: (i) policy; (ii) identification of risks and impacts; (iii) management programs; (iv) organizational capacity and competency; (v) emergency preparedness and response; (vi) stakeholder engagement; and (vii) monitoring and review.

#### Policy

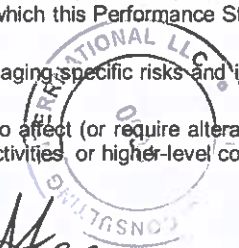
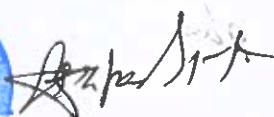
6. The client will establish an overarching policy defining the environmental and social objectives and principles that guide the project to achieve sound environmental and social performance.<sup>9</sup> The policy provides a framework for the environmental and social assessment and management process, and specifies that the project (or business activities, as appropriate) will comply with the applicable laws and regulations of the jurisdictions in which it is being undertaken, including those laws implementing host country obligations under international law. The policy should be consistent with the principles of the Performance Standards. Under some circumstances, clients may also subscribe

<sup>6</sup> For example, corporate entities which have portfolios of existing physical assets, and/or intend to develop or acquire new facilities, and investment funds or financial intermediaries with existing portfolios of assets and/or which intend to invest in new facilities.

<sup>7</sup> Recognizing that this Performance Standard is used by a variety of financial institutions, investors, insurers, and owner/operators, each user should separately specify the business activities to which this Performance Standard should apply.

<sup>8</sup> That is, those parties legally obligated and responsible for assessing and managing specific risks and impacts (e.g., government-led resettlement).

<sup>9</sup> This requirement is a stand-alone, project-specific policy and is not intended to affect (or require alteration of) existing policies the client may have defined for non-related projects, business activities, or higher-level corporate activities.



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to other internationally recognized standards, certification schemes, or codes of practice and these too should be included in the policy. The policy will indicate who, within the client's organization, will ensure conformance with the policy and be responsible for its execution (with reference to an appropriate responsible government agency or third party, as necessary). The client will communicate the policy to all levels of its organization.

### Identification of Risks and Impacts

7. The client will establish and maintain a process for identifying the environmental and social risks and impacts of the project (see paragraph 18 for competency requirements). The type, scale, and location of the project guide the scope and level of effort devoted to the risks and impacts identification process. The scope of the risks and impacts identification process will be consistent with good international industry practice,<sup>10</sup> and will determine the appropriate and relevant methods and assessment tools. The process may comprise a full-scale environmental and social impact assessment, a limited or focused environmental and social assessment, or straightforward application of environmental siting, pollution standards, design criteria, or construction standards.<sup>11</sup> When the project involves existing assets, environmental and/or social audits or risk/hazard assessments can be appropriate and sufficient to identify risks and impacts. If assets to be developed, acquired or financed have yet to be defined, the establishment of an environmental and social due diligence process will identify risks and impacts at a point in the future when the physical elements, assets, and facilities are reasonably understood. The risks and impacts identification process will be based on recent environmental and social baseline data at an appropriate level of detail. The process will consider all relevant environmental and social risks and impacts of the project, including the issues identified in Performance Standards 2 through 8, and those who are likely to be affected by such risks and impacts.<sup>12</sup> The risks and impacts identification process will consider the emissions of greenhouse gases, the relevant risks associated with a changing climate and the adaptation opportunities, and potential transboundary effects, such as pollution of air, or use or pollution of international waterways.

8. Where the project involves specifically identified physical elements, aspects, and facilities that are likely to generate impacts, environmental and social risks and impacts will be identified in the context of the project's area of influence. This area of influence encompasses, as appropriate:

- The area likely to be affected by: (i) the project<sup>13</sup> and the client's activities and facilities that are directly owned, operated or managed (including by contractors) and that are a component of the project;<sup>14</sup> (ii) impacts from unplanned but predictable developments caused by the project that may occur later or at a different location; or (iii) indirect project impacts on biodiversity or on ecosystem services upon which Affected Communities' livelihoods are dependent.

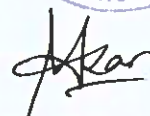
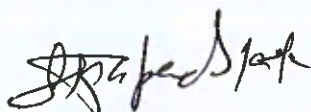
<sup>10</sup> Defined as the exercise of professional skill, diligence, prudence, and foresight that would reasonably be expected from skilled and experienced professionals engaged in the same type of undertaking under the same or similar circumstances globally or regionally.

<sup>11</sup> For greenfield developments or large expansions with specifically identified physical elements, aspects, and facilities that are likely to generate potential significant environmental or social impacts, the client will conduct a comprehensive Environmental and Social Impact Assessment, including an examination of alternatives, where appropriate.

<sup>12</sup> In limited high risk circumstances, it may be appropriate for the client to complement its environmental and social risks and impacts identification process with specific human rights due diligence as relevant to the particular business.

<sup>13</sup> Examples include the project's sites, the immediate airshed and watershed, or transport corridors.

<sup>14</sup> Examples include power transmission corridors, pipelines, canals, tunnels, relocation and access roads, borrow and disposal areas, construction camps, and contaminated land (e.g., soil, groundwater, surface water, and sediments).



# Performance Standard 1

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

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- Associated facilities, which are facilities that are not funded as part of the project and that would not have been constructed or expanded if the project did not exist and without which the project would not be viable.<sup>15</sup>
- Cumulative impacts<sup>16</sup> that result from the incremental impact, on areas or resources used or directly impacted by the project, from other existing, planned or reasonably defined developments at the time the risks and impacts identification process is conducted.

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

10. Where the client can reasonably exercise control, the risks and impacts identification process will also consider those risks and impacts associated with primary supply chains, as defined in Performance Standard 2 (paragraphs 27–29) and Performance Standard 6 (paragraph 30).

11. Where the project involves specifically identified physical elements, aspects and facilities that are likely to generate environmental and social impacts, the identification of risks and impacts will take into account the findings and conclusions of related and applicable plans, studies, or assessments prepared by relevant government authorities or other parties that are directly related to the project and its area of influence.<sup>17</sup> These include master economic development plans, country or regional plans, feasibility studies, alternatives analyses, and cumulative, regional, sectoral, or strategic environmental assessments where relevant. The risks and impacts identification will take account of the outcome of the engagement process with Affected Communities as appropriate.

12. Where the project involves specifically identified physical elements, aspects and facilities that are likely to generate impacts, and as part of the process of identifying risks and impacts, the client will identify individuals and groups that may be directly and differentially or disproportionately affected by the project because of their disadvantaged or vulnerable status.<sup>18</sup> Where individuals or groups are identified as disadvantaged or vulnerable, the client will propose and implement differentiated measures so that adverse impacts do not fall disproportionately on them and they are not disadvantaged in sharing development benefits and opportunities.

### Management Programs

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

<sup>15</sup> Associated facilities may include railways, roads, captive power plants or transmission lines, pipelines, utilities, warehouses, and logistics terminals.

<sup>16</sup> Cumulative impacts are limited to those impacts generally recognized as important on the basis of scientific concerns and/or concerns from Affected Communities. Examples of cumulative impacts include: incremental contribution of gaseous emissions to an airshed; reduction of water flows in a watershed due to multiple withdrawals; increases in sediment loads to a watershed; interference with migratory routes or wildlife movement; or more traffic congestion and accidents due to increases in vehicular traffic on community roadways.

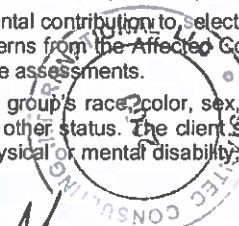
<sup>17</sup> The client can take these into account by focusing on the project's incremental contribution to selected impacts generally recognized as important on the basis of scientific concern or concerns from the Affected Communities within the area addressed by these larger scope regional studies or cumulative assessments.

<sup>18</sup> This disadvantaged or vulnerable status may stem from an individual's or group's race, color, sex, language, religion, political or other opinion, national or social origin, property, birth, or other status. The client should also consider factors such as gender, age, ethnicity, culture, literacy, sickness, physical or mental disability, poverty or economic disadvantage, and dependence on unique natural resources.



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14. Depending on the nature and scale of the project, these programs may consist of some documented combination of operational procedures, practices, plans, and related supporting documents (including legal agreements) that are managed in a systematic way.<sup>19</sup> The programs may apply broadly across the client's organization, including contractors and primary suppliers over which the organization has control or influence, or to specific sites, facilities, or activities. The mitigation hierarchy to address identified risks and impacts will favor the avoidance of impacts over minimization, and, where residual impacts remain, compensation/offset, wherever technically<sup>20</sup> and financially feasible.<sup>21</sup>

15. Where the identified risks and impacts cannot be avoided, the client will identify mitigation and performance measures and establish corresponding actions to ensure the project will operate in compliance with applicable laws and regulations, and meet the requirements of Performance Standards 1 through 8. The level of detail and complexity of this collective management program and the priority of the identified measures and actions will be commensurate with the project's risks and impacts, and will take account of the outcome of the engagement process with Affected Communities as appropriate.

16. The management programs will establish environmental and social Action Plans,<sup>22</sup> which will define desired outcomes and actions to address the issues raised in the risks and impacts identification process, as measurable events to the extent possible, with elements such as performance indicators, targets, or acceptance criteria that can be tracked over defined time periods, and with estimates of the resources and responsibilities for implementation. As appropriate, the management program will recognize and incorporate the role of relevant actions and events controlled by third parties to address identified risks and impacts. Recognizing the dynamic nature of the project, the management program will be responsive to changes in circumstances, unforeseen events, and the results of monitoring and review...

### Organizational Capacity and Competency

17. The client, in collaboration with appropriate and relevant third parties, will establish, maintain, and strengthen as necessary an organizational structure that defines roles, responsibilities, and authority to implement the ESMS. Specific personnel, including management representative(s), with clear lines of responsibility and authority should be designated. Key environmental and social responsibilities should be well defined and communicated to the relevant personnel and to the rest of the client's organization. Sufficient management sponsorship and human and financial resources will be provided on an ongoing basis to achieve effective and continuous environmental and social performance.

<sup>19</sup> Existing legal agreements between the client and third parties that address mitigation actions with regard to specific impacts constitute part of a program. Examples are government-managed resettlement responsibilities specified in an agreement.

<sup>20</sup> Technical feasibility is based on whether the proposed measures and actions can be implemented with commercially available skills, equipment, and materials, taking into consideration prevailing local factors such as climate, geography, demography, infrastructure, security, governance, capacity, and operational reliability.

<sup>21</sup> Financial feasibility is based on commercial considerations, including relative magnitude of the incremental cost of adopting such measures and actions compared to the project's investment, operating, and maintenance costs, and on whether this incremental cost could make the project nonviable to the client.

<sup>22</sup> Action plans may include an overall Environmental and Social Action Plan necessary for carrying out a suite of mitigation measures or thematic action plans, such as Resettlement Action Plans or Biodiversity Action Plans. Action plans may be plans designed to fill in the gaps of existing management programs to ensure consistency with the Performance Standards, or they may be stand alone plans that specify the project's mitigation strategy. The "Action plan" terminology is understood by some communities of practice to mean Management plans, or Development plans. In this case, examples are numerous and include various types of environmental and social management plans.



# Performance Standard 1

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

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18. Personnel within the client's organization with direct responsibility for the project's environmental and social performance will have the knowledge, skills, and experience necessary to perform their work, including current knowledge of the host country's regulatory requirements and the applicable requirements of Performance Standards 1 through 8. Personnel will also possess the knowledge, skills, and experience to implement the specific measures and actions required under the ESMS and the methods required to perform the actions in a competent and efficient manner.

19. The process of identification of risks and impacts will consist of an adequate, accurate, and objective evaluation and presentation, prepared by competent professionals. For projects posing potentially significant adverse impacts or where technically complex issues are involved, clients may be required to involve external experts to assist in the risks and impacts identification process.

### Emergency Preparedness and Response

20. Where the project involves specifically identified physical elements, aspects and facilities that are likely to generate impacts, the ESMS will establish and maintain an emergency preparedness and response system so that the client, in collaboration with appropriate and relevant third parties, will be prepared to respond to accidental and emergency situations associated with the project in a manner appropriate to prevent and mitigate any harm to people and/or the environment. This preparation will include the identification of areas where accidents and emergency situations may occur, communities and individuals that may be impacted, response procedures, provision of equipment and resources, designation of responsibilities, communication, including that with potentially Affected Communities and periodic training to ensure effective response. The emergency preparedness and response activities will be periodically reviewed and revised, as necessary, to reflect changing conditions.

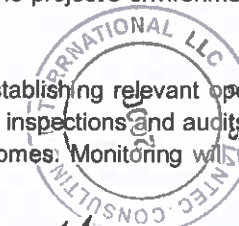
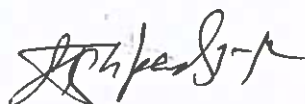
21. Where applicable, the client will also assist and collaborate with the potentially Affected Communities (see Performance Standard 4) and the local government agencies in their preparations to respond effectively to emergency situations, especially when their participation and collaboration are necessary to ensure effective response. If local government agencies have little or no capacity to respond effectively, the client will play an active role in preparing for and responding to emergencies associated with the project. The client will document its emergency preparedness and response activities, resources, and responsibilities, and will provide appropriate information to potentially Affected Community and relevant government agencies.

### Monitoring and Review

22. The client will establish procedures to monitor and measure the effectiveness of the management program, as well as compliance with any related legal and/or contractual obligations and regulatory requirements. Where the government or other third party has responsibility for managing specific risks and impacts and associated mitigation measures, the client will collaborate in establishing and monitoring such mitigation measures. Where appropriate, clients will consider involving representatives from Affected Communities to participate in monitoring activities.<sup>23</sup> The client's monitoring program should be overseen by the appropriate level in the organization. For projects with significant impacts, the client will retain external experts to verify its monitoring information. The extent of monitoring should be commensurate with the project's environmental and social risks and impacts and with compliance requirements.

23. In addition to recording information to track performance and establishing relevant operational controls, the client should use dynamic mechanisms, such as internal inspections and audits, where relevant, to verify compliance and progress toward the desired outcomes. Monitoring will normally

<sup>23</sup> For example, participatory water monitoring.



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include recording information to track performance and comparing this against the previously established benchmarks or requirements in the management program. Monitoring should be adjusted according to performance experience and actions requested by relevant regulatory authorities. The client will document monitoring results and identify and reflect the necessary corrective and preventive actions in the amended management program and plans. The client, in collaboration with appropriate and relevant third parties, will implement these corrective and preventive actions, and follow up on these actions in upcoming monitoring cycles to ensure their effectiveness.

24. Senior management in the client organization will receive periodic performance reviews of the effectiveness of the ESMS, based on systematic data collection and analysis. The scope and frequency of such reporting will depend upon the nature and scope of the activities identified and undertaken in accordance with the client's ESMS and other applicable project requirements. Based on results within these performance reviews, senior management will take the necessary and appropriate steps to ensure the intent of the client's policy is met, that procedures, practices, and plans are being implemented, and are seen to be effective.

### Stakeholder Engagement

25. Stakeholder engagement is the basis for building strong, constructive, and responsive relationships that are essential for the successful management of a project's environmental and social impacts.<sup>24</sup> Stakeholder engagement is an ongoing process that may involve, in varying degrees, the following elements: stakeholder analysis and planning, disclosure and dissemination of information, consultation and participation, grievance mechanism, and ongoing reporting to Affected Communities. The nature, frequency, and level of effort of stakeholder engagement may vary considerably and will be commensurate with the project's risks and adverse impacts, and the project's phase of development.

#### Stakeholder Analysis and Engagement Planning

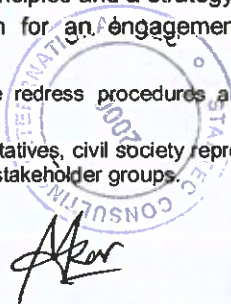
26. Clients should identify the range of stakeholders that may be interested in their actions and consider how external communications might facilitate a dialog with all stakeholders (paragraph 34 below). Where projects involve specifically identified physical elements, aspects and/or facilities that are likely to generate adverse environmental and social impacts to Affected Communities the client will identify the Affected Communities and will meet the relevant requirements described below.

27. The client will develop and implement a Stakeholder Engagement Plan that is scaled to the project risks and impacts and development stage, and be tailored to the characteristics and interests of the Affected Communities. Where applicable, the Stakeholder Engagement Plan will include differentiated measures to allow the effective participation of those identified as disadvantaged or vulnerable. When the stakeholder engagement process depends substantially on community representatives,<sup>25</sup> the client will make every reasonable effort to verify that such persons do in fact represent the views of Affected Communities and that they can be relied upon to faithfully communicate the results of consultations to their constituents.

28. In cases where the exact location of the project is not known, but it is reasonably expected to have significant impacts on local communities, the client will prepare a Stakeholder Engagement Framework, as part of its management program, outlining general principles and a strategy to identify Affected Communities and other relevant stakeholders and plan for an engagement process

<sup>24</sup> Requirements regarding engagement of workers and related grievance redress procedures are found in Performance Standard 2.

<sup>25</sup> For example, community and religious leaders, local government representatives, civil society representatives, politicians, school teachers, and/or others representing one or more affected stakeholder groups.



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compatible with this Performance Standard that will be implemented once the physical location of the project is known.

### Disclosure of Information

29. Disclosure of relevant project information helps Affected Communities and other stakeholders understand the risks, impacts and opportunities of the project. The client will provide Affected Communities with access to relevant information<sup>26</sup> on: (i) the purpose, nature, and scale of the project; (ii) the duration of proposed project activities; (iii) any risks to and potential impacts on such communities and relevant mitigation measures; (iv) the envisaged stakeholder engagement process; and (v) the grievance mechanism.

### Consultation

30. When Affected Communities are subject to identified risks and adverse impacts from a project, the client will undertake a process of consultation in a manner that provides the Affected Communities with opportunities to express their views on project risks, impacts and mitigation measures, and allows the client to consider and respond to them. The extent and degree of engagement required by the consultation process should be commensurate with the project's risks and adverse impacts and with the concerns raised by the Affected Communities. Effective consultation is a two-way process that should: (i) begin early in the process of identification of environmental and social risks and impacts and continue on an ongoing basis as risks and impacts arise; (ii) be based on the prior disclosure and dissemination of relevant, transparent, objective, meaningful and easily accessible information which is in a culturally appropriate local language(s) and format and is understandable to Affected Communities; (iii) focus inclusive<sup>27</sup> engagement on those directly affected as opposed to those not directly affected; (iv) be free of external manipulation, interference, coercion, or intimidation; (v) enable meaningful participation, where applicable; and (vi) be documented. The client will tailor its consultation process to the language preferences of the Affected Communities, their decision-making process, and the needs of disadvantaged or vulnerable groups. If clients have already engaged in such a process, they will provide adequate documented evidence of such engagement.

### Informed Consultation and Participation

31. For projects with potentially significant adverse impacts on Affected Communities, the client will conduct an Informed Consultation and Participation (ICP) process that will build upon the steps outlined above in Consultation and will result in the Affected Communities' informed participation. ICP involves a more in-depth exchange of views and information, and an organized and iterative consultation, leading to the client's incorporating into their decision-making process the views of the Affected Communities on matters that affect them directly, such as the proposed mitigation measures, the sharing of development benefits and opportunities, and implementation issues. The consultation process should (i) capture both men's and women's views, if necessary through separate forums or engagements, and (ii) reflect men's and women's different concerns and priorities about impacts, mitigation mechanisms, and benefits, where appropriate. The client will document the process, in particular the measures taken to avoid or minimize risks to and adverse impacts on the

<sup>26</sup> Depending on the scale of the project and significance of the risks and impacts, relevant document(s) could range from full Environmental and Social Assessments and Action Plans (i.e., Stakeholder Engagement Plan, Resettlement Action Plans, Biodiversity Action Plans, Hazardous Materials Management Plans, Emergency Preparedness and Response Plans, Community Health and Safety Plans, Ecosystem Restoration Plans, and Indigenous Peoples Development Plans, etc.) to easy-to-understand summaries of key issues and commitments. These documents could also include the client's environmental and social policy and any supplemental measures and actions defined as a result of independent due diligence conducted by financiers.

<sup>27</sup> Such as men, women, the elderly, youth, displaced persons, and vulnerable and disadvantaged persons or groups.





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Affected Communities, and will inform those affected about how their concerns have been considered.

### Indigenous Peoples

32. For projects with adverse impacts to Indigenous Peoples, the client is required to engage them in a process of ICP and in certain circumstances the client is required to obtain their Free, Prior, and Informed Consent (FPIC). The requirements related to Indigenous Peoples and the definition of the special circumstances requiring FPIC are described in Performance Standard 7.

### Private Sector Responsibilities Under Government-Led Stakeholder Engagement

33. Where stakeholder engagement is the responsibility of the host government, the client will collaborate with the responsible government agency, to the extent permitted by the agency, to achieve outcomes that are consistent with the objectives of this Performance Standard. In addition, where government capacity is limited, the client will play an active role during the stakeholder engagement planning, implementation, and monitoring. If the process conducted by the government does not meet the relevant requirements of this Performance Standard, the client will conduct a complementary process and, where appropriate, identify supplemental actions.

### **External Communications and Grievance Mechanisms**

#### External Communications

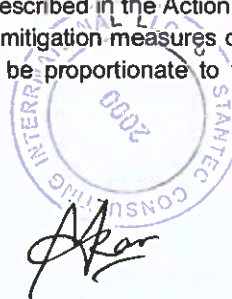
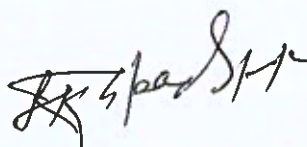
34. Clients will implement and maintain a procedure for external communications that includes methods to (i) receive and register external communications from the public; (ii) screen and assess the issues raised and determine how to address them; (iii) provide, track, and document responses, if any;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

#### Grievance Mechanism for Affected Communities

35. Where there are Affected Communities, the client will establish a grievance mechanism to receive and facilitate resolution of Affected Communities' concerns and grievances about the client's environmental and social performance. The grievance mechanism should be scaled to the risks and adverse impacts of the project and have Affected Communities as its primary user. It should seek to resolve concerns promptly, using an understandable and transparent consultative process that is culturally appropriate and readily accessible, and at no cost and without retribution to the party that originated the issue or concern. The mechanism should not impede access to judicial or administrative remedies. The client will inform the Affected Communities about the mechanism in the course of the stakeholder engagement process.

#### **Ongoing Reporting to Affected Communities**

36. The client will provide periodic reports to the Affected Communities that describe progress with implementation of the project Action Plans on issues that involve ongoing risk to or impacts on Affected Communities and on issues that the consultation process or grievance mechanism have identified as a concern to those Communities. If the management program results in material changes in or additions to the mitigation measures or actions described in the Action Plans on issues of concern to the Affected Communities, the updated relevant mitigation measures or actions will be communicated to them. The frequency of these reports will be proportionate to the concerns of Affected Communities but not less than annually.



## Introduction

1. Performance Standard 2 recognizes that the pursuit of economic growth through employment creation and income generation should be accompanied by protection of the fundamental<sup>1</sup> rights of workers. For any business, the workforce is a valuable asset, and a sound worker-management relationship is a key ingredient in the sustainability of a company. Failure to establish and foster a sound worker-management relationship can undermine worker commitment and retention, and can jeopardize a project. Conversely, through a constructive worker-management relationship, and by treating the workers fairly and providing them with safe and healthy working conditions, clients may create tangible benefits, such as enhancement of the efficiency and productivity of their operations.

2. The requirements set out in this Performance Standard have been in part guided by a number of international conventions and instruments, including those of the International Labour Organization (ILO) and the United Nations (UN).<sup>2</sup>

## Objectives

- To promote the fair treatment, non-discrimination, and equal opportunity of workers.
- To establish, maintain, and improve the worker-management relationship.
- To promote compliance with national employment and labor laws.
- To protect workers, including vulnerable categories of workers such as children, migrant workers, workers engaged by third parties, and workers in the client's supply chain.
- To promote safe and healthy working conditions, and the health of workers.
- To avoid the use of forced labor.

## Scope of Application

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

4. The scope of application of this Performance Standard depends on the type of employment relationship between the client and the worker. It applies to workers directly engaged by the client (direct workers), workers engaged through third parties to perform work related to core business

<sup>1</sup> As guided by the ILO Conventions listed in footnote 2.

<sup>2</sup> These conventions are:

ILO Convention 87 on Freedom of Association and Protection of the Right to Organize

ILO Convention 98 on the Right to Organize and Collective Bargaining

ILO Convention 29 on Forced Labor

ILO Convention 105 on the Abolition of Forced Labor

ILO Convention 138 on Minimum Age (of Employment)

ILO Convention 182 on the Worst Forms of Child Labor

ILO Convention 100 on Equal Remuneration

ILO Convention 111 on Discrimination (Employment and Occupation)

UN Convention on the Rights of the Child, Article 32.1

UN Convention on the Protection of the Rights of all Migrant Workers and Members of their Families



*Signature*



## Performance Standard 2 Labor and Working Conditions

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processes<sup>3</sup> of the project for a substantial duration (contracted workers), as well as workers engaged by the client's primary suppliers (supply chain workers).<sup>4</sup>

### Direct Workers

5. With respect to direct workers, the client will apply the requirements of paragraphs 8–23 of this Performance Standard.

### Contracted Workers

6. With respect to contracted workers, the client will apply the requirements of paragraphs 23–26 of this Performance Standard.

### Supply Chain Workers

7. With respect to supply chain workers, the client will apply the requirements of paragraphs 27–29 of this Performance Standard.

## Requirements

### Working Conditions and Management of Worker Relationship

#### Human Resources Policies and Procedures

8. The client will adopt and implement human resources policies and procedures appropriate to its size and workforce that set out its approach to managing workers consistent with the requirements of this Performance Standard and national law.

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

#### Working Conditions and Terms of Employment

10. Where the client is a party to a collective bargaining agreement with a workers' organization, such agreement will be respected. Where such agreements do not exist, or do not address working conditions and terms of employment,<sup>5</sup> the client will provide reasonable working conditions and terms of employment.<sup>6</sup>

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

<sup>3</sup> Core business processes constitute those production and/or service processes essential for a specific business activity without which the business activity could not continue.

<sup>4</sup> Primary suppliers are those suppliers who, on an ongoing basis, provide goods or materials essential for the core business processes of the project.

<sup>5</sup> Working conditions and terms of employment examples are wages and benefits; wage deductions; hours of work; overtime arrangements and overtime compensation; breaks; rest days; and leave for illness, maternity, vacation or holiday.

<sup>6</sup> Reasonable working conditions and terms of employment could be assessed by reference to (i) conditions established for work of the same character in the trade or industry concerned in the area/region where the work is carried out; (ii) collective agreement or other recognized negotiation between other organizations of employers and workers' representatives in the trade or industry concerned; (iii) arbitration award; or (iv) conditions established by national law.







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12. Where accommodation services<sup>7</sup> are provided to workers covered by the scope of this Performance Standard, the client will put in place and implement policies on the quality and management of the accommodation and provision of basic services.<sup>8</sup> The accommodation services will be provided in a manner consistent with the principles of non-discrimination and equal opportunity. Workers' accommodation arrangements should not restrict workers' freedom of movement or of association.

Workers' Organizations

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

14. In either case described in paragraph 13 of this Performance Standard, and where national law is silent, the client will not discourage workers from electing worker representatives, forming or joining workers' organizations of their choosing, or from bargaining collectively, and will not discriminate or retaliate against workers who participate, or seek to participate, in such organizations and collective bargaining. The client will engage with such workers' representatives and workers' organizations, and provide them with information needed for meaningful negotiation in a timely manner. Workers' organizations are expected to fairly represent the workers in the workforce.

Non-Discrimination and Equal Opportunity

15. The client will not make employment decisions on the basis of personal characteristics<sup>9</sup> unrelated to inherent job requirements. The client will base the employment relationship on the principle of equal opportunity and fair treatment, and will not discriminate with respect to any aspects of the employment relationship, such as recruitment and hiring, compensation (including wages and benefits), working conditions and terms of employment, access to training, job assignment, promotion, termination of employment or retirement, and disciplinary practices. The client will take measures to prevent and address harassment, intimidation, and/or exploitation, especially in regard to women. The principles of non-discrimination apply to migrant workers.

16. In countries where national law provides for non-discrimination in employment, the client will comply with national law. When national laws are silent on non-discrimination in employment, the client will meet this Performance Standard. In circumstances where national law is inconsistent with this Performance Standard, the client is encouraged to carry out its operations consistent with the intent of paragraph 15 above without contravening applicable laws.

17. Special measures of protection or assistance to remedy past discrimination or selection for a particular job based on the inherent requirements of the job will not be deemed as discrimination, provided they are consistent with national law.

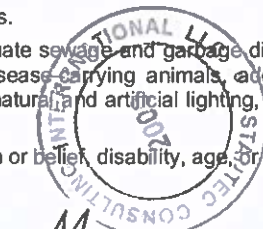
<sup>7</sup> Those services might be provided either directly by the client or by third parties.

<sup>8</sup> Basic services requirements refer to minimum space, supply of water, adequate sewage and garbage disposal system, appropriate protection against heat, cold, damp, noise, fire and disease-carrying animals, adequate sanitary and washing facilities, ventilation, cooking and storage facilities and natural and artificial lighting, and in some cases basic medical services.

<sup>9</sup> Such as gender, race, nationality, ethnic, social and indigenous origin, religion or belief, disability, age, or sexual orientation.



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Retrenchment

18. Prior to implementing any collective dismissals,<sup>10</sup> the client will carry out an analysis of alternatives to retrenchment.<sup>11</sup> If the analysis does not identify viable alternatives to retrenchment, a retrenchment plan will be developed and implemented to reduce the adverse impacts of retrenchment on workers. The retrenchment plan will be based on the principle of non-discrimination and will reflect the client's consultation with workers, their organizations, and, where appropriate, the government, and comply with collective bargaining agreements if they exist. The client will comply with all legal and contractual requirements related to notification of public authorities, and provision of information to, and consultation with workers and their organizations.

19. The client should ensure that all workers receive notice of dismissal and severance payments mandated by law and collective agreements in a timely manner. All outstanding back pay and social security benefits and pension contributions and benefits will be paid (i) on or before termination of the working relationship to the workers, (ii) where appropriate, for the benefit of the workers, or (iii) payment will be made in accordance with a timeline agreed through a collective agreement. Where payments are made for the benefit of workers, workers will be provided with evidence of such payments.

Grievance Mechanism

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

**Protecting the Work Force**

Child Labor

21. The client will not employ children in any manner that is economically exploitative, or is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral, or social development. The client will identify the presence of all persons under the age of 18. Where national laws have provisions for the employment of minors, the client will follow those laws applicable to the client. Children under the age of 18 will not be employed in hazardous work.<sup>12</sup> All work of persons under the age of 18 will be subject to an appropriate risk assessment and regular monitoring of health, working conditions, and hours of work.

<sup>10</sup> Collective dismissals cover all multiple dismissals that are a result of an economic, technical, or organizational reason; or other reasons that are not related to performance or other personal reasons.

<sup>11</sup> Examples of alternatives may include negotiated working-time reduction programs, employee capacity-building programs; long-term maintenance works during low production periods, etc.

<sup>12</sup> Examples of hazardous work activities include work (i) with exposure to physical, psychological, or sexual abuse; (ii) underground, underwater, working at heights, or in confined spaces; (iii) with dangerous machinery, equipment, or tools, or involving handling of heavy loads; (iv) in unhealthy environments exposing the worker to hazardous substances, agents, processes, temperatures, noise, or vibration damaging to health; or (v) under difficult conditions such as long hours, late night, or confinement by employer.



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Forced Labor

22. The client will not employ forced labor, which consists of any work or service not voluntarily performed that is exacted from an individual under threat of force or penalty. This covers any kind of involuntary or compulsory labor, such as indentured labor, bonded labor, or similar labor-contracting arrangements. The client will not employ trafficked persons.<sup>13</sup>

Occupational Health and Safety

23. The client will provide a safe and healthy work environment, taking into account inherent risks in its particular sector and specific classes of hazards in the client's work areas, including physical, chemical, biological, and radiological hazards, and specific threats to women. The client will take steps to prevent accidents, injury, and disease arising from, associated with, or occurring in the course of work by minimizing, as far as reasonably practicable, the causes of hazards. In a manner consistent with good international industry practice,<sup>14</sup> as reflected in various internationally recognized sources including the World Bank Group Environmental, Health and Safety Guidelines, the client will address areas that include the (i) identification of potential hazards to workers, particularly those that may be life-threatening; (ii) provision of preventive and protective measures, including modification, substitution, or elimination of hazardous conditions or substances; (iii) training of workers; (iv) documentation and reporting of occupational accidents, diseases, and incidents; and (v) emergency prevention, preparedness, and response arrangements. For additional information related to emergency preparedness and response refer to Performance Standard 1.

Workers Engaged by Third Parties

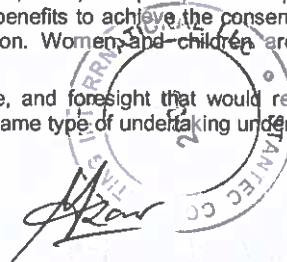
24. With respect to contracted workers the client will take commercially reasonable efforts to ascertain that the third parties who engage these workers are reputable and legitimate enterprises and have an appropriate ESMS that will allow them to operate in a manner consistent with the requirements of this Performance Standard, except for paragraphs 18-19, and 27-29.

25. The client will establish policies and procedures for managing and monitoring the performance of such third party employers in relation to the requirements of this Performance Standard. In addition, the client will use commercially reasonable efforts to incorporate these requirements in contractual agreements with such third party employers.

26. The client will ensure that contracted workers, covered in paragraphs 24-25 of this Performance Standard, have access to a grievance mechanism. In cases where the third party is not able to provide a grievance mechanism the client will extend its own grievance mechanism to serve workers engaged by the third party.

<sup>13</sup> Trafficking in persons is defined as the recruitment, transportation, transfer, harboring, or receipt of persons, by means of the threat or use of force or other forms of coercion, abduction, fraud, deception, abuse of power, or of a position of vulnerability, or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Women and children are particularly vulnerable to trafficking practices.

<sup>14</sup> Defined as the exercise of professional skill, diligence, prudence, and foresight that would reasonably be expected from skilled and experienced professionals engaged in the same type of undertaking under the same or similar circumstances, globally or regionally.



## Performance Standard 2 Labor and Working Conditions

January 1, 2012

### Supply Chain

27. Where there is a high risk of child labor or forced labor<sup>15</sup> in the primary supply chain, the client will identify those risks consistent with paragraphs 21 and 22 above. If child labor or forced labor cases are identified, the client will take appropriate steps to remedy them. The client will monitor its primary supply chain on an ongoing basis in order to identify any significant changes in its supply chain and if new risks or incidents of child and/or forced labor are identified, the client will take appropriate steps to remedy them.

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

29. The ability of the client to fully address these risks will depend upon the client's level of management control or influence over its primary suppliers. Where remedy is not possible, the client will shift the project's primary supply chain over time to suppliers that can demonstrate that they are complying with this Performance Standard.



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<sup>15</sup> The potential risk of child labor and forced labor will be determined during the risks and impacts identification process as required in Performance Standard 1.

### Introduction

1. Performance Standard 3 recognizes that increased economic activity and urbanization often generate increased levels of pollution to air, water, and land, and consume finite resources in a manner that may threaten people and the environment at the local, regional, and global levels.<sup>1</sup> There is also a growing global consensus that the current and projected atmospheric concentration of greenhouse gases (GHG) threatens the public health and welfare of current and future generations. At the same time, more efficient and effective resource use and pollution prevention<sup>2</sup> and GHG emission avoidance and mitigation technologies and practices have become more accessible and achievable in virtually all parts of the world. These are often implemented through continuous improvement methodologies similar to those used to enhance quality or productivity, which are generally well known to most industrial, agricultural, and service sector companies.

2. This Performance Standard outlines a project-level approach to resource efficiency and pollution prevention and control in line with internationally disseminated technologies and practices. In addition, this Performance Standard promotes the ability of private sector companies to adopt such technologies and practices as far as their use is feasible in the context of a project that relies on commercially available skills and resources.

### Objectives

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

### Scope of Application

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

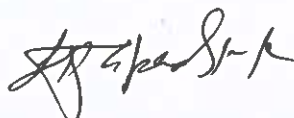
### Requirements

4. During the project life-cycle, the client will consider ambient conditions and apply technically and financially feasible resource efficiency and pollution prevention principles and techniques that are best suited to avoid, or where avoidance is not possible, minimize adverse impacts on human health and the environment.<sup>3</sup> The principles and techniques applied during the project life-cycle will be

<sup>1</sup> For the purposes of this Performance Standard, 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 pests, pathogens, thermal discharge to water, GHG emissions, nuisance odors, noise, vibration, radiation, electromagnetic energy, and the creation of potential visual impacts including light.

<sup>2</sup> For the purpose of this Performance Standard, the term "pollution prevention" does not mean absolute elimination of emissions, but the avoidance at source whenever possible, and, if not possible, then subsequent minimization of pollution to the extent that the Performance Standard objectives are satisfied.

<sup>3</sup> Technical feasibility is based on whether the proposed measures and actions can be implemented with commercially available skills, equipment, and materials, taking into consideration prevailing local factors such as climate, geography, infrastructure, security, governance, capacity and operational reliability. Financial feasibility is





tailored to the hazards and risks associated with the nature of the project and consistent with good international industry practice (GIIP),<sup>4</sup> as reflected in various internationally recognized sources, including the World Bank Group Environmental, Health and Safety Guidelines (EHS Guidelines).

5. The client will refer to the EHS Guidelines or other internationally recognized sources, as appropriate, when evaluating and selecting resource efficiency and pollution prevention and control techniques for the project. The EHS Guidelines contain the performance levels and measures that are normally acceptable and applicable to projects. When host country regulations differ from the levels and measures presented in the EHS Guidelines, clients will be required to achieve whichever is more stringent. If less stringent levels or measures than those provided in the EHS Guidelines are appropriate in view of specific project circumstances, the client will provide full and detailed justification for any proposed alternatives through the environmental and social risks and impacts identification and assessment process. This justification must demonstrate that the choice for any alternate performance levels is consistent with the objectives of this Performance Standard.

### Resource Efficiency

6. The client will implement technically and financially feasible and cost effective<sup>5</sup> measures for improving efficiency in its consumption of energy, water, as well as other resources and material inputs, with a focus on areas that are considered core business activities. Such measures will integrate the principles of cleaner production into product design and production processes with the objective of conserving raw materials, energy, and water. Where benchmarking data are available, the client will make a comparison to establish the relative level of efficiency.

### Greenhouse Gases

7. In addition to the resource efficiency measures described above, the client will consider alternatives and implement technically and financially feasible and cost-effective options to reduce project-related GHG emissions during the design and operation of the project. These options may include, but are not limited to, alternative project locations, adoption of renewable or low carbon energy sources, sustainable agricultural forestry and livestock management practices, the reduction of fugitive emissions and the reduction of gas flaring.

8. For projects that are expected to or currently produce more than 25,000 tonnes of CO<sub>2</sub>-equivalent annually,<sup>6</sup> the client will quantify direct emissions from the facilities owned or controlled within the physical project boundary,<sup>7</sup> as well as indirect emissions associated with the off-site

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based on commercial considerations, including relative magnitude of the incremental cost of adopting such measures and actions compared to the project's investment, operating, and maintenance costs.

<sup>4</sup> GIIP is defined as the exercise of professional skill, diligence, prudence, and foresight that would reasonably be expected from skilled and experienced professionals engaged in the same type of undertaking under the same or similar circumstances globally or regionally. The outcome of such exercise should be that the project employs the most appropriate technologies in the project-specific circumstances.

<sup>5</sup> Cost-effectiveness is determined according to the capital and operational cost and financial benefits of the measure considered over the life of the measure. For the purpose of this Performance Standard, a resource efficiency or GHG emissions reduction measure is considered cost-effective if it is expected to provide a risk-rated return on investment at least comparable to the project itself.

<sup>6</sup> The quantification of emissions should consider all significant sources of greenhouse gas emissions, including non-energy related sources such as methane and nitrous oxide, among others.

<sup>7</sup> Project-induced changes in soil carbon content or above ground biomass, and project-induced decay of organic matter may contribute to direct emissions sources and shall be included in this emissions quantification where such emissions are expected to be significant.



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production of energy<sup>8</sup> used by the project. Quantification of GHG emissions will be conducted by the client annually in accordance with internationally recognized methodologies and good practice.<sup>9</sup>

Water Consumption

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

Pollution Prevention

10. The client will avoid the release of pollutants or, when avoidance is not feasible, minimize and/or control the intensity and mass flow of their release. This applies to the release of pollutants to air, water, and land due to routine, non-routine, and accidental circumstances with the potential for local, regional, and transboundary impacts.<sup>10</sup> Where historical pollution such as land or ground water contamination exists, the client will seek to determine whether it is responsible for mitigation measures. If it is determined that the client is legally responsible, then these liabilities will be resolved in accordance with national law, or where this is silent, with GIIP.<sup>11</sup>

11. To address potential adverse project impacts on existing ambient conditions,<sup>12</sup> the client will consider relevant factors, including, for example (i) existing ambient conditions; (ii) the finite assimilative capacity<sup>13</sup> of the environment; (iii) existing and future land use; (iv) the project's proximity to areas of importance to biodiversity; and (v) the potential for cumulative impacts with uncertain and/or irreversible consequences. In addition to applying resource efficiency and pollution control measures as required in this Performance Standard, when the project has the potential to constitute a significant source of emissions in an already degraded area, the client will consider additional strategies and adopt measures that avoid or reduce negative effects. These strategies include, but are not limited to, evaluation of project location alternatives and emissions offsets.

Wastes

12. The client will avoid the generation of hazardous and non-hazardous waste materials. Where waste generation cannot be avoided, the client will reduce the generation of waste, and recover and reuse waste in a manner that is safe for human health and the environment. Where waste cannot be recovered or reused, the client will treat, destroy, or dispose of it in an environmentally sound manner that includes the appropriate control of emissions and residues resulting from the handling and processing of the waste material. If the generated waste is considered hazardous,<sup>14</sup> the client will

<sup>8</sup> Refers to the off-site generation by others of electricity, and heating and cooling energy used in the project.

<sup>9</sup> Estimation methodologies are provided by the Intergovernmental Panel on Climate Change, various international organizations, and relevant host country agencies.

<sup>10</sup> Transboundary pollutants include those covered under the Convention on Long-Range Transboundary Air Pollution.

<sup>11</sup> This may require coordination with national and local government, communities, and the contributors to the contamination, and that any assessment follows a risk-based approach consistent with GIIP as reflected in the EHS Guidelines.

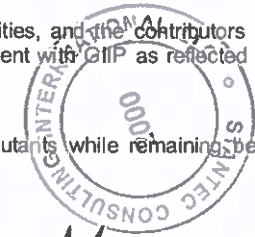
<sup>12</sup> Such as air, surface and groundwater, and soils.

<sup>13</sup> The capacity of the environment for absorbing an incremental load of pollutants while remaining below a threshold of unacceptable risk to human health and the environment.

<sup>14</sup> As defined by international conventions or local legislation.



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adopt GIIP alternatives for its environmentally sound disposal while adhering to the limitations applicable to its transboundary movement.<sup>15</sup> When hazardous waste disposal is conducted by third parties, the client will use contractors that are reputable and legitimate enterprises licensed by the relevant government regulatory agencies and obtain chain of custody documentation to the final destination. The client should ascertain whether licensed disposal sites are being operated to acceptable standards and where they are, the client will use these sites. Where this is not the case, clients should reduce waste sent to such sites and consider alternative disposal options, including the possibility of developing their own recovery or disposal facilities at the project site.

### Hazardous Materials Management

13. Hazardous materials are sometimes used as raw material or produced as product by the project. The client will avoid or, when avoidance is not possible, minimize and control the release of hazardous materials. In this context, the production, transportation, handling, storage, and use of hazardous materials for project activities should be assessed. The client will consider less hazardous substitutes where hazardous materials are intended to be used in manufacturing processes or other operations. The client will avoid the manufacture, trade, and use of chemicals and hazardous materials subject to international bans or phase-outs due to their high toxicity to living organisms, environmental persistence, potential for bioaccumulation, or potential for depletion of the ozone layer.<sup>16</sup>

### Pesticide Use and Management

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

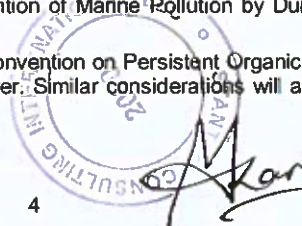
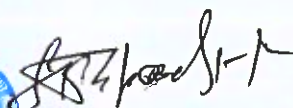
15. When pest management activities include the use of chemical pesticides, the client will select chemical pesticides that are low in human toxicity, that are known to be effective against the target species, and that have minimal effects on non-target species and the environment. When the client selects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

16. The client will design its pesticide application regime to (i) avoid damage to natural enemies of the target pest, and where avoidance is not possible, minimize, and (ii) avoid the risks associated with the development of resistance in pests and vectors, and where avoidance is not possible minimize. In addition, pesticides will be handled, stored, applied, and disposed of in accordance with the Food and Agriculture Organization's International Code of Conduct on the Distribution and Use of Pesticides or other GIIP.

17. The client will not purchase, store, use, manufacture, or trade in products that fall in WHO Recommended Classification of Pesticides by Hazard Class Ia (extremely hazardous); or Ib (highly

<sup>15</sup> Transboundary movement of hazardous materials should be consistent with national, regional and international law, including the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal and the London Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter.

<sup>16</sup> Consistent with the objectives of the Stockholm Convention on Persistent Organic Pollutants and the Montreal Protocol on Substances that Deplete the Ozone Layer. Similar considerations will apply to certain World Health Organization (WHO) classes of pesticides.



**Performance Standard 3**  
**Resource Efficiency and Pollution Prevention**

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hazardous). The client will not purchase, store, use, manufacture or trade in Class II (moderately hazardous) pesticides, unless the project has appropriate controls on manufacture, procurement, or distribution and/or use of these chemicals. These chemicals should not be accessible to personnel without proper training, equipment, and facilities to handle, store, apply, and dispose of these products properly.



## Performance Standard 4 Community Health, Safety, and Security

January 1, 2012

### Introduction

1. Performance Standard 4 recognizes that project activities, equipment, and infrastructure can increase community exposure to risks and impacts. In addition, communities that are already subjected to impacts from climate change may also experience an acceleration and/or intensification of impacts due to project activities. While acknowledging the public authorities' role in promoting the health, safety, and security of the public, this Performance Standard addresses the client's responsibility to avoid or minimize the risks and impacts to community health, safety, and security that may arise from project related-activities, with particular attention to vulnerable groups.

2. In conflict and post-conflict areas, the level of risks and impacts described in this Performance Standard may be greater. The risks that a project could exacerbate an already sensitive local situation and stress scarce local resources should not be overlooked as it may lead to further conflict.

### Objectives

- To anticipate and avoid adverse impacts on the health and safety of the Affected Community during the project life from both routine and non-routine circumstances.
- To ensure that the safeguarding of personnel and property is carried out in accordance with relevant human rights principles and in a manner that avoids or minimizes risks to the Affected Communities.

### Scope of Application

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

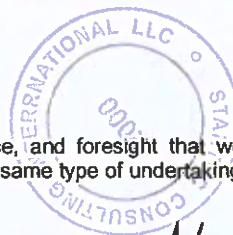
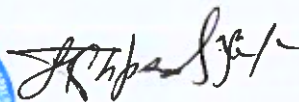
4. This Performance Standard addresses potential risks and impacts to the Affected Communities from project activities. Occupational health and safety requirements for workers are included in Performance Standard 2, and environmental standards to avoid or minimize impacts on human health and the environment due to pollution are included in Performance Standard 3.

### Requirements

#### Community Health and Safety

5. The client will evaluate the risks and impacts to the health and safety of the Affected Communities during the project life-cycle and will establish preventive and control measures consistent with good international industry practice (GIIP),<sup>1</sup> such as in the World Bank Group Environmental, Health and Safety Guidelines (EHS Guidelines) or other internationally recognized sources. The client will identify risks and impacts and propose mitigation measures that are commensurate with their nature and magnitude. These measures will favor the avoidance of risks and impacts over minimization.

<sup>1</sup> Defined as the exercise of professional skill, diligence, prudence, and foresight that would reasonably be expected from skilled and experienced professionals engaged in the same type of undertaking under the same or similar circumstances globally or regionally.



## Performance Standard 4 Community Health, Safety, and Security

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### Infrastructure and Equipment Design and Safety

6. The client will design, construct, operate, and decommission the structural elements or components of the project in accordance with GIIIP, taking into consideration safety risks to third parties or Affected Communities. When new buildings and structures will be accessed by members of the public, the client will consider incremental risks of the public's potential exposure to operational accidents and/or natural hazards and be consistent with the principles of universal access. Structural elements will be designed and constructed by competent professionals, and certified or approved by competent authorities or professionals. When structural elements or components, such as dams, tailings dams, or ash ponds are situated in high-risk locations, and their failure or malfunction may threaten the safety of communities, the client will engage one or more external experts with relevant and recognized experience in similar projects, separate from those responsible for the design and construction, to conduct a review as early as possible in project development and throughout the stages of project design, construction, operation, and decommissioning. For projects that operate moving equipment on public roads and other forms of infrastructure, the client will seek to avoid the occurrence of incidents and injuries to members of the public associated with the operation of such equipment.

### Hazardous Materials Management and Safety

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

### Ecosystem Services

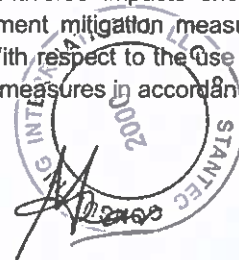
8. The project's direct impacts on priority ecosystem services may result in adverse health and safety risks and impacts to Affected Communities. With respect to this Performance Standard, ecosystem services are limited to provisioning and regulating services as defined in paragraph 2 of Performance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

<sup>2</sup> Freshwater is an example of provisioning ecosystem services.



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## Performance Standard 4 Community Health, Safety, and Security

January 1, 2012

### Community Exposure to Disease

9. The client will avoid or minimize the potential for community exposure to water-borne, water-based, water-related, and vector-borne diseases, and communicable diseases that could result from project activities, taking into consideration differentiated exposure to and higher sensitivity of vulnerable groups. Where specific diseases are endemic in communities in the project area of influence, the client is encouraged to explore opportunities during the project life-cycle to improve environmental conditions that could help minimize their incidence.

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

### Emergency Preparedness and Response

11. In addition to the emergency preparedness and response requirements described in Performance Standard 1, the client will also assist and collaborate with the Affected Communities, local government agencies, and other relevant parties, in their preparations to respond effectively to emergency situations, especially when their participation and collaboration are necessary to respond to such emergency situations. If local government agencies have little or no capacity to respond effectively, the client will play an active role in preparing for and responding to emergencies associated with the project. The client will document its emergency preparedness and response activities, resources, and responsibilities, and will disclose appropriate information to Affected Communities, relevant government agencies, or other relevant parties.

### Security Personnel

12. When the client retains direct or contracted workers to provide security to safeguard its personnel and property, it will assess risks posed by its security arrangements to those within and outside the project site. In making such arrangements, the client will be guided by the principles of proportionality and good international practice<sup>3</sup> in relation to hiring, rules of conduct, training, equipping, and monitoring of such workers, and by applicable law. The client will make reasonable inquiries to ensure that those providing security are not implicated in past abuses; will train them adequately in the use of force (and where applicable, firearms), and appropriate conduct toward workers and Affected Communities; and require them to act within the applicable law. The client will not sanction any use of force except when used for preventive and defensive purposes in proportion to the nature and extent of the threat. The client will provide a grievance mechanism for Affected Communities to express concerns about the security arrangements and acts of security personnel.

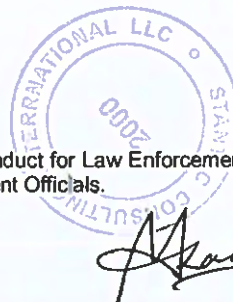
13. The client will assess and document risks arising from the project's use of government security personnel deployed to provide security services. The client will seek to ensure that security personnel will act in a manner consistent with paragraph 12 above, and encourage the relevant public authorities to disclose the security arrangements for the client's facilities to the public, subject to overriding security concerns.

14. The client will consider and, where appropriate, investigate all allegations of unlawful or abusive acts of security personnel, take action (or urge appropriate parties to take action) to prevent recurrence, and report unlawful and abusive acts to public authorities.

<sup>3</sup> Including practice consistent with the United Nation's (UN) Code of Conduct for Law Enforcement Officials, and UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.









### Introduction

1. Performance Standard 5 recognizes that project-related land acquisition and restrictions on land use can have adverse impacts on communities and persons that use this land. Involuntary resettlement refers both to 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<sup>1</sup>) as a result of project-related land acquisition<sup>2</sup> and/or restrictions on land use. 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. This occurs in cases of (i) lawful expropriation or temporary or permanent restrictions on land use and (ii) negotiated settlements in which the buyer can resort to expropriation or impose legal restrictions on land use if negotiations with the seller fail.

2. Unless properly managed, involuntary resettlement may result in long-term hardship and impoverishment for the Affected Communities and persons, as well as environmental damage and adverse socio-economic impacts in areas to which they have been displaced. For these reasons, involuntary resettlement should be avoided. However, where involuntary resettlement is unavoidable, it should be minimized and appropriate measures to mitigate adverse impacts on displaced persons and host communities<sup>3</sup> should be carefully planned and implemented. The government often plays a central role in the land acquisition and resettlement process, including the determination of compensation, and is therefore an important third party in many situations. Experience demonstrates that the direct involvement of the client in resettlement activities can result in more cost-effective, efficient, and timely implementation of those activities, as well as in the introduction of innovative approaches to improving the livelihoods of those affected by resettlement.

3. To help avoid expropriation and eliminate the need to use governmental authority to enforce relocation, clients are encouraged to use negotiated settlements meeting the requirements of this Performance Standard, even if they have the legal means to acquire land without the seller's consent.

### Objectives

- To avoid, and when avoidance is not possible, minimize displacement by exploring alternative project designs.
- To avoid forced eviction.
- To anticipate and avoid, or where avoidance is not possible, minimize adverse social and economic impacts from land acquisition or restrictions on land use by (i) providing compensation for loss of assets at replacement cost<sup>4</sup> and (ii) ensuring

<sup>1</sup> The term "livelihood" refers to the full range of means that individuals, families, and communities utilize to make a living, such as wage-based income, agriculture, fishing, foraging, other natural resource-based livelihoods, petty trade, and bartering.

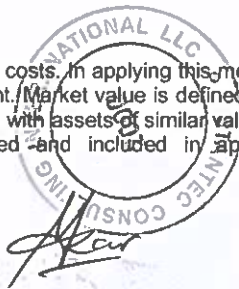
<sup>2</sup> Land acquisition includes both outright purchases of property and acquisition of access rights, such as easements or rights of way.

<sup>3</sup> A host community is any community receiving displaced persons.

<sup>4</sup> Replacement cost is defined as the market value of the assets plus transaction costs. In applying this method of valuation, depreciation of structures and assets should not be taken into account. Market value is defined as the value required to allow Affected Communities and persons to replace lost assets with assets of similar value. The valuation method for determining replacement cost should be documented and included in applicable Resettlement and/or Livelihood Restoration plans (see paragraphs 18 and 25).



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## Performance Standard 5 Land Acquisition and Involuntary Resettlement

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that resettlement activities are implemented with appropriate disclosure of information, consultation, and the informed participation of those affected.

- To improve, or restore, the livelihoods and standards of living of displaced persons.
- To improve living conditions among physically displaced persons through the provision of adequate housing with security of tenure<sup>5</sup> at resettlement sites.

### Scope of Application

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

5. This Performance Standard applies to physical and/or economic displacement resulting from the following types of land-related transactions:

- Land rights or land use rights acquired through expropriation or other compulsory procedures in accordance with the legal system of the host country;
- Land rights or land use rights acquired through negotiated settlements with property owners or those with legal rights to the land if failure to reach settlement would have resulted in expropriation or other compulsory procedures;<sup>6</sup>
- Project situations where involuntary restrictions on land use and access to natural resources cause a community or groups within a community to lose access to resource usage where they have traditional or recognizable usage rights;<sup>7</sup>
- Certain project situations requiring evictions of people occupying land without formal, traditional, or recognizable usage rights;<sup>8</sup> or
- Restriction on access to land or use of other resources including communal property and natural resources such as marine and aquatic resources, timber and non-timber forest products, freshwater, medicinal plants, hunting and gathering grounds and grazing and cropping areas.<sup>9</sup>

6. This Performance Standard does not apply to resettlement resulting from voluntary land transactions (i.e., market transactions in which the seller is not obliged to sell and the buyer cannot resort to expropriation or other compulsory procedures sanctioned by the legal system of the host country if negotiations fail). It also does not apply to impacts on livelihoods where the project is not changing the land use of the affected groups or communities.<sup>10</sup>

<sup>5</sup> Security of tenure means that resettled individuals or communities are resettled to a site that they can legally occupy and where they are protected from the risk of eviction.

<sup>6</sup> This also applies to customary or traditional rights recognized or recognizable under the laws of the host country. The negotiations may be carried out by the government or by the company (in some circumstances, as an agent of the government).

<sup>7</sup> In such situations, affected persons frequently do not have formal ownership. This may include freshwater and marine environments. This Performance Standard may also apply when project-related biodiversity areas or legally designated buffer zones are established but not acquired by the client.

<sup>8</sup> While some people do not have rights over the land they occupy, this Performance Standard requires that non-land assets be retained, replaced, or compensated for; relocation take place with security of tenure; and lost livelihoods be restored.

<sup>9</sup> Natural resource assets referred to in this Performance Standard are equivalent to ecosystem provisioning services as described in Performance Standard 6.

<sup>10</sup> More generalized impacts on communities or groups of people are covered in Performance Standard 1. For example, disruption of access to mineral deposits by artisanal miners is covered by Performance Standard 1.

## Performance Standard 5 Land Acquisition and Involuntary Resettlement

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7. Where project impacts on land, assets, or access to assets become significantly adverse at any stage of the project, the client should consider applying requirements of this Performance Standard, even where no land acquisition or land use restriction is involved.

### Requirements

#### General

##### Project Design

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

##### Compensation and Benefits for Displaced Persons

9. When displacement cannot be avoided, the client will offer displaced communities and persons compensation for loss of assets at full replacement cost and other assistance<sup>11</sup> to help them improve or restore their standards of living or livelihoods, as provided in this Performance Standard. Compensation standards will be transparent and applied consistently to all communities and persons affected by the displacement. Where livelihoods of displaced persons are land-based,<sup>12</sup> or where land is collectively owned, the client will, where feasible,<sup>13</sup> offer the displaced land-based compensation. The client will take possession of acquired land and related assets only after compensation has been made available<sup>14</sup> and, where applicable, resettlement sites and moving allowances have been provided to the displaced persons in addition to compensation.<sup>15</sup> The client will also provide opportunities to displaced communities and persons to derive appropriate development benefits from the project.

##### Community Engagement

10. The client will engage with Affected Communities, including host communities, through the process of stakeholder engagement described in Performance Standard 1. Decision-making processes related to resettlement and livelihood restoration should include options and alternatives, where applicable. Disclosure of relevant information and participation of Affected Communities and persons will continue during the planning, implementation, monitoring, and evaluation of compensation payments, livelihood restoration activities, and resettlement to achieve outcomes that are consistent with the objectives of this Performance Standard.<sup>16</sup> Additional provisions apply to consultations with Indigenous Peoples, in accordance with Performance Standard 7.

<sup>11</sup> As described in paragraphs 19 and 26.

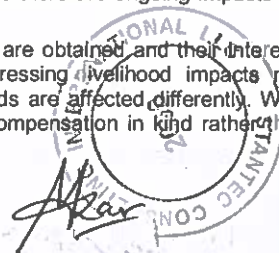
<sup>12</sup> The term "land-based" includes livelihood activities such as subsistence cropping and grazing of livestock as well as the harvesting of natural resources.

<sup>13</sup> Refer to paragraph 26 of this Performance Standard for further requirements.

<sup>14</sup> In certain cases it may not be feasible to pay compensation to all those affected before taking possession of the land, for example when the ownership of the land in question is in dispute. Such circumstances shall be identified and agreed on a case-by-case basis, and compensation funds shall be made available for example through deposit into an escrow account before displacement takes place.

<sup>15</sup> Unless government-managed resettlement is involved and where the client has no direct influence over the timing of compensation payments. Such cases should be handled in accordance with paragraphs 27–29 of this Performance Standard. Staggered compensation payments may be made where one-off cash payments would demonstrably undermine social and/or resettlement objectives, or where there are ongoing impacts to livelihood activities.

<sup>16</sup> The consultation process should ensure that women's perspectives are obtained and their interests factored into all aspects of resettlement planning and implementation. Addressing livelihood impacts may require intra-household analysis in cases where women's and men's livelihoods are affected differently. Women's and men's preferences in terms of compensation mechanisms, such as compensation in kind rather than in cash, should be explored.



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### Grievance Mechanism

11. The client will establish a grievance mechanism consistent with Performance Standard 1 as early as possible in the project development phase. This will allow the client to receive and address specific concerns about compensation and relocation raised by displaced persons or members of host communities in a timely fashion, including a recourse mechanism designed to resolve disputes in an impartial manner.

### Resettlement and Livelihood Restoration Planning and Implementation

12. Where involuntary resettlement is unavoidable, either as a result of a negotiated settlement or expropriation, a census will be carried out to collect appropriate socio-economic baseline data to identify the persons who will be displaced by the project, determine who will be eligible for compensation and assistance,<sup>17</sup> and discourage ineligible persons, such as opportunistic settlers, from claiming benefits. In the absence of host government procedures, the client will establish a cut-off date for eligibility. Information regarding the cut-off date will be well documented and disseminated throughout the project area.

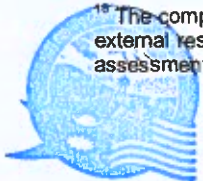
13. In cases where affected persons reject compensation offers that meet the requirements of this Performance Standard and, as a result, expropriation or other legal procedures are initiated, the client will explore opportunities to collaborate with the responsible government agency, and, if permitted by the agency, play an active role in resettlement planning, implementation, and monitoring (see paragraphs 30–32).

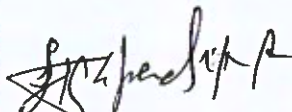
14. The client will establish procedures to monitor and evaluate the implementation of a Resettlement Action Plan or Livelihood Restoration Plan (see paragraphs 19 and 25) and take corrective action as necessary. The extent of monitoring activities will be commensurate with the project's risks and impacts. For projects with significant involuntary resettlement risks, the client will retain competent resettlement professionals to provide advice on compliance with this Performance Standard and to verify the client's monitoring information. Affected persons will be consulted during the monitoring process.

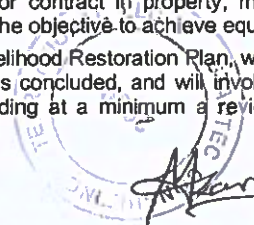
15. Implementation of a Resettlement Action Plan or Livelihood Restoration Plan will be considered completed when the adverse impacts of resettlement have been addressed in a manner that is consistent with the relevant plan as well as the objectives of this Performance Standard. It may be necessary for the client to commission an external completion audit of the Resettlement Action Plan or Livelihood Restoration Plan to assess whether the provisions have been met, depending on the scale and/or complexity of physical and economic displacement associated with a project. The completion audit should be undertaken once all mitigation measures have been substantially completed and once displaced persons are deemed to have been provided adequate opportunity and assistance to sustainably restore their livelihoods. The completion audit will be undertaken by competent resettlement professionals once the agreed monitoring period is concluded. The completion audit will include, at a minimum, a review of the totality of mitigation measures implemented by the Client, a comparison of implementation outcomes against agreed objectives, and a conclusion as to whether the monitoring process can be ended.<sup>18</sup>

<sup>17</sup> Documentation of ownership or occupancy and compensation arrangements should be issued in the names of both spouses or heads of households, 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.

<sup>18</sup> The completion audit of the Resettlement Action Plan and/or Livelihood Restoration Plan will be undertaken by external resettlement experts once the agreed monitoring period is concluded, and will involve a more in-depth assessment than regular resettlement monitoring activities, including at a minimum a review of all mitigation







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

### Displacement

17. Displaced persons may be classified as persons (i) who have formal legal rights to the land or assets they occupy or use; (ii) who do not have formal legal rights to land or assets, but have a claim to land that is recognized or recognizable under national law,<sup>19</sup> or (iii) who have no recognizable legal right or claim to the land or assets they occupy or use. The census will establish the status of the displaced persons.

18. Project-related land acquisition and/or restrictions on land use may result in the physical displacement of people as well as their economic displacement. Consequently, requirements of this Performance Standard in respect of physical displacement and economic displacement may apply simultaneously.<sup>20</sup>

### Physical Displacement

19. In the case of physical displacement, the client will develop a Resettlement Action Plan that covers, at a minimum, the applicable requirements of this Performance Standard regardless of the number of people affected. This will include compensation at full replacement cost for land and other assets lost. The Plan will be designed to mitigate the negative impacts of displacement; identify development opportunities; develop a resettlement budget and schedule; and establish the entitlements of all categories of affected persons (including host communities). Particular attention will be paid to the needs of the poor and the vulnerable. The client will document all transactions to acquire land rights, as well as compensation measures and relocation activities.

20. If people living in the project area are required to move to another location, the client will (i) offer displaced persons choices among feasible resettlement options, including adequate replacement housing or cash compensation where appropriate; and (ii) provide relocation assistance suited to the needs of each group of displaced persons. New resettlement sites built for displaced persons must offer improved living conditions. The displaced persons' preferences with respect to relocating in preexisting communities and groups will be taken into consideration. Existing social and cultural institutions of the displaced persons and any host communities will be respected.

21. In the case of physically displaced persons under paragraph 17 (i) or (ii), the client will offer the choice of replacement property of equal or higher value, security of tenure, equivalent or better characteristics, and advantages of location or cash compensation where appropriate. Compensation

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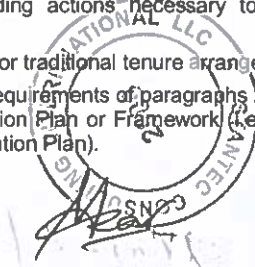
measures with respect to the physical and/or economic displacement implemented by the Client, a comparison of implementation outcomes against agreed objectives, a conclusion as to whether the monitoring process can be ended and, where necessary, a Corrective Action Plan listing outstanding actions necessary to met the objectives.

<sup>19</sup> Such claims could be derived from adverse possession or from customary or traditional tenure arrangements.

<sup>20</sup> Where a project results in both physical and economic displacement, the requirements of paragraphs 25 and 26 (Economic Displacement) should be incorporated into the Resettlement Action Plan or Framework (i.e., there is no need to have a separate Resettlement Action Plan and Livelihood Restoration Plan).



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## Performance Standard 5 Land Acquisition and Involuntary Resettlement

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in kind should be considered in lieu of cash. Cash compensation levels should be sufficient to replace the lost land and other assets at full replacement cost in local markets.<sup>21</sup>

22. In the case of physically displaced persons under paragraph 17 (iii), the client will offer them a choice of options for adequate housing with security of tenure so that they can resettle legally without having to face the risk of forced eviction. Where these displaced persons own and occupy structures, the client will compensate them for the loss of assets other than land, such as dwellings and other improvements to the land, at full replacement cost, provided that these persons have been occupying the project area prior to the cut-off date for eligibility. Based on consultation with such displaced persons, the client will provide relocation assistance sufficient for them to restore their standard of living at an adequate alternative site.<sup>22</sup>

23. The client is not required to compensate or assist those who encroach on the project area after the cut-off date for eligibility, provided the cut-off date has been clearly established and made public.

24. Forced evictions<sup>23</sup> will not be carried out except in accordance with law and the requirements of this Performance Standard.

### Economic Displacement

25. In the case of projects involving economic displacement only, the client will develop a Livelihood Restoration Plan to compensate affected persons and/or communities and offer other assistance that meet the objectives of this Performance Standard. The Livelihood Restoration Plan will establish the entitlements of affected persons and/or communities and will ensure that these are provided in a transparent, consistent, and equitable manner. The mitigation of economic displacement will be considered complete when affected persons or communities have received compensation and other assistance according to the requirements of the Livelihood Restoration Plan and this Performance Standard, and are deemed to have been provided with adequate opportunity to reestablish their livelihoods.

26. If land acquisition or restrictions on land use result in economic displacement defined as loss of assets and/or means of livelihood, regardless of whether or not the affected people are physically displaced, the client will meet the requirements in paragraphs 27–29 below, as applicable.

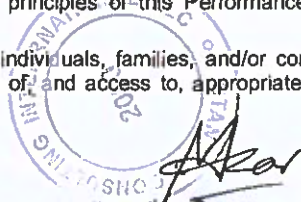
27. Economically displaced persons who face loss of assets or access to assets will be compensated for such loss at full replacement cost.

- In cases where land acquisition or restrictions on land use affect commercial structures, affected business owners will be compensated for the cost of reestablishing commercial activities elsewhere, for lost net income during the

<sup>21</sup> Payment of cash compensation for lost assets may be appropriate where (i) livelihoods are not land-based; (ii) livelihoods are land-based but the land taken for the project is a small fraction of the affected asset and the residual land is economically viable; or (iii) active markets for land, housing, and labor exist, displaced persons use such markets, and there is sufficient supply of land and housing.

<sup>22</sup> Relocation of informal settlers in urban areas may involve trade-offs. For example, the relocated families may gain security of tenure, but they may lose advantages of location. Changes in location that may affect livelihood opportunities should be addressed in accordance with the principles of this Performance Standard (see in particular paragraph 25).

<sup>23</sup> The permanent or temporary removal against the will of individuals, families, and/or communities from the homes and/or lands which they occupy without the provision of, and access to, appropriate forms of legal and other protection.



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period of transition, and for the costs of the transfer and reinstallation of the plant, machinery, or other equipment.

- In cases affecting persons with legal rights or claims to land which are recognized or recognizable under national law (see paragraph 17 (i) and (ii)), replacement property (e.g., agricultural or commercial sites) of equal or greater value will be provided, or, where appropriate, cash compensation at full replacement cost.
- Economically displaced persons who are without legally recognizable claims to land (see paragraph 17 (iii)) will be compensated for lost assets other than land (such as crops, irrigation infrastructure and other improvements made to the land), at full replacement cost. The client is not required to compensate or assist opportunistic settlers who encroach on the project area after the cut-off date for eligibility.

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

- For 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 should be offered as a matter of priority.
- For persons whose livelihoods are natural resource-based and where project-related restrictions on access envisaged in paragraph 5 apply, implementation of measures will be made to either allow continued access to affected resources or provide access to alternative resources with equivalent livelihood-earning potential and accessibility. Where appropriate, benefits and compensation associated with natural resource usage may be collective in nature rather than directly oriented towards individuals or households.
- If circumstances prevent the client from providing land or similar resources as described above, alternative income earning opportunities may be provided, such as credit facilities, training, cash, or employment opportunities. Cash compensation alone, however, is frequently insufficient to restore livelihoods.

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

### **Private Sector Responsibilities Under Government-Managed Resettlement**

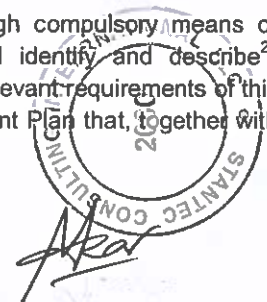
30. Where land acquisition and resettlement are the responsibility of the government, the client will collaborate with the responsible government agency, to the extent permitted by the agency, to achieve outcomes that are consistent with this Performance Standard. In addition, where government capacity is limited, the client will play an active role during resettlement planning, implementation, and monitoring, as described below.

31. In the case of acquisition of land rights or access to land through compulsory means or negotiated settlements involving physical displacement, the client will identify and describe<sup>24</sup> government resettlement measures. If these measures do not meet the relevant requirements of this Performance Standard, the client will prepare a Supplemental Resettlement Plan that, together with

<sup>24</sup> Government documents, where available, may be used to identify such measures.



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## Performance Standard 5 Land Acquisition and Involuntary Resettlement

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the documents prepared by the responsible government agency, will address the relevant requirements of this Performance Standard (the General Requirements and requirements for Physical Displacement and Economic Displacement above). The client will need to include in its Supplemental Resettlement Plan, at a minimum (i) identification of affected people and impacts; (ii) a description of regulated activities, including the entitlements of displaced persons provided under applicable national laws and regulations; (iii) the supplemental measures to achieve the requirements of this Performance Standard as described in paragraphs 19–29 in a way that is permitted by the responsible agency and implementation time schedule; and (iv) the financial and implementation responsibilities of the client in the execution of its Supplemental Resettlement Plan.

32. In the case of projects involving economic displacement only, the client will identify and describe the measures that the responsible government agency plans to use to compensate Affected Communities and persons. If these measures do not meet the relevant requirements of this Performance Standard, the client will develop an Environmental and Social Action Plan to complement government action. This may include additional compensation for lost assets, and additional efforts to restore lost livelihoods where applicable.



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## Performance Standard 6

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

January 1, 2012

#### Introduction

1. Performance Standard 6 recognizes that protecting and conserving biodiversity, maintaining ecosystem services, and sustainably managing living natural resources are fundamental to sustainable development. The requirements set out in this Performance Standard have been guided by the Convention on Biological Diversity, which defines biodiversity as "the variability among living organisms from all sources including, inter alia, terrestrial, marine and other aquatic ecosystems and the ecological complexes of which they are a part; this includes diversity within species, between species, and of ecosystems."

2. Ecosystem services are the benefits that people, including businesses, derive from ecosystems. Ecosystem services are organized into four types: (i) provisioning services, which are the products people obtain from ecosystems; (ii) regulating services, which are the benefits people obtain from the regulation of ecosystem processes; (iii) cultural services, which are the nonmaterial benefits people obtain from ecosystems; and (iv) supporting services, which are the natural processes that maintain the other services.<sup>1</sup>

3. Ecosystem services valued by humans are often underpinned by biodiversity. Impacts on biodiversity can therefore often adversely affect the delivery of ecosystem services. This Performance Standard addresses how clients can sustainably manage and mitigate impacts on biodiversity and ecosystem services throughout the project's lifecycle.

#### Objectives

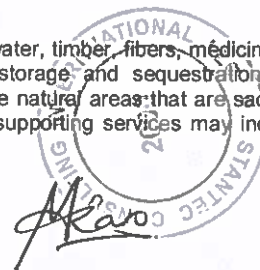
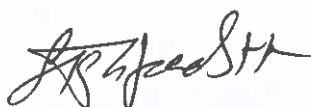
- To protect and conserve biodiversity.
- To maintain the benefits from ecosystem services.
- To promote the sustainable management of living natural resources through the adoption of practices that integrate conservation needs and development priorities.

#### Scope of Application

4. The applicability of this Performance Standard is established during the environmental and social risks and impacts identification process. The implementation of the actions necessary to meet the requirements of this Performance Standard is managed through the client's Environmental and Social Management System (ESMS), the elements of which are outlined in Performance Standard 1.

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

<sup>1</sup> Examples are as follows: (i) provisioning services may include food, freshwater, timber, fibers, medicinal plants; (ii) regulating services may include surface water purification, carbon storage, and sequestration, climate regulation, protection from natural hazards; (iii) cultural services may include natural areas that are sacred sites and areas of importance for recreation and aesthetic enjoyment; and (iv) supporting services may include soil formation, nutrient cycling, primary production.





January 1, 2012

#### Requirements

##### General

6. The risks and impacts identification process as set out in Performance Standard 1 should consider direct and indirect project-related impacts on biodiversity and ecosystem services and identify any significant residual impacts. This process will consider relevant threats to biodiversity and ecosystem services, especially focusing on habitat loss, degradation and fragmentation, invasive alien species, overexploitation, hydrological changes, nutrient loading, and pollution. It will also take into account the differing values attached to biodiversity and ecosystem services by Affected Communities and, where appropriate, other stakeholders. Where paragraphs 13–19 are applicable, the client should consider project-related impacts across the potentially affected landscape or seascape.

7. As a matter of priority, the client should seek to avoid impacts on biodiversity and ecosystem services. When avoidance of impacts is not possible, measures to minimize impacts and restore biodiversity and ecosystem services should be implemented. Given the complexity in predicting project impacts on biodiversity and ecosystem services over the long term, the client should adopt a practice of adaptive management in which the implementation of mitigation and management measures are responsive to changing conditions and the results of monitoring throughout the project's lifecycle.

8. Where paragraphs 13–15 are applicable, the client will retain competent professionals to assist in conducting the risks and impacts identification process. Where paragraphs 16–19 are applicable, the client should retain external experts with appropriate regional experience to assist in the development of a mitigation hierarchy that complies with this Performance Standard and to verify the implementation of those measures.

##### Protection and Conservation of Biodiversity

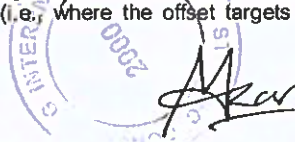

9. Habitat is defined as a terrestrial, freshwater, or marine geographical unit or airway that supports assemblages of living organisms and their interactions with the non-living environment. For the purposes of implementation of this Performance Standard, habitats are divided into modified, natural, and critical. Critical habitats are a subset of modified or natural habitats.

10. For the protection and conservation of biodiversity, the mitigation hierarchy includes biodiversity offsets, which may be considered only after appropriate avoidance, minimization, and restoration measures have been applied.<sup>2</sup> A biodiversity offset should be designed and implemented to achieve measurable conservation outcomes<sup>3</sup> that can reasonably be expected to result in no net loss and preferably a net gain of biodiversity; however, a net gain is required in critical habitats. The design of a biodiversity offset must adhere to the "like-for-like or better" principle<sup>4</sup> and must be carried out in

<sup>2</sup> Biodiversity offsets are measurable conservation outcomes resulting from actions designed to compensate for significant residual adverse biodiversity impacts arising from project development and persisting after appropriate avoidance, minimization and restoration measures have been taken.

<sup>3</sup> Measurable conservation outcomes for biodiversity must be demonstrated in situ (on-the-ground) and on an appropriate geographic scale (e.g., local, landscape-level, national, regional).

<sup>4</sup> The principle of "like-for-like or better" indicates that biodiversity offsets must be designed to conserve the same biodiversity values that are being impacted by the project (an "in-kind" offset). In certain situations, however, areas of biodiversity to be impacted by the project may be neither a national nor a local priority, and there may be other areas of biodiversity with like values that are a higher priority for conservation and sustainable use and under imminent threat or need of protection or effective management. In these situations, it may be appropriate to consider an "out-of-kind" offset that involves "trading up" (i.e., where the offset targets biodiversity of higher



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alignment with best available information and current practices. When a client is considering the development of an offset as part of the mitigation strategy, external experts with knowledge in offset design and implementation must be involved.

#### Modified Habitat

11. Modified habitats are areas that may contain a large proportion of plant and/or animal species of non-native origin, and/or where human activity has substantially modified an area's primary ecological functions and species composition.<sup>5</sup> Modified habitats may include areas managed for agriculture, forest plantations, reclaimed<sup>6</sup> coastal zones, and reclaimed wetlands.

12. This Performance Standard applies to those areas of modified habitat that include significant biodiversity value, as determined by the risks and impacts identification process required in Performance Standard 1. The client should minimize impacts on such biodiversity and implement mitigation measures as appropriate.

#### Natural Habitat

13. Natural habitats are areas composed of viable assemblages of plant and/or animal species of largely native origin, and/or where human activity has not essentially modified an area's primary ecological functions and species composition.

14. The client will not significantly convert or degrade<sup>7</sup> natural habitats, unless all of the following are demonstrated:

- No other viable alternatives within the region exist for development of the project on modified habitat;
- Consultation has established the views of stakeholders, including Affected Communities, with respect to the extent of conversion and degradation;<sup>8</sup> and
- Any conversion or degradation is mitigated according to the mitigation hierarchy.

15. In areas of natural habitat, mitigation measures will be designed to achieve no net loss<sup>9</sup> of biodiversity where feasible. Appropriate actions include:

- Avoiding impacts on biodiversity through the identification and protection of set-asides;<sup>10</sup>

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priority than that affected by the project) that will, for critical habitats, meet the requirements of paragraph 17 of this Performance Standard.

<sup>5</sup> This excludes habitat that has been converted in anticipation of the project.

<sup>6</sup> Reclamation as used in this context is the process of creating new land from sea or other aquatic areas for productive use.

<sup>7</sup> Significant conversion or degradation is (i) the elimination or severe diminution of the integrity of a habitat caused by a major and/or long-term change in land or water use; or (ii) a modification that substantially minimizes the habitat's ability to maintain viable populations of its native species.

<sup>8</sup> Conducted as part of the stakeholder engagement and consultation process, as described in Performance Standard 1.

<sup>9</sup> No net loss is defined as the point at which project-related impacts on biodiversity are balanced by measures taken to avoid and minimize the project's impacts, to undertake on-site restoration and finally to offset significant residual impacts, if any, on an appropriate geographic scale (e.g., local, landscape-level, national, regional).

<sup>10</sup> Set-asides are land areas within the project site, or areas over which the client has management control, that are excluded from development and are targeted for the implementation of conservation enhancement measures. Set-asides will likely contain significant biodiversity values and/or provide ecosystem services of significance at the local, national and/or regional level. Set-asides should be defined using internationally recognized approaches or methodologies (e.g., High Conservation Value, systematic conservation planning).



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- Implementing measures to minimize habitat fragmentation, such as biological corridors;
- Restoring habitats during operations and/or after operations; and
- Implementing biodiversity offsets.

#### Critical Habitat

16. Critical habitats are areas with high biodiversity value, including (i) habitat of significant importance to Critically Endangered and/or Endangered<sup>11</sup> species; (ii) habitat of significant importance to endemic and/or restricted-range species; (iii) habitat supporting globally significant concentrations of migratory species and/or congregatory species; (iv) highly threatened and/or unique ecosystems; and/or (v) areas associated with key evolutionary processes.

17. In areas of critical habitat, the client will not implement any project activities unless all of the following are demonstrated:

- No other viable alternatives within the region exist for development of the project on modified or natural habitats that are not critical;
- The project does not lead to measurable adverse impacts on those biodiversity values for which the critical habitat was designated, and on the ecological processes supporting those biodiversity values;<sup>12</sup>
- The project does not lead to a net reduction in the global and/or national/regional population<sup>13</sup> of any Critically Endangered or Endangered species over a reasonable period of time;<sup>14</sup> and
- A robust, appropriately designed, and long-term biodiversity monitoring and evaluation program is integrated into the client's management program.

18. In such cases where a client is able to meet the requirements defined in paragraph 17, the project's mitigation strategy will be described in a Biodiversity Action Plan and will be designed to achieve net gains<sup>15</sup> of those biodiversity values for which the critical habitat was designated.

<sup>11</sup> As listed on the International Union for the Conservation of Nature (IUCN) Red List of Threatened Species. The determination of critical habitat based on other listings is as follows: (i) If the species is listed nationally / regionally as critically endangered or endangered, in countries that have adhered to IUCN guidance, the critical habitat determination will be made on a project by project basis in consultation with competent professionals; and (ii) in instances where nationally or regionally listed species' categorizations do not correspond well to those of the IUCN (e.g., some countries more generally list species as "protected" or "restricted"), an assessment will be conducted to determine the rationale and purpose of the listing. In this case, the critical habitat determination will be based on such an assessment.

<sup>12</sup> Biodiversity values and their supporting ecological processes will be determined on an ecologically relevant scale.

<sup>13</sup> Net reduction is a singular or cumulative loss of individuals that impacts on the species' ability to persist at the global and/or regional/national scales for many generations or over a long period of time. The scale (i.e., global and/or regional/national) of the potential net reduction is determined based on the species' listing on either the (global) IUCN Red List and/or on regional/national lists. For species listed on both the (global) IUCN Red List and the national/regional lists, the net reduction will be based on the national/regional population.

<sup>14</sup> The timeframe in which clients must demonstrate "no net reduction" of Critically Endangered and Endangered species will be determined on a case-by-case basis in consultation with external experts.

<sup>15</sup> Net gains are additional conservation outcomes that can be achieved for the biodiversity values for which the critical habitat was designated. Net gains may be achieved through the development of a biodiversity offset and/or, in instances where the client could meet the requirements of paragraph 17 of this Performance Standard without a biodiversity offset, the client should achieve net gains through the implementation of programs that could be implemented in situ (on-the-ground) to enhance habitat, and protect and conserve biodiversity.



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19. In instances where biodiversity offsets are proposed as part of the mitigation strategy, the client must demonstrate through an assessment that the project's significant residual impacts on biodiversity will be adequately mitigated to meet the requirements of paragraph 17.

#### Legally Protected and Internationally Recognized Areas

20. In circumstances where a proposed project is located within a legally protected area<sup>16</sup> or an internationally recognized area,<sup>17</sup> the client will meet the requirements of paragraphs 13 through 19 of this Performance Standard, as applicable. In addition, the client will:

- Demonstrate that the proposed development in such areas is legally permitted;
- Act in a manner consistent with any government recognized management plans for such areas;
- Consult protected area sponsors and managers, Affected Communities, Indigenous Peoples and other stakeholders on the proposed project, as appropriate; and
- Implement additional programs, as appropriate, to promote and enhance the conservation aims and effective management of the area.<sup>18</sup>

#### Invasive Alien Species

21. Intentional or accidental introduction of alien, or non-native, species of flora and fauna into areas where they are not normally found can be a significant threat to biodiversity, since some alien species can become invasive, spreading rapidly and out-competing native species.

22. The client will not intentionally introduce any new alien species (not currently established in the country or region of the project) unless this is carried out in accordance with the existing regulatory framework for such introduction. Notwithstanding the above, the client will not deliberately introduce any alien species with a high risk of invasive behavior regardless of whether such introductions are permitted under the existing regulatory framework. All introductions of alien species will be subject to a risk assessment (as part of the client's environmental and social risks and impacts identification process) to determine the potential for invasive behavior. The client will implement measures to avoid the potential for accidental or unintended introductions including the transportation of substrates and vectors (such as soil, ballast, and plant materials) that may harbor alien species.

23. Where alien species are already established in the country or region of the proposed project, the client will exercise diligence in not spreading them into areas in which they have not already been established. As practicable, the client should take measures to eradicate such species from the natural habitats over which they have management control.

#### Management of Ecosystem Services

24. Where a project is likely to adversely impact ecosystem services, as determined by the risks and impacts identification process, the client will conduct a systematic review to identify priority

<sup>16</sup> This Performance Standard recognizes legally protected areas that meet the IUCN definition: "A clearly defined geographical space, recognized, dedicated and managed, through legal or other effective means, to achieve the long-term conservation of nature with associated ecosystem services and cultural values." For the purposes of this Performance Standard, this includes areas proposed by governments for such designation.

<sup>17</sup> Exclusively defined as UNESCO Natural World Heritage Sites, UNESCO Man and the Biosphere Reserves, Key Biodiversity Areas, and wetlands designated under the Convention on Wetlands of International Importance (the Ramsar Convention).

<sup>18</sup> Implementing additional programs may not be necessary for projects that do not create a new footprint.



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ecosystem services. Priority ecosystem services are two-fold: (i) those services on which project operations are most likely to have an impact and, therefore, which result in adverse impacts to Affected Communities; and/or (ii) those services on which the project is directly dependent for its operations (e.g., water). When Affected Communities are likely to be impacted, they should participate in the determination of priority ecosystem services in accordance with the stakeholder engagement process as defined in Performance Standard 1.

25. With respect to impacts on priority ecosystem services of relevance to Affected Communities and where the client has direct management control or significant influence over such ecosystem services, adverse impacts should be avoided. If these impacts are unavoidable, the client will minimize them and implement mitigation measures that aim to maintain the value and functionality of priority services. With respect to impacts on priority ecosystem services on which the project depends, clients should minimize impacts on ecosystem services and implement measures that increase resource efficiency of their operations, as described in Performance Standard 3. Additional provisions for ecosystem services are included in Performance Standards 4, 5, 7, and 8.<sup>19</sup>

#### Sustainable Management of Living Natural Resources

26. Clients who are engaged in the primary production of living natural resources, including natural and plantation forestry, agriculture, animal husbandry, aquaculture, and fisheries, will be subject to the requirements of paragraphs 26 through 30, in addition to the rest of this Performance Standard. Where feasible, the client will locate land-based agribusiness and forestry projects on unforested land or land already converted. Clients who are engaged in such industries will manage living natural resources in a sustainable manner, through the application of industry-specific good management practices and available technologies. Where such primary production practices are codified in globally, regionally, or nationally recognized standards, the client will implement sustainable management practices to one or more relevant and credible standards as demonstrated by independent verification or certification.

27. Credible globally, regionally, or nationally recognized standards for sustainable management of living natural resources are those which (i) are objective and achievable; (ii) are founded on a multi-stakeholder consultative process; (iii) encourage step-wise and continual improvements; and (iv) provide for independent verification or certification through appropriate accredited bodies for such standards.<sup>20</sup>

28. Where relevant and credible standard(s) exist, but the client has not yet obtained independent verification or certification to such standard(s), the client will conduct a pre-assessment of its conformity to the applicable standard(s) and take actions to achieve such verification or certification over an appropriate period of time.

29. In the absence of a relevant and credible global, regional, or national standard for the particular living natural resource in the country concerned, the client will:

<sup>19</sup> Ecosystem service references are located in Performance Standard 4, paragraph 8; Performance Standard 5, paragraphs 5 and 25–29; Performance Standard 7, paragraphs 13–17 and 20; and Performance Standard 8, paragraph 11.

<sup>20</sup> A credible certification system would be one which is independent, cost-effective, based on objective and measurable performance standards and developed through consultation with relevant stakeholders, such as local people and communities, Indigenous Peoples, and civil society organizations representing consumer, producer and conservation interests. Such a system has fair, transparent and independent decision-making procedures that avoid conflicts of interest.



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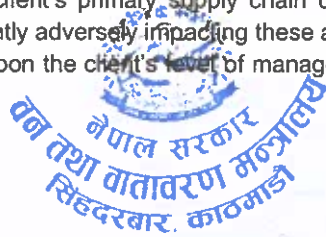
### Biodiversity Conservation and Sustainable Management of Living Natural Resources

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- Commit to applying good international industry operating principles, management practices, and technologies; and
- Actively engage and support the development of a national standard, where relevant, including studies that contribute to the definition and demonstration of sustainable practices.

#### Supply Chain

30. Where a client is purchasing primary production (especially but not exclusively food and fiber commodities) that is known to be produced in regions where there is a risk of significant conversion of natural and/or critical habitats, systems and verification practices will be adopted as part of the client's ESMS to evaluate its primary suppliers.<sup>21</sup> The systems and verification practices will (i) identify where the supply is coming from and the habitat type of this area; (ii) provide for an ongoing review of the client's primary supply chains; (iii) limit procurement to those suppliers that can demonstrate that they are not contributing to significant conversion of natural and/or critical habitats (this may be demonstrated by delivery of certified product, or progress towards verification or certification under a credible scheme in certain commodities and/or locations); and (iv) where possible, require actions to shift the client's primary supply chain over time to suppliers that can demonstrate that they are not significantly adversely impacting these areas. The ability of the client to fully address these risks will depend upon the client's level of management control or influence over its primary suppliers.



<sup>21</sup> Primary suppliers are those suppliers who, on an ongoing basis, provide the majority of living natural resources, goods, and materials essential for the core business processes of the project.

### Introduction

1. Performance Standard 7 recognizes that Indigenous Peoples, as social groups with identities that are distinct from mainstream groups in national societies, are often among the most marginalized and vulnerable segments of the population. In many cases, their economic, social, and legal status limits their capacity to defend their rights to, and interests in, lands and natural and cultural resources, and may restrict their ability to participate in and benefit from development. Indigenous Peoples are particularly vulnerable if their lands and resources are transformed, encroached upon, or significantly degraded. Their languages, cultures, religions, spiritual beliefs, and institutions may also come under threat. As a consequence, Indigenous Peoples may be more vulnerable to the adverse impacts associated with project development than non-indigenous communities. This vulnerability may include loss of identity, culture, and natural resource-based livelihoods, as well as exposure to impoverishment and diseases.

2. Private sector projects can create opportunities for Indigenous Peoples to participate in, and benefit from project-related activities that may help them fulfill their aspiration for economic and social development. Furthermore, Indigenous Peoples may play a role in sustainable development by promoting and managing activities and enterprises as partners in development. Government often plays a central role in the management of Indigenous Peoples' issues, and clients should collaborate with the responsible authorities in managing the risks and impacts of their activities.<sup>1</sup>

### Objectives

- To ensure that the development process fosters full respect for the human rights, dignity, aspirations, culture, and natural resource-based livelihoods of Indigenous Peoples.
- To anticipate and avoid adverse impacts of projects on communities of Indigenous Peoples, or when avoidance is not possible, to minimize and/or compensate for such impacts.
- To promote sustainable development benefits and opportunities for Indigenous Peoples in a culturally appropriate manner.
- To establish and maintain an ongoing relationship based on Informed Consultation and Participation (ICP) with the Indigenous Peoples affected by a project throughout the project's life-cycle.
- To ensure the Free, Prior, and Informed Consent (FPIC) of the Affected Communities of Indigenous Peoples when the circumstances described in this Performance Standard are present.
- To respect and preserve the culture, knowledge, and practices of Indigenous Peoples.

### Scope of Application

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

<sup>1</sup> In addition to meeting the requirements under this Performance Standard, clients must comply with applicable national law, including those laws implementing host country obligations under international law.



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4. There is no universally accepted definition of "Indigenous Peoples." Indigenous Peoples may be referred to in different countries by such terms as "Indigenous ethnic minorities," "aboriginals," "hill tribes," "minority nationalities," "scheduled tribes," "first nations," or "tribal groups."

5. In this Performance Standard, the term "Indigenous Peoples" is used in a generic sense to refer to a distinct social and cultural group possessing the following characteristics in varying degrees:

- Self-identification as members of a distinct indigenous cultural group and recognition of this identity by others;
- Collective attachment to geographically distinct habitats or ancestral territories in the project area and to the natural resources in these habitats and territories;
- Customary cultural, economic, social, or political institutions that are separate from those of the mainstream society or culture; or
- A distinct language or dialect, often different from the official language or languages of the country or region in which they reside.

6. This Performance Standard applies to communities or groups of Indigenous Peoples who maintain a collective attachment, i.e., whose identity as a group or community is linked, to distinct habitats or ancestral territories and the natural resources therein. It may also apply to communities or groups that have lost collective attachment to distinct habitats or ancestral territories in the project area, occurring within the concerned group members' lifetime, because of forced severance, conflict, government resettlement programs, dispossession of their lands, natural disasters, or incorporation of such territories into an urban area.

7. The client may be required to seek inputs from competent professionals to ascertain whether a particular group is considered as Indigenous Peoples for the purpose of this Performance Standard.

## Requirements

### General

#### Avoidance of Adverse Impacts

8. The client will identify, through an environmental and social risks and impacts assessment process, all communities of Indigenous Peoples within the project area of influence who may be affected by the project, as well as the nature and degree of the expected direct and indirect economic, social, cultural (including cultural heritage<sup>2</sup>), and environmental impacts on them.

9. Adverse impacts on Affected Communities of Indigenous Peoples should be avoided where possible. Where alternatives have been explored and adverse impacts are unavoidable, the client will minimize, restore, and/or compensate for these impacts in a culturally appropriate manner commensurate with the nature and scale of such impacts and the vulnerability of the Affected Communities of Indigenous Peoples. The client's proposed actions will be developed with the ICP of the Affected Communities of Indigenous Peoples and contained in a time-bound plan, such as an Indigenous Peoples Plan, or a broader community development plan with separate components for Indigenous Peoples.<sup>3</sup>

<sup>2</sup> Additional requirements on protection of cultural heritage are set out in Performance Standard 8.

<sup>3</sup> The determination of the appropriate plan may require the input of competent professionals. A community development plan may be appropriate in circumstances where Indigenous Peoples are a part of larger Affected Communities.



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### Participation and Consent

10. The client will undertake an engagement process with the Affected Communities of Indigenous Peoples as required in Performance Standard 1. This engagement process includes stakeholder analysis and engagement planning, disclosure of information, consultation, and participation, in a culturally appropriate manner. In addition, this process will:

- Involve Indigenous Peoples' representative bodies and organizations (e.g., councils of elders or village councils), as well as members of the Affected Communities of Indigenous Peoples; and
- Provide sufficient time for Indigenous Peoples' decision-making processes.<sup>4</sup>

11. Affected Communities of Indigenous Peoples may be particularly vulnerable to the loss of, alienation from or exploitation of their land and access to natural and cultural resources.<sup>5</sup> In recognition of this vulnerability, in addition to the General Requirements of this Performance Standard, the client will obtain the FPIC of the Affected Communities of Indigenous Peoples in the circumstances described in paragraphs 13–17 of this Performance Standard. FPIC applies to project design, implementation, and expected outcomes related to impacts affecting the communities of Indigenous Peoples. When any of these circumstances apply, the client will engage external experts to assist in the identification of the project risks and impacts.

12. There is no universally accepted definition of FPIC. For the purposes of Performance Standards 1, 7 and 8, "FPIC" has the meaning described in this paragraph. FPIC builds on and expands the process of ICP described in Performance Standard 1 and will be established through good faith negotiation between the client and the Affected Communities of Indigenous Peoples. The client will document: (i) the mutually accepted process between the client and Affected Communities of Indigenous Peoples, and (ii) 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.

### **Circumstances Requiring Free, Prior, and Informed Consent**

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

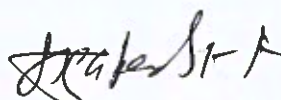
13. Indigenous Peoples are often closely tied to their lands and related natural resources.<sup>6</sup> Frequently, these lands are traditionally owned or under customary use.<sup>7</sup> While Indigenous Peoples may not possess legal title to these lands as defined by national law, their use of these lands, including seasonal or cyclical use, for their livelihoods, or cultural, ceremonial, and spiritual purposes that define their identity and community, can often be substantiated and documented.

<sup>4</sup> Internal decision making processes are generally but not always collective in nature. There may be internal dissent, and decisions may be challenged by some in the community. The consultation process should be sensitive to such dynamics and allow sufficient time for internal decision making processes to reach conclusions that are considered legitimate by the majority of the concerned participants.

<sup>5</sup> Natural resources and natural areas with cultural value referred to in this Performance Standard are equivalent to ecosystem provisioning and cultural services as described in Performance Standard 6.

<sup>6</sup> Examples include marine and aquatic resources timber, and non-timber forest products, medicinal plants, hunting and gathering grounds, and grazing and cropping areas. Natural resource assets, as referred to in this Performance Standard, are equivalent to provisioning ecosystem services as described in Performance Standard 6.

<sup>7</sup> The acquisition and/or leasing of lands with legal title is addressed in Performance Standard 5: Land Acquisition and Involuntary Resettlement.



14. If the client proposes to locate a project on, or commercially develop natural resources on lands traditionally owned by, or under the customary use of, Indigenous Peoples, and adverse impacts<sup>8</sup> can be expected, the client will take the following steps:

- Document efforts to avoid and otherwise minimize the area of land proposed for the project;
- Document efforts to avoid and otherwise minimize impacts on natural resources and natural areas of importance<sup>9</sup> to Indigenous People;
- Identify and review all property interests and traditional resource uses prior to purchasing or leasing land;
- Assess and document the Affected Communities of Indigenous Peoples' resource use without prejudicing any Indigenous Peoples' land claim.<sup>10</sup> The assessment of land and natural resource use should be gender inclusive and specifically consider women's role in the management and use of these resources;
- Ensure that Affected Communities of Indigenous Peoples are informed of their land rights under national law, including any national law recognizing customary use rights; and
- Offer Affected Communities of Indigenous Peoples compensation and due process in the case of commercial development of their land and natural resources, together with culturally appropriate sustainable development opportunities, including:
  - Providing land-based compensation or compensation-in-kind in lieu of cash compensation where feasible.
  - Ensuring continued access to natural resources, identifying the equivalent replacement resources, or, as a last option, providing compensation and identifying alternative livelihoods if project development results in the loss of access to and the loss of natural resources independent of project land acquisition.
  - Ensuring fair and equitable sharing of benefits associated with project usage of the resources where the client intends to utilize natural resources that are central to the identity and livelihood of Affected Communities of Indigenous People and their usage thereof exacerbates livelihood risk.
  - Providing Affected Communities of Indigenous Peoples with access, usage, and transit on land it is developing subject to overriding health, safety, and security considerations.

*Relocation of Indigenous Peoples from Lands and Natural Resources Subject to Traditional Ownership or Under Customary Use*

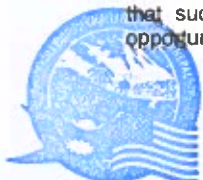
15. The client will consider feasible alternative project designs to avoid the relocation of Indigenous Peoples from communally held<sup>12</sup> lands and natural resources subject to traditional ownership or

<sup>8</sup> Such adverse impacts may include impacts from loss of access to assets or resources or restrictions on land use resulting from project activities.

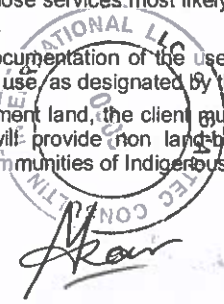
<sup>9</sup> "Natural resources and natural areas of importance" as referred to in this Performance Standard are equivalent to priority ecosystem services as defined in Performance Standard 6. They refer to those services over which the client has direct management control or significant influence, and those services most likely to be sources of risk in terms of impacts on Affected Communities of Indigenous Peoples.

<sup>10</sup> While this Performance Standard requires substantiation and documentation of the use of such land, clients should also be aware that the land may already be under alternative use, as designated by the host government.

<sup>11</sup> If circumstances prevent the client from offering suitable replacement land, the client must provide verification that such is the case. Under such circumstances, the client will provide non land-based income-earning opportunities over and above cash compensation to the Affected Communities of Indigenous Peoples.



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under customary use. If such relocation is unavoidable the client will not proceed with the project unless FPIC has been obtained as described above. Any relocation of Indigenous Peoples will be consistent with the requirements of Performance Standard 5. Where feasible, the relocated Indigenous Peoples should be able to return to their traditional or customary lands, should the cause of their relocation cease to exist.

### Critical Cultural Heritage

16. Where a project may significantly impact on critical cultural heritage<sup>13</sup> that is essential to the identity and/or cultural, ceremonial, or spiritual aspects of Indigenous Peoples lives, priority will be given to the avoidance of such impacts. Where significant project impacts on critical cultural heritage are unavoidable, the client will obtain the FPIC of the Affected Communities of Indigenous Peoples.

17. Where a project proposes to use the cultural heritage including knowledge, innovations, or practices of Indigenous Peoples for commercial purposes, the client will inform the Affected Communities of Indigenous Peoples of (i) their rights under national law; (ii) the scope and nature of the proposed commercial development; (iii) the potential consequences of such development; and (iv) obtain their FPIC. The client will also ensure fair and equitable sharing of benefits from commercialization of such knowledge, innovation, or practice, consistent with the customs and traditions of the Indigenous Peoples.

### Mitigation and Development Benefits

18. The client and the Affected Communities of Indigenous Peoples will identify mitigation measures in alignment with the mitigation hierarchy described in Performance Standard 1 as well as opportunities for culturally appropriate and sustainable development benefits. The client will ensure the timely and equitable delivery of agreed measures to the Affected Communities of Indigenous Peoples.

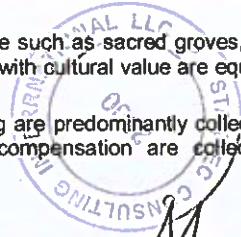
19. The determination, delivery, and distribution of compensation and other benefit sharing measures to the Affected Communities of Indigenous Peoples will take account of the laws, institutions, and customs of these communities as well as their level of interaction with mainstream society. Eligibility for compensation can either be individually or collectively-based, or be a combination of both.<sup>14</sup> Where compensation occurs on a collective basis, mechanisms that promote the effective delivery and distribution of compensation to all eligible members of the group will be defined and implemented.

20. Various factors including, but not limited to, the nature of the project, the project context and the vulnerability of the Affected Communities of Indigenous Peoples will determine how these communities should benefit from the project. Identified opportunities should aim to address the goals

<sup>12</sup> Typically, Indigenous Peoples claim rights and access to, and use of land and resources through traditional or customary systems, many of which entail communal property rights. These traditional claims to land and resources may not be recognized under national laws. Where members of the Affected Communities of Indigenous Peoples individually hold legal title, or where the relevant national law recognizes customary rights for individuals, the requirements of Performance Standard 5 will apply, rather than the requirements under paragraph 17 of this Performance Standard.

<sup>13</sup> Includes natural areas with cultural and/or spiritual value such as sacred groves, sacred bodies of water and waterways, sacred trees, and sacred rocks. Natural areas with cultural value are equivalent to priority ecosystem cultural services as defined in Performance Standard 6.

<sup>14</sup> Where control of resources, assets and decision making are predominantly collective in nature, efforts will be made to ensure that, where possible, benefits and compensation are collective, and take account of intergenerational differences and needs.



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and preferences of the Indigenous Peoples including improving their standard of living and livelihoods in a culturally appropriate manner, and to foster the long-term sustainability of the natural resources on which they depend.

### **Private Sector Responsibilities Where Government is Responsible for Managing Indigenous Peoples Issues**

21. Where the government has a defined role in the management of Indigenous Peoples issues in relation to the project, the client will collaborate with the responsible government agency, to the extent feasible and permitted by the agency, to achieve outcomes that are consistent with the objectives of this Performance Standard. In addition, where government capacity is limited, the client will play an active role during planning, implementation, and monitoring of activities to the extent permitted by the agency.

22. The client will prepare a plan that, together with the documents prepared by the responsible government agency, will address the relevant requirements of this Performance Standard. The client may need to include (i) the plan, implementation, and documentation of the process of ICP and engagement and FPIC where relevant; (ii) a description of the government-provided entitlements of affected Indigenous Peoples; (iii) the measures proposed to bridge any gaps between such entitlements, and the requirements of this Performance Standard; and (iv) the financial and implementation responsibilities of the government agency and/or the client.



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### Introduction

1. Performance Standard 8 recognizes the importance of cultural heritage for current and future generations. Consistent with the Convention Concerning the Protection of the World Cultural and Natural Heritage, this Performance Standard aims to ensure that clients protect cultural heritage in the course of their project activities. In addition, the requirements of this Performance Standard on a project's use of cultural heritage are based in part on standards set by the Convention on Biological Diversity.

### Objectives

- To protect cultural heritage from the adverse impacts of project activities and support its preservation.
- To promote the equitable sharing of benefits from the use of cultural heritage.

### Scope of Application

2. The applicability of this Performance Standard is established during the environmental and social risks and impacts identification process. The implementation of the actions necessary to meet the requirements of this Performance Standard is managed through the client's Environmental and Social Management System (ESMS), the elements of which are outlined in Performance Standard 1. During the project life-cycle, the client will consider potential project impacts to cultural heritage and will apply the provisions of this Performance Standard.

3. For the purposes of this Performance Standard, cultural heritage refers to (i) tangible forms of cultural heritage, such as tangible moveable or immovable objects, property, sites, structures, or groups of structures, having archaeological (prehistoric), paleontological, historical, cultural, artistic, and religious values; (ii) unique natural features or tangible objects that embody cultural values, such as sacred groves, rocks, lakes, and waterfalls; and (iii) certain instances of intangible forms of culture that are proposed to be used for commercial purposes, such as cultural knowledge, innovations, and practices of communities embodying traditional lifestyles.

4. Requirements with respect to tangible forms of cultural heritage are contained in paragraphs 6–16. For requirements with respect to specific instances of intangible forms of cultural heritage described in paragraph 3 (iii) see paragraph 16.

5. The requirements of this Performance Standard apply to cultural heritage regardless of whether or not it has been legally protected or previously disturbed. The requirements of this Performance Standard do not apply to cultural heritage of Indigenous Peoples; Performance Standard 7 describes those requirements.

### Requirements

#### Protection of Cultural Heritage in Project Design and Execution

6. In addition to complying with applicable law on the protection of cultural heritage, including national law implementing the host country's obligations under the Convention Concerning the Protection of the World Cultural and Natural Heritage, the client will identify and protect cultural heritage by ensuring that internationally recognized practices for the protection, field-based study, and documentation of cultural heritage are implemented.



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7. Where the risk and identification process determines that there is a chance of impacts to cultural heritage, the client will retain competent professionals to assist in the identification and protection of cultural heritage. The removal of nonreplicable cultural heritage is subject to the additional requirements of paragraph 10 below. In the case of critical cultural heritage, the requirements of paragraphs 13–15 will apply.

Chance Find Procedures

8. The client is responsible for siting and designing a project to avoid significant adverse impacts to cultural heritage. The environmental and social risks and impacts identification process should determine whether the proposed location of a project is in areas where cultural heritage is expected to be found, either during construction or operations. In such cases, as part of the client's ESMS, the client will develop provisions for managing chance finds<sup>1</sup> through a chance find procedure<sup>2</sup> which will be applied in the event that cultural heritage is subsequently discovered. The client will not disturb any chance find further until an assessment by competent professionals is made and actions consistent with the requirements of this Performance Standard are identified.

Consultation

9. Where a project may affect cultural heritage, the client will consult with Affected Communities within the host country who use, or have used within living memory, the cultural heritage for long-standing cultural purposes. The client will consult with the Affected Communities to identify cultural heritage of importance, and to incorporate into the client's decision-making process the views of the Affected Communities on such cultural heritage. Consultation will also involve the relevant national or local regulatory agencies that are entrusted with the protection of cultural heritage.

Community Access

10. Where the client's project site contains cultural heritage or prevents access to previously accessible cultural heritage sites being used by, or that have been used by, Affected Communities within living memory for long-standing cultural purposes, the client will, based on consultations under paragraph 9, allow continued access to the cultural site or will provide an alternative access route, subject to overriding health, safety, and security considerations.

Removal of Replicable Cultural Heritage

11. Where the client has encountered tangible cultural heritage that is replicable<sup>3</sup> and not critical, the client will apply mitigation measures that favor avoidance. Where avoidance is not feasible, the client will apply a mitigation hierarchy as follows:

- Minimize adverse impacts and implement restoration measures, in situ, that ensure maintenance of the value and functionality of the cultural heritage, including maintaining or restoring any ecosystem processes<sup>4</sup> needed to support it;
- Where restoration in situ is not possible, restore the functionality of the cultural heritage, in a different location, including the ecosystem processes needed to support it;

<sup>1</sup> Tangible cultural heritage encountered unexpectedly during project construction or operation.

<sup>2</sup> A chance find procedure is a project-specific procedure that outlines the actions to be taken if previously unknown cultural heritage is encountered.

<sup>3</sup> Replicable cultural heritage is defined as tangible forms of cultural heritage that can themselves be moved to another location or that can be replaced by a similar structure or natural features to which the cultural values can be transferred by appropriate measures. Archeological or historical sites may be considered replicable where the particular eras and cultural values they represent are well represented by other sites and/or structures.

<sup>4</sup> Consistent with requirements in Performance Standard 6 related to ecosystem services and conservation of biodiversity.

  
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## Performance Standard 8 Cultural Heritage

January 1, 2012

- The permanent removal of historical and archeological artifacts and structures is carried out according to the principles of paragraphs 6 and 7 above; and
- Only where minimization of adverse impacts and restoration to ensure maintenance of the value and functionality of the cultural heritage are demonstrably not feasible, and where the Affected Communities are using the tangible cultural heritage for long-standing cultural purposes, compensate for loss of that tangible cultural heritage.

### Removal of Non-Replicable Cultural Heritage

12. Most cultural heritage is best protected by preservation in its place, since removal is likely to result in irreparable damage or destruction of the cultural heritage. The client will not remove any nonreplicable cultural heritage,<sup>5</sup> unless all of the following conditions are met:

- There are no technically or financially feasible alternatives to removal;
- The overall benefits of the project conclusively outweigh the anticipated cultural heritage loss from removal; and
- Any removal of cultural heritage is conducted using the best available technique.

### Critical Cultural Heritage

13. Critical cultural heritage consists of one or both of the following types of cultural heritage: (i) the internationally recognized heritage of communities who use, or have used within living memory the cultural heritage for long-standing cultural purposes; or (ii) legally protected cultural heritage areas, including those proposed by host governments for such designation.

14. The client should not remove, significantly alter, or damage critical cultural heritage. In exceptional circumstances when impacts on critical cultural heritage are unavoidable, the client will use a process of Informed Consultation and Participation (ICP) of the Affected Communities as described in Performance Standard 1 and which uses a good faith negotiation process that results in a documented outcome. The client will retain external experts to assist in the assessment and protection of critical cultural heritage.

15. Legally protected cultural heritage areas<sup>6</sup> are important for the protection and conservation of cultural heritage, and additional measures are needed for any projects that would be permitted under the applicable national law in these areas. In circumstances where a proposed project is located within a legally protected area or a legally defined buffer zone, the client, in addition to the requirements for critical cultural heritage cited in paragraph 14 above, will meet the following requirements:

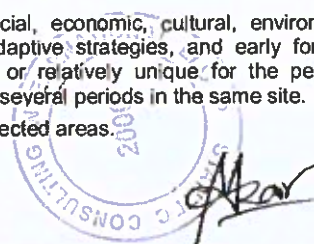
- Comply with defined national or local cultural heritage regulations or the protected area management plans;
- Consult the protected area sponsors and managers, local communities and other key stakeholders on the proposed project; and
- Implement additional programs, as appropriate, to promote and enhance the conservation aims of the protected area.

<sup>5</sup> Nonreplicable cultural heritage may relate to the social, economic, cultural, environmental, and climatic conditions of past peoples, their evolving ecologies, adaptive strategies, and early forms of environmental management, where the (i) cultural heritage is unique or relatively unique for the period it represents, or (ii) cultural heritage is unique or relatively unique in linking several periods in the same site.

<sup>6</sup> Examples include world heritage sites and nationally protected areas.



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**Project's Use of Cultural Heritage**

16. Where a project proposes to use the cultural heritage, including knowledge, innovations, or practices of local communities for commercial purposes,<sup>7</sup> the client will inform these communities of (i) their rights under national law; (ii) the scope and nature of the proposed commercial development; and (iii) the potential consequences of such development. The client will not proceed with such commercialization unless it (i) enters into a process of ICP as described in Performance Standard 1 and which uses a good faith negotiation process that results in a documented outcome and (ii) provides for fair and equitable sharing of benefits from commercialization of such knowledge, innovation, or practice, consistent with their customs and traditions.



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<sup>7</sup> Examples include, but are not limited to, commercialization of traditional medicinal knowledge or other sacred or traditional technique for processing plants, fibers, or metals.





**MILLENNIUM**  
CHALLENGE CORPORATION  
UNITED STATES OF AMERICA

## *Gender Policy*



*May 18, 2011*  
*DCO-2011-1.3*

**Submitted by:**

***Department of Compact Operations, Policy Owner***

**Millennium Challenge Corporation**

**875 15th Street N.W.**

**Washington, DC 20005**



## Gender Policy

<b>ACTION:</b>	<b>APPROVER:</b>	<b>DATE:</b>
<b>APPROVAL:</b>	Patrick Fine, Vice President, Department of Compact Operations	May 18, 2011

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## 1 PURPOSE

The commitment of the Millennium Challenge Corporation (*MCC*) to gender<sup>1</sup> equality is grounded in our mission to promote economic growth and poverty reduction. *MCC* recognizes that many countries with high levels of gender inequality also experience high levels of poverty and that gender inequality can be a significant constraint to economic growth and poverty reduction. Therefore, in order to maximize the impact of Compacts on economic growth and poverty reduction, *MCC* requires that eligible countries analyze gender differences and inequalities to inform the development, design, implementation, monitoring, and evaluation of programs funded by *MCC*.

## 2 SCOPE

This policy applies to any assistance program funded under a Millennium Challenge Compact.

## 3 AUTHORITIES

Millennium Challenge Act of 2003 (22 U.S.C. 7701, *et seq.*)

This document is intended to provide overall guidance to country partners on their responsibilities for the integration of gender<sup>2</sup> in all stages of Compact development and implementation. Specific operational procedures and milestones for gender integration in all stages of Compact development and implementation can be found in the *MCC Gender Integration Guidelines*.

Additional gender-specific guidance is also included in the Compact development guidance documents listed below:

- Overview of the Compact Development Process
- Best Practices in Compact Development
- Guidelines for Conducting a Constraints Analysis
- Guidelines for the Consultative Process
- Characteristics of a Core Team
- Project Concept Paper Template and Guidance
- Guidelines for Economic and Beneficiary Analysis of a Compact
- Guidance for Environmental and Social Assessment

<sup>1</sup> Gender is defined as the social roles, behaviors, and responsibilities assigned to women and men in any society. Unlike biology, gender is mutable, and women's and men's roles, behaviors, and responsibilities change over time and are different in different societies.

<sup>3</sup> These tools, and others, can be found in two publications: (1) March, C., Smyth, I., Mukhopadhyay, M. 1999. *A Guide to Gender-Analysis Frameworks*. Oxford: Oxfam Press; and (2) Moser, Caroline O. N. 1993. *Gender Planning and Development: Theory, Practice, and Training*. London: Routledge.



- Guidelines for Monitoring and Evaluation Plans
- Sector Guidance for Countries Proposing Agriculture
- Sector Guidance for Countries Proposing Infrastructure
- Sector Guidance for Countries Proposing Activities of Land Tenure, Land Administration or Land Policy Reform
- Sector Guidance for Countries Proposing Health Programs
- Sector Guidance for Countries Proposing Education Programs
- Sector Guidance for Countries Proposing Private Sector Development Activities

#### 4 POLICIES

##### A. MCA COUNTRY RESPONSIBILITY

The MCA-eligible country has the primary responsibility for integrating gender into the development, design, implementation, monitoring, and evaluation of a Compact program. The country is ultimately and primarily responsible for implementing the Compact, including any components designed to address gender inequalities that limit women's or men's opportunities to participate in or benefit from projects.

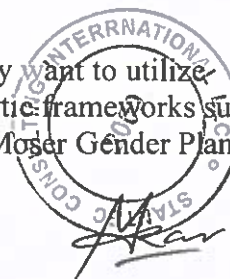
##### 1. Consultation as a Tool for Gender Integration

Consultation is a key component of Compact development and implementation. It is also the first entry point and a continuing tool for an eligible country to integrate gender into its Compact program. As such, countries will ensure that both women and men have opportunities for meaningful participation throughout the consultative processes related to a Compact program. This consultative approach will inform program development, design, implementation, monitoring, and evaluation. If the results of prior planning processes are used to develop a country's MCA program priorities, the country will provide evidence of women's and men's meaningful participation in those planning processes as well as in any consultations held specifically for a Compact.

##### 2. Gender Integration Throughout the Stages of a Compact

- Proposal Development and Program Design:** Based on an analysis of gender differences and inequalities, countries will identify project beneficiaries disaggregated by sex and provide an explanation of how Compact program components are designed to take into account gender differences and correct gender inequalities that are constraints to economic growth and poverty reduction in a Compact program.

To meet this requirement, countries may want to utilize internationally recognized gender analytic frameworks such as the Harvard Analytical Framework or the Moser Gender Planning

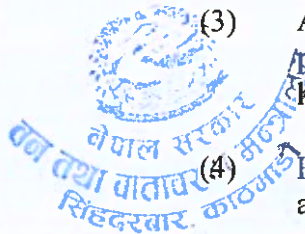


Framework.<sup>3</sup> Whatever tool is utilized, the following basic questions should inform the country's program design:




(1) What are the policy, legal and socio-cultural constraints to women and men becoming full beneficiaries of MCC investments, and what design elements are required to remove or compensate for these constraints?

(2) What are the different roles and responsibilities of women and men and how do any differences affect the proposed project? How do these gender differences vary by other demographic and social characteristics of the beneficiary population?



(3) Are there gender inequalities in access and control of productive resources relevant to the proposed project, and how will they be corrected or mitigated in design?

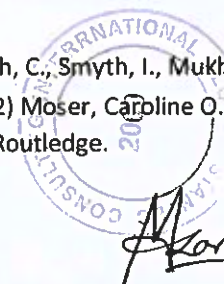
(4) How will the proposed projects meet both practical needs and strategic gender interests, or those interests that correct structural inequalities that are impediments to economic growth and poverty reduction in a Compact program?

- b. **Due Diligence and Program Refinement:** Countries will analyze the impact of investments on beneficiary groups and refine projects to ensure that gender differences and inequalities that limit economic growth and poverty reduction are addressed in project design.

Monitoring and evaluation plans will include provisions to track impacts on specific beneficiary groups, such as women and children.

- c. **Compact Implementation:** To the maximum extent possible, countries will ensure that sex-disaggregated data will be analyzed in monitoring performance and results and evaluating impacts. Where practicable, data should be analyzed at the household level. Where projects have specifically addressed gender differences and inequalities in design, countries will monitor indicators of gender equality in a Compact program.

<sup>3</sup> These tools, and others, can be found in two publications: (1) March, C., Smyth, I., Mukhopadhyay, M. 1999. *A Guide to Gender-Analysis Frameworks*. Oxford: Oxfam Press; and (2) Moser, Caroline O. N. 1993. *Gender Planning and Development: Theory, Practice, and Training*. London: Routledge.





- d. Compact Closure: Countries are responsible for integrating the necessary gender considerations into all activities related to Compact closure.

## B. MCC RESPONSIBILITY

MCC will consider gender in the selection of eligible countries, in due diligence on program and project design, in its oversight and assessment of Compact implementation, and in the monitoring and evaluation of impacts.

### 1. Selection of MCA Eligible Countries

Eligibility for MCA assistance is based, to the maximum extent possible, on performance against objective selection criteria measuring a country's commitment to rule justly, invest in its people and encourage economic freedom. Issues of gender equality are incorporated into several of the selection criteria and supplemental information considered by the MCC Board in determining country eligibility.

### 2. Consultation as a Tool for Gender Integration

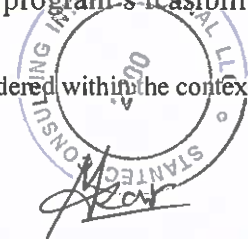
MCC will provide guidance to a country on gender and other social considerations in the design of its consultative process and on gender integration in its proposed Compact program.<sup>4</sup> This will occur early in the Compact development process before the partner country develops and submits its concept papers to MCC.

MCC will review the quality and content of a country's consultative process as one component of due diligence. The review will include an assessment of how social/gender analysis informed the country's involvement of different stakeholders and how a country plans to ensure the meaningful participation of women and men as the Compact is developed and the Compact program is implemented.

### 3. Gender Integration Throughout the Stages of a Compact

- a. Concept Development and Program Design: While the eligible country is responsible for developing the Concept Paper(s), MCC will provide guidance and other resources, as needed, on gender integration in a Compact program.
- b. Due Diligence and Program Refinement: MCC's due diligence of the social impacts of all programs involves gender analysis. MCC incorporates gender into the assessment of a program's feasibility

<sup>4</sup> Because gender differences are structured by other social variables, gender is considered within the context of other relevant forms of social difference such as age and ethnicity.



and assesses the extent to which the proposed program design addresses gender differences and inequalities that limit economic growth and poverty reduction in a Compact program.

MCC will require that the monitoring and evaluation plans have adequately incorporated gender considerations, including the collection of sex-disaggregated data.

- c. Compact Implementation: MCC will integrate gender into its oversight and assessment of a country's performance during implementation. MCC will assess the extent to which Compact programs reflect findings on gender differences and inequalities and meet intended gender outcomes, where relevant.

Additionally, some disbursements of MCA funds may be conditioned upon the satisfaction of targets and progress on indicators measuring project performance.

- d. Compact Closure: MCC will integrate gender into Compact closure activities.

## 5 EFFECTIVENESS

This policy was approved as of date first written above and is effective immediately. For the avoidance of doubt, this policy will remain in effect with respect to any successor position or office performing the functions of its predecessor until this policy is modified, revoked, or superseded. In addition, this policy supersedes any prior policy, guidance, and/or delegation of authority with respect to the subject matter hereof.

## 6 AMENDMENTS TO THIS POLICY

This policy may be modified or amended at any time in writing with the approval of MCC's Chief Executive Officer.

