ENVIRONMENTAL AND SOCIAL FRAMEWORK

September 2023
Consultation Draft

Note: This document is being circulated for consultation purpose only. Guidance from the ADB Board of Directors will be sought on this document as part of the Working Paper, scheduled in Q4 2023. The final Environmental and Social Framework will be considered for approval by the ADB Board of Directors in 2024.

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Asian Development Bank
OVERVIEW OF THE ENVIRONMENTAL AND SOCIAL FRAMEWORK

1. The Environmental and Social Framework (ESF) comprises:

   (i) Vision, which sets out ADB’s aspirations regarding environmental and social (E&S) sustainability;
   (ii) Environmental and Social Policy (E&S Policy), which sets out the mandatory requirements that apply to ADB;
   (iii) Environmental and Social Standards (ESSs), which set out the mandatory requirements that apply to borrowers/clients; and
   (iv) Prohibited Investment Activities List.

2. The ten Environmental and Social Standards establish the performance standards that borrowers/clients and projects will meet throughout a project cycle, as follows:

   (i) Environmental and Social Standard 1 (ESS1): Assessment and Management of Environmental and Social Risks and Impacts
   (ii) Environmental and Social Standard 2 (ESS2): Labor and Working Conditions
   (iii) Environmental and Social Standard 3 (ESS3): Resource Conservation and Pollution Prevention
   (iv) Environmental and Social Standard 4 (ESS4): Health, Safety, and Security
   (v) Environmental and Social Standard 5 (ESS5): Land Acquisition and Land Use Restriction
   (vi) Environmental and Social Standard 6 (ESS6): Biodiversity and Sustainable Natural Resources Management
   (vii) Environmental and Social Standard 7 (ESS7): Indigenous Peoples
   (viii) Environmental and Social Standard 8 (ESS8): Cultural Heritage
   (ix) Environmental and Social Standard 9 (ESS9): Climate change
   (x) Environmental and Social Standard 10 (ESS10): Stakeholder Engagement and Information Disclosure
VISION

1. This vision sets out ADB’s aspirations regarding environmental and social (E&S) sustainability. ADB’s Strategy 2030 sets its vision to sustain efforts to eradicate extreme poverty and to achieve a prosperous, inclusive, resilient, and sustainable Asia and the Pacific. ADB will support the global agenda of sustainable infrastructure development as a source of global growth and social and economic development and believes that the achievement of the Sustainable Development Goals and related Financing for Development agenda, the Paris Agreement on climate change, and the Sendai Framework for Disaster Risk Reduction will depend critically on the success of the region.

2. ADB affirms that E&S sustainability is a cornerstone of green economic growth and poverty reduction in Asia and the Pacific and seeks to promote sustainability of project outcomes by protecting the environment and present and future generations of people from projects’ potential adverse impacts. ADB is committed to upholding fiduciary standards that enhance the E&S sustainability of its projects.

3. Inclusive social development is the focus of all ADB’s interventions. ADB’s corporate policies and strategies recognize significant diversity across its developing member countries (DMCs), and apply differentiated approaches to various groups of countries, as necessary. ADB will prioritize financial and technical support for the poorest and most vulnerable countries in Asia and the Pacific, including small island developing states and countries in fragile and conflict-affected situations. Under the ADB’s Fragile and Conflict-Affected Situations and Small Island Developing States Approach (2021), ADB undertakes to understand and apply tools to tailor responses to the needs of the transient challenges of the fragile and conflict-affected situations and the more permanent vulnerabilities of the small island developing states. Recognizing that management of environmental and social (E&S) risks and impacts of a project is impacted by the project context, ADB is committed to understanding the context and constraints in which a project is being developed and is to be implemented, and to working with its borrowers/clients to develop appropriate measures that are proportionate and tailored to address the specific E&S risks and impacts arising from a project.

4. Strategy 2030 also emphasizes human capital development, social inclusion, and gender equality in ADB’s operations and activities to ensure the benefits of social and economic growth are extended to all. ADB’s operations support the realization of human rights expressed in the Universal Declaration of Human Rights, and ADB will continue, in a manner consistent with its Agreement Establishing the Asian Development Bank (Charter), to support its DMCs as they strive to achieve their human rights commitments under the relevant international laws. In this regard, ADB will promote nondiscrimination by working with its DMCs to create enabling environments that provide equal access to services and benefits and permit meaningful participation of all people, including the disadvantaged or vulnerable, and others who are often excluded from the development process. To ensure that project design and implementation maximize social benefits and inclusion while minimizing adverse social impacts, for each project that ADB supports, it undertakes poverty and social analyses to identify and consider potential social risks and issues. ADB has a zero tolerance approach to inaction on sexual exploitation, abuse, and harassment in the context of projects ADB finances. To encourage inclusive development, ADB is also engaged in policy dialogues with DMCs to introduce climate and gender considerations at all levels of their budgetary process.

5. ADB is committed to ensuring that its borrowers/clients maintain open dialogue, meaningful consultation, clear, timely and appropriate disclosure of relevant project information,
and a responsive grievance mechanism. Further, if any potential development opportunities are identified in connection with a project, ADB will discuss with a borrower/client the feasibility of incorporating such opportunities into project design and implementation and ensuring equitable sharing of project benefits. ADB does not tolerate any form of reprisals in projects ADB finances, and will seek to take all steps within the limits of its ability to work with appropriate parties to address them, including requiring its borrowers/clients to provide protection in such projects.

6. Strategy 2030 sets out ADB’s focus on tackling climate change, building climate and disaster resilience, and enhancing environmental sustainability. In 2023 ADB approved its Climate Change Action Plan, which sets out prioritized invention areas and enhanced actions rooted in ADB’s commitment to provide support that is aligned with borrower/client priorities, capacities, climate change adaptation needs and climate change mitigation potential, and is guided by the principles of transformation that is equitable and socially inclusive. The 2021 Disaster and Emergency Assistance Policy sets out ADB’s approach to enhance the efficiency and impact of support to DMCs to strengthen resilience to disasters and emergencies. ADB’s 2021 Energy Policy promotes low-carbon transition while supporting universal access to reliable, affordable, and clean energy, which is essential to inclusive social and economic development, and ensuring a just transition. ADB is one of the founding members of the International Financial Institutions Technical Working Group which aims for a harmonized approach to greenhouse gases (GHG) accounting across international financial institutions (IFIs). In 2021 ADB committed to full alignment of its operations with the goals of the Paris Agreement. ADB encourages DMCs to take a holistic approach to tackle climate change challenges and promotes the whole economy transformation towards low-GHG emissions and climate-resilient economies. It provides upstream support to DMCs in the development of policies, plans, and strategies including the implementation and monitoring of nationally determined contributions under the Paris Agreement; development of long-term low GHG emissions and climate-resilient development strategies; and mobilization of finance for their implementation. Recognizing that the transformation may impact individuals, communities, and regions, ADB also supports enabling the just transition of its DMCs, employing economy-wide and multi-sector approaches to build the capacity of DMCs. At the project level ADB has institutionalized a climate risk management framework and tools to guide assessment and management of climate risks.

7. ADB is committed to global environmental sustainability. It is a co-signatory to the Multilateral Development Bank Joint Statement on Nature, People and Planet (2021), and has committed to mainstreaming nature into its policies, analysis, assessments, advice, investments, and operations. In accordance with this commitment, ADB will assist its DMCs in improving their environmental management, and promoting nature positive investments, including the conservation and restoration of living natural resources, biodiversity, and ecosystems, nature-based solutions, and green infrastructure. ADB also recognizes the need to stimulate in its DMCs’ economies, green businesses especially based on circular economy, sustainable consumption and production, green supply chains, and green financial products.

8. To optimize its development impact, ADB provides its own financing while also catalyzing funds from other sources, and provides knowledge that fits local conditions and situations and replicates good international practice (GIP). This also requires working closely with its DMCs to identify strategic interventions to address national development priorities, and to strengthen their governance and institutional framework and implementation capacity necessary for achieving such priorities. ADB continuously explores policy dialogues with its DMCs and seeks opportunities to integrate the best available knowledge with financing and institutional capacity development support in projects. ADB is committed to supporting borrowers/clients to strengthen and, if appropriate, to use their E&S systems to achieve development outcomes that are materially
consistent with the objectives of the ESF.

9. As a convener of partnerships, ADB will maintain dialogue and collaboration with diverse partners and **stakeholders**, including IFIs, bilateral partners, civil society organizations and philanthropic organizations, and the private sector to enhance the complementarity of respective operations to support ADB’s DMCs. ADB also recognizes the importance of early stakeholder engagement and working with local beneficiaries and communities in the design, implementation, and monitoring of ADB operations, and is committed to working with civil society organizations and citizen networks to strengthen transparency and inclusivity in its operations.

10. ADB, through the E&S Policy and the ESSs, will translate the institutional aspirations set out in this Vision into project-level mandatory requirements to be applied within the parameters of a project and within the context of its mandate as set out in its Charter, and seeks to:

   (i) Avoid and, where avoidance is not possible, minimize, mitigate, and compensate for adverse impacts of ADB projects on people and the environment, taking into consideration **climate change** risks;
   (ii) Help borrowers/clients strengthen their E&S systems and improve their capacity to manage **E&S risks and impacts**;
   (iii) Promote fair and nondiscriminatory labor and working conditions, and protect **project worker** and community health, safety, and security;
   (iv) Support comprehensive and integrated risk and impact assessment and management process, that also considers specific project and country contexts and implementation needs, including for Fragile and Conflict Affected States (FCAS), and Small Island Developing States (SIDS);
   (v) Support the sustainable use of resources, and avoid, minimize, and manage E&S risks and impacts of **pollution** and wastes;
   (vi) Avoid or mitigate **economic** and **physical displacement** or disruption of **livelihoods** due to **land acquisition and land use restriction** and improve or at least restore the standards of living of **project-affected persons**;
   (vii) Promote conservation of **biodiversity** and **ecological functions**, and sustainable management of **living natural resources** and conservation of **cultural heritage**;
   (viii) Ensure nondiscrimination among project-affected persons and give particular consideration to **Indigenous Peoples** and those who are **disadvantaged or vulnerable**, taking into account gender-related risks, and promote equitable sharing of development benefits and opportunities resulting from a project; and
   (ix) Strengthen **stakeholder** engagement through **meaningful consultation** and prevent threats of **reprisals** against project-affected persons through effective grievance mechanism.

11. While this ESF will not by itself guarantee sustainable development outcomes, its proper application and implementation by borrowers/clients will help further strengthen borrowers’/clients’ institutional frameworks and capacity to manage **E&S risks and impacts** in a more sustainable and resilient manner, and contribute to meeting project host countries’ global commitments and goals for a more inclusive green economic growth.
ENVIRONMENTAL AND SOCIAL POLICY

I. PURPOSE

1. The purpose of this Environmental and Social Policy (E&S Policy) is to set out ADB’s mandatory environmental and social (E&S) requirements in relation to projects financed or administered by ADB.

II. OBJECTIVES

2. ADB is committed to supporting borrowers/clients in the development and implementation of projects that are environmentally and socially sustainable and to enhancing the capacity of borrowers/clients to use their E&S systems to assess and manage the environmental and social (E&S) risks and impacts of such projects. To help borrowers/clients achieve the desired outcomes of projects, ADB requires borrowers/clients to apply and implement ten Environmental and Social Standards, as set out in para 6 (the ESSs), proportionate to the nature and scale of a project’s E&S risks and impacts. These ESSs are collectively designed to help borrowers/clients to apply the mitigation hierarchy and improve their E&S performance. ADB staff, through review and monitoring, will assist borrowers/clients to apply the requirements of the ESSs throughout a project cycle, in accordance with this E&S Policy.

3. To carry out this E&S Policy, ADB will:
   a. determine a project’s E&S risk classification;
   b. review the E&S assessment undertaken by a borrower/client of a proposed project, proportionate to the nature and scale of the potential E&S risks and impacts of a project;
   c. assist borrowers/clients in identifying assessment tools and management tools for the potential E&S risks and impacts of a project;
   d. support borrowers/clients with strengthening of their E&S systems and encourage improved E&S performance, in ways that recognize and enhance borrowers’/clients’ capacity;
   e. agree with borrowers/clients on the conditions under which ADB will consider providing financing to a project, which will be set out in an environmental and social commitment plan/environmental and social action plan (ESCP/ESAP);
   f. support borrowers/clients to carry out early and continuing meaningful consultation with relevant stakeholders and to provide project-level grievance mechanisms, consistent with the ESSs; and
   g. review and monitor the E&S performance of a project throughout a project cycle in accordance with the ESSs and the ESCP/ESAP.

III. SCOPE OF APPLICATION

4. The requirements of this E&S Policy and the ESSs apply, to the extent such ESSs are determined to be applicable, to ADB-financed and/or ADB-administered sovereign and private sector projects and their components, regardless of the source of financing or financing modalities and products, including investment projects funded by a loan, and/or a grant, and/or other means, such as equity and/or guarantees, hereafter broadly referred to as projects. A project’s legal agreement describes a project to which the E&S requirements apply.
5. Paras 62-70 explain the approach for the assessment and management of E&S risks and impacts for projects across the different financing modalities and products offered by ADB, and the E&S requirements will be further detailed in the ADB Management approved document.

6. The ESSs are:

(i) Environmental and Social Standard 1: Assessment and Management of Environmental and Social Risks and Impacts;
(ii) Environmental and Social Standard 2: Labor and Working Conditions;
(iii) Environmental and Social Standard 3: Resource Conservation and Pollution Prevention;
(iv) Environmental and Social Standard 4: Health, Safety and Security;
(v) Environmental and Social Standard 5: Land Acquisition and Land Use Restriction;
(vi) Environmental and Social Standard 6: Biodiversity Conservation and Sustainable Natural Resources Management;
(vii) Environmental and Social Standard 7: Indigenous Peoples;
(viii) Environmental and Social Standard 8: Cultural Heritage;
(ix) Environmental and Social Standard 9: Climate Change; and
(x) Environmental and Social Standard 10: Stakeholder Engagement and Information Disclosure.

7. This E&S Policy and the ESSs do not apply to activities that are not part of a project, nor to activities that a borrower/client implements following project completion without financing support from ADB, with the exception of associated facilities as set out in paras 16-17 of this E&S Policy and paras 16-19 of ESS1.

8. The application of this E&S Policy and the ESSs to associated facilities, existing facilities, and those projects or components cofinanced with other parties are described in paras 16-19.

IV. ADB RESPONSIBILITIES

9. ADB will determine a project E&S risk classification as early as possible, considering the relevant issues set out in para 22, including the potential E&S risks and impacts described in the ESSs.

10. Based on the risk classification, ADB will determine the scale and extent of the E&S assessment to be undertaken by a borrower/client. ADB will require a borrower/client to conduct E&S assessment in accordance with ESS1 and to prepare and implement a project so that it meets the requirements of the ESSs applicable to the project.

11. ADB will work with a borrower/client so that all E&S assessment requirements under the relevant ESSs will be identified and undertaken to the extent possible to the satisfaction of ADB, to enhance E&S readiness of a project.

12. ADB will agree with a borrower/client on an ESCP/ESAP for a project as detailed in paras 36-40. To determine the appropriate manner and acceptable timeframe for a borrower/client to implement the measures to comply with the ESSs, ADB will take into account the nature and scale of the potential E&S risks and impacts of a project, the timing for development and implementation, the capacity of a borrower/client, and the specific measures and actions to be put in place or taken by a borrower/client to address such risks and impacts. ADB will require a borrower/client to implement all measures and actions set out in the ESCP/ESAP and conduct
monitoring and reporting on the E&S performance of a project against all applicable ESSs as set out in the ESCP/ESAP.

13. ADB will only finance projects that are expected to meet the requirements of the ESSs in a manner and within a timeframe acceptable to ADB. In addition, ADB will not finance activities on the Prohibited Investment Activities List. ADB will not support projects that are found to be non-compliant with the host country’s applicable laws, including those laws implementing host country obligations under international laws.

14. Where ESSs set out more stringent requirements or measures more protective for project-affected persons or the environment than the requirements of the host country’s applicable laws, ADB will require a borrower/client to comply with the requirements of the ESSs. ADB will also require a borrower/client to apply the relevant requirements of internationally recognized standards such as World Bank Group Environmental Health and Safety Guidelines (EHSGs) and other GIP, as required under the ESSs and as applicable.

15. Where a borrower/client proposes less stringent standards or measures than those provided in the EHSGs or in applicable GIP, ADB will require a borrower/client to provide detailed assessment and justification for the proposed alternatives. ADB will review the justification and will agree to the proposed alternatives if a borrower/client can demonstrate, to the satisfaction of ADB, that the choice of any alternative performance level is consistent with the objectives of the ESSs and the applicable EHSGs or GIP and is unlikely to result in significant environmental or social harm.

A. Associated Facilities

16. ADB will require the application of the ESSs to associated facilities to the extent a borrower/client has control or influence over such associated facilities as set out in ESS1. For the purpose of this E&S Policy and the ESSs, the term “associated facilities” means new facilities or activities that are not funded as part of a project and, in the judgment of ADB, are: (i) directly and significantly related to the project; and (ii) developed, or contemporaneously planned to be developed, with the project; and (iii) necessary for the project to be viable and would not have been developed if the project did not exist.

17. Where ADB determines that requirements of the common approach under para 19 or the requirements of other multilateral or bilateral agencies or organizations will enable the associated facilities to achieve objectives materially consistent with the ESSs, ADB may agree with a borrower/client to apply such requirements, instead of the ESSs, to the associated facilities.

B. Existing Facilities

18. For a project that includes existing facilities or existing activities as a component, ADB will require a borrower/client to apply the requirements set out in ESS1.

C. Common Approach

19. Where ADB is cofinancing a project with other multilateral or bilateral agencies or organizations, and where appropriate, ADB will cooperate with such cofinancier(s) and a borrower/client to agree on a common approach in the assessment, development, and implementation of a project. A common approach will be acceptable to ADB, provided that such an approach will enable a project to achieve objectives materially consistent with the ESSs.
determining whether the common approach is acceptable, ADB will take into account the policies, standards, and implementation procedures of the multilateral or bilateral agencies or organizations, as applicable. A decision on the use of a common approach will be made by ADB as early as possible but no later than project appraisal or final credit approval. Where a common approach has been agreed for a project, an ESCP/ESAP will require that E&S performance will be measured against the common approach. A common approach will apply to the associated facilities financed by the same cofinancier(s) if agreed by ADB and the borrower/client. ADB will also coordinate with such cofinancier(s) so that ADB and a borrower/client may be able to disclose one set of project information and documentation for stakeholder engagement. Opportunities for the application of a common approach may involve wider collaborative efforts and agreements at the corporate level between ADB and other multilateral or bilateral agencies or organizations, as appropriate.

D. Environmental and Social Risk Classification

20. ADB will assign projects to one of four risk classifications: High Risk, Substantial Risk, Moderate Risk, and Low Risk, as further described in para 22.

21. In determining the appropriate risk classification, ADB will take into account relevant issues, in an integrated manner, including:

(i) the type, location, sensitivity, and scale of a project, such as the physical considerations of the project and types of infrastructure or activities;

(ii) the nature and scale of the potential E&S risks and impacts, such as impacts on greenfield or brownfield sites, biodiversity, land acquisition and land use restriction activities, presence of Indigenous Peoples, degree of disadvantage or vulnerability of project-affected persons, volume of emissions or wastes to be managed and disposed, and possible mitigation and management measures considering the mitigation hierarchy;

(iii) the institutional capacity, commitment, past experience and track record of a borrower/client, as well as of the agency or entity responsible for implementing a project, to manage the potential E&S risks and impacts in a manner consistent with the ESSs;

(iv) the availability, cost, and nature of the technologies or methodologies proposed for mitigation and management measures, and the availability of relevant data to implement and monitor the ESSs; and

(v) the risks relevant in the context in which a project is being developed or to be implemented, which may include:
   a) the host country’s legal and institutional framework and governance structures;
   b) the host country’s social conflict or human security concerns which may be aggravated by a project’s environmental or social impacts or associated mitigation measures;
   c) whether the host country or certain of its geographical areas are undergoing or emerging from fragile and conflict-affected situations with or without activities of security forces;
   d) whether the host country is a small island developing state;
e) whether the host country has significant financial, institutional, and/or capacity constraints;
f) **climate change vulnerability**, economic shocks, natural hazards, or presence of other factors outside the control of a project that could have a significant impact on the E&S performance;
g) sector- or industry-specific risks;
h) digital risks and data privacy; and
i) information relevant to host country obligations under applicable international agreements.

22. Based on the factors in para 21, ADB will classify each project as follows:

(i) **High Risk.** A proposed project is classified as **High Risk** after considering the following factors, as applicable, in an integrated manner, together with relevant contextual factors:

a) a project is likely to generate a wide range of significant adverse risks and impacts on human populations or the environment. This could be because of the complex nature or scale of a project, and/or the sensitivity of the location(s) of a project. This would take into account whether the potential **E&S risks and impacts** associated with a project have the majority or all of the following characteristics:
   1. long term, permanent, and/or irreversible impacts that are impossible to avoid entirely due to the nature of a project;
   2. high in magnitude and/or in spatial extent;
   3. significant adverse **cumulative impacts**;
   4. significant adverse transboundary impacts; and
   5. a high probability of significant adverse impacts to human health and/or the environment.

b) area likely to be affected is of high value and sensitivity, includes lands or rights of **Indigenous Peoples** and other vulnerable minorities, intensive or complex **land acquisition and land use restriction**, impacts on **cultural heritage**, or densely populated urban areas.

c) some of the significant adverse E&S risks and impacts of a project cannot be mitigated or specific mitigation measures require complex and/or unproven mitigation, compensatory measures or technology, or sophisticated social analysis and implementation.

(ii) **Substantial Risk.** A proposed project is classified as **Substantial Risk** after considering the following factors, as applicable, in an integrated manner, together with relevant contextual factors:

a) a project may not be as complex as a High Risk project, the nature and scale of its E&S risks and impacts may be smaller and the location may not be in such a highly sensitive area, but some adverse risks and impacts may
be significant. This would take into account whether the potential E&S risks and impacts have the majority or all of the following characteristics:

1. they are mostly temporary, predictable and/or reversible, and the nature of a project does not preclude the possibility of avoiding or reversing them;
2. there are concerns that the adverse social impacts of a project, and the associated mitigation measures, may give rise to a limited degree of social conflict, harm, or risks to human security;
3. they are medium in magnitude and/or in spatial extent;
4. the potential for cumulative and/or transboundary impacts may exist, but they are less severe and more readily avoided or mitigated than for High Risk projects; and
5. there is medium to low probability of significant adverse impacts to human health and/or the environment, and there are known and reliable mechanisms available to prevent or minimize such incidents.

b) the effects of a project on areas of high value or sensitivity are expected to be lower than High Risk projects.

c) mitigation and/or compensatory measures may be designed more readily and be more reliable than those of High Risk projects.

(iii) **Moderate Risk.** A proposed project is classified as **Moderate Risk** after considering the following factors, as applicable, in an integrated manner, together with relevant contextual factors:

a) the potential adverse risks and impacts on human populations and/or the environment are not likely to be significant. This is because a project is not complex and/or large, does not involve activities that have a high potential for harming people or the environment, and is located away from environmentally or socially sensitive areas. As such, the potential E&S risks and impacts are likely to have the following characteristics:

1. predictable and expected to be temporary and/or reversible;
2. low in magnitude;
3. site-specific, without likelihood of impacts beyond the actual footprint of a project; and
4. low probability of significant adverse impacts to human health and/or the environment.

b) A project’s E&S risks and impacts can be easily mitigated in a predictable manner.

(iv) **Low Risk.** A proposed project is classified as **Low Risk** if its potential adverse risks to and impact on human populations and/or the environment are likely to be minimal or negligible.

23. ADB will include the basis for a project’s risk classification in the relevant project document and disclose it on ADB’s website. ADB will review the risk classification assigned to a project on a regular basis throughout the concept design, preparation, and implementation phases of a
project cycle, and will change the risk classification where necessary to ensure that it continues to be appropriate. Any change to the risk classification will be disclosed on ADB’s website.

24. ADB will allocate resources for corporate oversight, guidance, review, and monitoring, and as necessary, capacity support, to a project proportionate to its risk classification.

E. Environmental and Social Risk Classification for Financial Intermediaries

25. Where ADB provides financing to a financial intermediary (FI), ADB will classify all activities and transactions involving FIs or delivery mechanisms involving financial intermediation as “FI”. ADB will then classify each FI into the subclassifications of FI-1, FI-2, and FI-3 to reflect the E&S risk profile of the existing or proposed portfolio of activities and transactions supported with ADB’s financing. ADB considers the type, size, and sector exposure of the FI’s portfolio to be financed by ADB, track record, capacity, and commitment to manage potential E&S risks and impacts in determining the subclassification. ADB will also take into account risks relevant in the context in which an FI operates or directs funding, or activities and transactions supported by ADB financing will be developed and implemented, including those contextual risks described in para 23. The requirements of paras 23 and 24 also apply for FI classification.

26. The subclassifications are as follows:

(i) FI-1: When an FI’s existing or proposed portfolio to be financed by ADB includes, or is expected to include, financial exposure to activities and transactions with potential significant adverse E&S risks and impacts that are diverse, irreversible, or unprecedented. These activities and transactions would be considered High Risk if financed directly by ADB as a project or a subproject.

(ii) FI-2: When an FI’s existing or proposed portfolio to be financed by ADB includes, or is expected to include, financial exposure to activities and transactions that have potential limited adverse E&S risks and impacts that are few in number, generally site-specific, largely reversible, and readily addressed through mitigation measures; or includes, or is expected to include, a very limited number of activities and transactions with potential significant adverse environmental or social risks or impacts that are diverse, irreversible, or unprecedented. These activities and transactions would be considered Substantial and/or Moderate Risk if financed directly by ADB as a project or a subproject.

(iii) FI-3: When an FI’s existing or proposed portfolio to be financed by ADB includes, or is expected to include, financial exposure to activities and transactions that predominantly have minimal or no adverse environmental or social impacts. These activities and transactions would be considered Low Risk if financed directly by ADB as a project or a subproject.

27. For FIs with portfolio and/or activities and transactions that present high to substantial E&S risks (part or all of FI-1 and FI-2 portfolio), ADB will require that such FIs assess and require higher risk activities and transactions they support to apply the relevant requirements of the ESSs. These higher risk activities and transactions are referred to as “higher risk transactions”.

F. Environmental and Social Assessment Review
28. ADB will review the E&S assessment process undertaken by a borrower/client in accordance with ESS1 to meet the requirements of the relevant ESSs. ADB will provide appropriate guidance to a borrower/client on ways in which E&S risks and impacts may be addressed in the assessment, development, and implementation of a project.

29. ADB’s review of a borrower’s/client’s E&S assessment will be proportionate to the nature and scope of E&S risks and impacts, with due regard to the mitigation hierarchy. ADB will also assess whether a borrower/client is capable of developing and implementing a project in accordance with the ESSs.

30. ADB will take into account in its review of a borrower’s/client’s E&S assessment all relevant E&S risks and impacts of a project as described in detail in ESSs2-10, including but not limited to:
   (i) Environmental risks and impacts such as: pollution to air, water, and soil; health, safety and security of project workers and communities; threats to the protection, conservation, and maintenance of natural and critical habitats and biodiversity, ecosystem services, living natural resources and the maintenance of environmental flows; risks to cultural heritage; and climate change mitigation and adaptation;
   (ii) Social risks and impacts such as: any impacts from land acquisition and land use restriction; adverse impacts on communities of Indigenous Peoples; risks associated with labor, working conditions and rights of project workers; risk that project impacts fall disproportionately on the disadvantaged or vulnerable; gender-related risks, including potential risks of sexual exploitation, abuse, and harassment.

31. ADB’s review of the E&S assessment process undertaken by a borrower/client will include, as relevant:
   (i) reviewing information provided by a borrower/client relating to the E&S risks and impacts of a project, including from pre-feasibility studies, scoping studies, national E&S assessment documents, licenses, and permits. ADB may also request additional relevant information where there are gaps that prevent ADB from completing its review, and consider additional information obtained by ADB through its other tools and instruments such as poverty and social analysis, gender analysis and gender assessment, fragility and resilience assessments, disaster risk assessment, or climate risk assessment; and
   (ii) providing guidance to assist a borrower/client in developing appropriate measures consistent with the mitigation hierarchy to address E&S risks and impacts in accordance with the ESSs. ADB places the responsibility on a borrower/client to ensure that all relevant information is provided to ADB so that ADB can fulfill its responsibility to review a borrower’s/client’s E&S assessment in accordance with this E&S Policy.

32. ADB recognizes that a borrower/client may have different levels of information regarding the E&S risks and impacts available at the time ADB carries out its review. In such circumstances, ADB will assess the E&S risks and impacts of a proposed project based on the information that is available to ADB, together with an assessment of: (i) the E&S risks and impacts inherent to the type of project and the specific context in which a proposed project will be developed and implemented; and (ii) the capacity and commitment of a borrower/client to develop
and implement a project in accordance with the ESSs. ADB will assess the significance of the gaps in information, and the potential risk this may present to achieving the objectives of the ESSs. ADB will reflect this assessment in the relevant project document at the time the proposed financing is submitted for approval by ADB.

33. Where ADB is approached to provide financing for a project that is under construction, or where a project has already received national permits or license or other forms of clearance for construction or operations, including the approval of local E&S impact assessments, ADB’s review will include a borrower’s/client’s E&S audit, which is required under ESS1 for existing facilities or existing activities.

34. Where ADB is financing a project for which certain E&S assessment and management have already been undertaken in compliance with the requirements of other multilateral or bilateral funding agencies, ADB may agree to rely on such assessment and management of the E&S risks and impacts for the project, provided that the requirements will enable the project to achieve objectives materially consistent with the applicable ESSs.

35. Depending on the nature and scale of E&S risks and impacts, ADB will determine whether a borrower/client will be required to retain independent third-party specialists to assist in the assessment of E&S risks and impacts including the assessment process described in ESS1 and any other assessments required under ESSs2-10.

G. Environmental and Social Commitment Plan/Environmental and Social Action Plan (ESCP/ESAP)

36. ADB will assist a borrower/client in identifying appropriate assessment tools and management tools for the potential E&S risks and impacts of a project, as identified through ADB’s review of a borrower’s/client’s E&S assessment under ESS1. ADB and a borrower/client will agree on an adaptive management process in which measures and actions necessary to meet the requirements of the ESSs will be identified and implemented over a specified timeframe. These measures and actions may include those that are: (i) required to bring a project into compliance with the applicable ESSs; (ii) set out in the environmental and social management plan (ESMP) and/or other management tools prepared under the relevant ESSs; and/or (iii) to be undertaken during project implementation that are considered necessary for a project to achieve compliance with the ESSs. Those measures and actions that fall in the category of (ii) and (iii) will typically be included in an ESCP, while those that fall within the category of (i) will typically be included in an ESAP. ADB and a borrower/client will agree on a specific completion date for each action in the ESCP/ESAP. A legal agreement for the project will include obligations of the borrower/client to implement the ESCP/ESAP. ADB will disclose a draft ESCP/ESAP as early as possible, and before project appraisal or final credit approval.

37. If there are changes to a project that result in additional E&S risks and impacts, particularly where these will impact project-affected persons, ADB will require a borrower/client to provide information on such risks and impacts and meaningfully consult with project-affected persons on how to mitigate these risks and impacts. ADB and a borrower/client will agree on the updates to the ESCP/ESAP, as necessary, setting out any additional measures and actions. Updated ESCPs/ESAPs will be disclosed.

38. If ADB concludes that a borrower/client has inadequate technical capacity to carry out the E&S assessment process, ADB will require a borrower/client to include in the ESCP/ESAP, a description of trainings to address the specific measures and actions required to support effective
and continuous E&S performance. The ESCP/ESAP will also include the details of the human and financial resources associated with such trainings.

39. ADB will require a borrower/client to implement measures and actions identified in an ESCP/ESAP in accordance with the timeframes and to review the status of ESCP/ESAP implementation as part of its monitoring and reporting.

40. Where the borrower/client is required under the ESCP/ESAP to plan or take specific measures and actions over a specified timeframe, ADB will require the borrower/client to commit that it will not carry out activities in relation to a project that may cause material adverse E&S risks and impacts, until the relevant plans, measures, or actions have been completed in accordance with the ESCP/ESAP, including satisfying applicable requirements on consultation and disclosure.

H. Strengthening and Use of Borrower’s Environmental and Social System

41. In a sovereign operation, ADB may support the use of a borrower’s E&S system in the assessment, development, and implementation of a project, provided this is likely to address the E&S risks and impacts of the project, and enable the project to achieve objectives materially consistent with the ESSs. The use of all, or part, of a borrower’s E&S system will be agreed between ADB and a borrower, following completion of the assessment consistent with para 43. Any decision to use all, or parts, of a borrower’s E&S system will not relieve ADB of its responsibilities set out in this E&S Policy, and ADB’s Accountability Mechanism Policy (2012) will continue to apply.

42. A borrower’s E&S system will include those aspects of the host country’s policy, regulatory, and institutional framework, including its national, subnational, or sectoral implementing institutions and the host country’s applicable laws, and implementation capacity, which are relevant to the E&S risks and impacts of a project. Where there are inconsistencies or lack of clarity within a borrower’s E&S system as to competent government authorities or their jurisdiction, these will be identified and discussed with the borrower. The aspects of a borrower’s existing E&S system that are relevant will vary from project to project, depending on such factors as the type, scale, location, and potential E&S risks and impacts of a project and the role and authority of different institutions.

43. Where ADB and a borrower propose to use all, or part, of the borrower’s E&S system, ADB will undertake an assessment to determine whether and to what extent the borrower’s E&S system can be used to address the E&S risks and impacts of a project and achieve objectives materially consistent with the ESSs. A final decision on the use of all, or part, of a borrower’s E&S system for a project will be made by ADB’s Board of Directors.

44. ADB will engage with stakeholders so that their views can inform the assessment to be carried out under para 43. In conducting the assessment, ADB may consider recent studies, reviews, and other assessments conducted by ADB including upstream assessments, which may be at national, subnational, or sector level, of a borrower’s existing policy, legal, and institutional framework for addressing E&S risks and impacts, and related implementation capacity. ADB may also take into consideration studies, reviews, and other assessments conducted by other funding agencies, a borrower, or stakeholders, to the extent these are relevant to a proposed project. ADB will request a borrower to provide information reasonably requested by ADB in connection with such an assessment. When an assessment of a borrower’s E&S system has been completed, ADB will disclose its assessment on its website.
45. If the assessment identifies gaps in a borrower’s E&S system, ADB will work with the borrower to agree on measures and actions to address such gaps and strengthen the borrower’s E&S system, to the extent that such measures and actions are necessary to meet the requirements of para 41. ADB may agree that such measures and actions may be implemented during project preparation or project implementation. Such measures and actions will, where necessary, address any capacity development issues pertaining to a borrower, any relevant national, subnational, or sectoral implementing institution, and any implementing agency. The agreed measures and actions, together with the timeframes for their completion, will form part of the ESCP/ESAP. An ESCP/ESAP will also require that E&S performance will be measured against the approved E&S system.

46. Where the use of a borrower’s E&S system is approved by ADB, ADB will require a borrower to take all actions necessary to maintain the same E&S system, as well as acceptable implementation practices, track record, and capacity, in accordance with the measures and actions identified in the ESCP/ESAP, throughout the implementation phase of a project cycle. Where ADB becomes aware of a change in a borrower’s E&S system that may materially adversely affect a project for which use of a borrower’s E&S system has been approved, ADB will discuss the change with the borrower. If, in the opinion of ADB, such change is inconsistent with para 41 and the ESCP/ESAP, ADB will have the right to require a borrower to carry out, as appropriate, additional assessment and stakeholder engagement in accordance with the ESSs and agree on revisions to the ESCP/ESAP. If, in the opinion of ADB, such changes serve to further improve the borrower’s E&S system, ADB may require a borrower to apply such changes to a project, after reflecting the new requirements in the ESCP/ESAP.

I. Information Disclosure

47. ADB will require a borrower/client to disclose sufficient, relevant, and timely information and undertake stakeholder engagement on the potential E&S risks and impacts of a project in accordance with ESS10.

48. Disclosure of documents and information produced by ADB under this E&S Policy and those prepared by a borrower/client and submitted to ADB for disclosure in accordance with ESS1 and ESS10, including the assessment tools, management tools, and ESCP/ESAP, will be governed by ADB’s Access to Information Policy (2018). ADB will require a borrower/client to provide these documents and information to ADB in a timely manner to allow ADB to disclose them on its website as provided in para 49.

49. ADB will disclose documents and information relating to the E&S risks and impacts of High Risk, Substantial Risk, and Moderate Risk projects prior to project appraisal or final credit approval, unless such documents and information including assessment tools and management tools will be prepared by a borrower/client post-ADB approval of a project, as reflected in an ESCP/ESAP. These tools will reflect the E&S assessment of a project, and will be provided in draft or, if available, final form. The tools will address, in an adequate manner, the key E&S risks and impacts of a project and will provide sufficient detail to inform stakeholder engagement and ADB decision making. Final or updated assessment tools and management tools will be disclosed when available. ADB will also disclose monitoring reports submitted by the borrower/client.

50. For High Risk, Substantial Risk, and Moderate Risk projects, ADB will indicate in a Report and Recommendation of the President or other project proposal document for ADB approval,
those assessment tools and management tools that will be prepared and disclosed after ADB approval.

J. Consultation and Participation

51. ADB recognizes the importance of early and continuing engagement with stakeholders that is inclusive and without discrimination against project-affected persons, including those deemed disadvantaged or vulnerable. ADB will require a borrower/client to engage with stakeholders through information disclosure, and meaningful consultation in a manner proportionate to the risks to and impacts on project-affected persons as required under ESS10. This includes requiring a borrower/client to identify project-affected persons that may be disproportionately affected by a project because of their disadvantaged or vulnerable status.

52. Where such disadvantaged or vulnerable persons are identified, ADB will require a borrower/client to implement differentiated measures to mitigate the adverse impacts so that the project risks do not fall disproportionately on them. ADB will work with a borrower/client so that through these measures, such disadvantaged or vulnerable persons can share equitably in benefits and opportunities resulting from a project. The design of these measures and their implementation will take into consideration the particular circumstances of such persons, project and country context, including the host country’s legal and institutional frameworks and other relevant factors set out in para 21, to the extent possible and as determined by ADB. There may be circumstances under which the identification of disadvantaged or vulnerable individuals or groups, or designing of differentiated mitigation measures could expose these individuals or groups to further risks. ADB will consider the overall project-specific circumstances and project and country context, and work with the borrower/client to understand the potential effects and risks to such individuals and groups to determine an appropriate course of action and require the borrower/client to document its good faith effort to apply the requirements of this para.

53. ADB will participate in consultation activities led or organized by a borrower/client, where necessary, to understand the concerns of project-affected persons, and how such concerns will be addressed by a borrower/client in project design and mitigation measures in accordance with ESS10. ADB will monitor the implementation of consultation and stakeholder engagement by a borrower/client.

54. ADB recognizes that Indigenous Peoples may be particularly vulnerable in certain project circumstances. Therefore, to determine the applicability of ESS7, ADB will undertake a screening in accordance with the criteria in paras 6-8 of ESS7, to determine whether Indigenous Peoples are present in, or have collective attachment to, a proposed project-affected area. In conducting this screening, ADB may seek the technical advice of specialists with expertise on the social and cultural groups in a project-affected area. ADB will also consult the Indigenous Peoples concerned and a borrower/client. Where Indigenous Peoples are present in, or have a collective attachment to, a proposed project-affected area, ADB will require a borrower/client to undertake a process of meaningful consultation tailored to Indigenous Peoples in accordance with ESS7 and to document the outcome. ADB will undertake the necessary review and monitoring and ascertain the outcome of the meaningful consultation, and this will contribute to ADB’s decision making as to whether to proceed with a proposed project or not.

55. ADB recognizes that Indigenous Peoples may be particularly vulnerable to the loss of, alienation from, or exploitation of their land and access to natural and cultural resources. In recognition of this vulnerability, ADB will require a borrower/client to obtain the free, prior and informed consent (FPIC) of project-affected Indigenous Peoples when the circumstances
described in ESS7 are present. When ADB is unable to ascertain that such consent has been obtained from the project-affected Indigenous Peoples, ADB will not proceed further with the aspects of a project that are relevant to those Indigenous Peoples whose FPIC cannot be ascertained in accordance with ESS7.

K. Monitoring

56. ADB will monitor a borrower’s/client’s E&S performance of a project in accordance with the requirements in the ESCP/ESAP. This includes reviewing monitoring reports submitted by a borrower/client on compliance of a project with the requirements of the ESCP/ESAP. The extent and mode of ADB’s monitoring with respect to E&S performance will be proportionate to the potential E&S risks and impacts of a project.

57. Where appropriate and as required under the ESSs, ADB will require a borrower/client to engage stakeholders and third parties, such as independent experts, local communities, or civil society organizations, to complement or verify project monitoring information, and include such requirement in a project’s ESCP/ESAP. Where other agencies or third parties are responsible for managing specific E&S risks and impacts and implementing mitigation measures, ADB will require a borrower/client to collaborate with such agencies and third parties to establish and monitor such mitigation measures.

58. Where ADB has identified and agreed with a borrower/client and, as relevant, other agencies, on corrective or preventive measures and actions, such measures and actions will be included in the ESCP/ESAP.

59. If a borrower/client fails to implement measures and actions in the ESCP/ESAP in the timeframes specified, ADB will have the right to require a borrower/client to rectify such failure as covenanted in a project’s legal agreement, and/or otherwise exercise its legal remedies that are available under the project’s legal agreement. Before exercising these legal remedies, ADB will generally pursue other available means to rectify the situation satisfactorily to all parties to the project’s legal agreement, including initiating dialogue with the parties concerned to achieve compliance with the covenants in the legal agreement. To the extent that ADB evaluation at the time of project completion determines that measures and actions set out in the ESCP/ESAP and any other E&S requirements in a project’s legal agreement have not been fully implemented, ADB will determine whether further measures and actions by a borrower/client, including continuing ADB’s monitoring support, will be required.

L. Grievance Mechanism and Accountability

60. ADB will require a borrower/client to provide a project-level grievance mechanism to receive and facilitate resolution of concerns and grievances of project-affected persons arising in connection with a project. The grievance mechanism will be proportionate to the E&S risks and impacts of a project, and follow the requirements set out in ESS10.

61. Project-affected persons may submit complaints related to a project to the project-level grievance mechanism, appropriate local judicial or administrative bodies, or mediation, or ADB’s Accountability Mechanism. Project-affected persons will first make good faith efforts to resolve the problems with ADB’s relevant operations departments before approaching the Accountability Mechanism. The Accountability Mechanism provides an independent forum and process whereby persons adversely affected by a project can voice their concerns and seek solution to their
problems, and to request compliance review of alleged noncompliance by ADB with its operational policies and procedures.

M. Environmental and Social Approach to the Financing Modalities and Products

62. The approach to the assessment and management of E&S risks and impacts will differ depending on the type of support ADB financing offers and the intended use of the proceeds. ADB will apply the relevant requirements of the E&S Policy to the financing modalities and products, except to the extent such requirements are modified through the general E&S approach described in paras 62-70. The specific E&S requirements for the financing modalities and products will be detailed in the ADB Management approved document. For financing modalities and products that are developed by ADB post-effectiveness of the ESF, the application of the requirements of the E&S Policy and the ESSs will be guided by paras 62-70, and the ADB Management document will be updated to include the detailed E&S requirements specific to such new financing modalities and products, as appropriate.

63. ADB will allocate resources for corporate oversight, guidance, review, monitoring, and as necessary, capacity support, to a project proportionate to its risk classification. Where any significant strategic, geographic, and/or sector-wide E&S risks and impacts related to the scope and nature of ADB financing are identified by a borrower or ADB, ADB will require the borrower to undertake further assessment, such as a strategic environmental and social assessment, to inform the design of the ADB financing and associated E&S management.

64. ADB will review the E&S assessment process undertaken by a borrower/client in accordance with paras 28-35 as applicable. For every High Risk project, including those that are prepared by the borrower/client post-approval by ADB irrespective of the financing modalities or product, ADB will require the borrower/client to submit for review the E&S assessment undertaken by the borrower/client.

65. ADB may finance investments where, at the time of approval by ADB, E&S risks and impacts cannot be fully identified or assessed. This may be because (i) not all sub-projects or activities to be financed are identified, (ii) their details are not yet available, or (iii) due to urgency of the financing needs, assessment process cannot be completed as in the case of an emergency response. In such cases, ADB will undertake risk classification in accordance with para 22, and ADB and the borrower will agree on the principles for the assessment and management of E&S risks. ADB will require the borrower/client, as appropriate, to prepare an environmental and social management framework (ESMF) to guide the assessment and management of E&S risks and impacts of such sub-projects or activities. Once the necessary information and details of sub-projects or activities become available, ADB will require the borrower to follow the ESMF, and the requirements of ESS1 and the relevant ESSs to assess and manage the E&S risks and impacts. This type of investment includes sector lending, emergency assistance loans, and multitranche financing facilities.

66. Where ADB provides financing to a borrower based on the completion of specified policy actions, ADB will undertake risk classification in accordance with para 22, but based on the likely E&S risks and impacts resulting from the policy actions supported by ADB financing, factoring in contextual or sector specific risks. ADB will require the borrower to identify and assess the potential direct and indirect E&S risks and impacts associated with the policy actions, and integrate mitigation measures into the design of the final policy actions to achieve objectives materially consistent with the relevant ESSs. This type of investment includes policy-based lending. The E&S approach described in this para is also relevant where ADB provides consulting
services support or sector financing with an output that is intended to directly support the host country’s policy reforms or development expenditure programs that are likely to have E&S risks and impacts.

67. Where ADB provides financing to a borrower/client for pilot testing and/or small works and equipment to support a project, ADB will undertake risk classification of such activity in accordance with para 22, and require the borrower to incorporate the E&S considerations into the design of such financing, consistent with the relevant requirements of the ESSs. This type of investment includes project readiness financing, small expenditure financing facility, and technical assistance.

68. Where ADB provides financing to a borrower for achieving certain outputs or results using the E&S system for the program, the focus will be on the adequacy of the system to achieve the objectives consistent with the ESSs. ADB will undertake risk classification in accordance with para 22, but based on the likely E&S risks and impacts of the program supported by ADB financing, factoring in risks associated with the borrower’s implementation capacity and other contextual risks. ADB will require the borrower to achieve the objectives of the ESSs applicable to the program. Under such financing, all activities assessed to be classified as having High Risk are not eligible for financing. This type of investment includes results-based lending.

69. Where ADB financing is provided directly, through sovereign borrowers, or through other entity to a financial intermediary (FI), the focus is to determine the adequacy of the FI’s environmental and social management system (ESMS) to assess and manage the E&S risks and impacts associated with the intended use of ADB financing. ADB will classify all activities and transactions involving FIs or delivery mechanisms involving financial intermediation in accordance with paras 25-27. For higher risk transactions to be supported by ADB financing, ADB will require an FI to use the relevant ESSs as the underlying risk assessment and management standard in ESMS. For such transactions, ADB will also review the screening and risk classification undertaken by the FI under its ESMS. ADB will disclose the relevant E&S documentations prepared and submitted by FI borrowers/investees. For FI-1 and FI-2, ADB will disclose a summary of the ESMS and the monitoring reports for the activities and transactions supported by ADB financing. This type of financing includes loans, debt securities, equity investments, credit lines, and guarantees to FIs.

70. Where ADB financing is provided to a corporate finance client, the focus is to determine the adequacy of such client’s ESMS, and capacity to assess and manage the E&S risks and impacts associated with the intended use of the ADB financing. ADB will undertake risk classification and classify all activities and transactions proposed for ADB financing in accordance with para 22. Where the activities and transactions supported by ADB financing present High, Substantial or Moderate Risks, ADB will require the client to use the relevant ESSs as the underlying risk assessment and management standard in the ESMS. ADB will review and disclose a summary of the ESMS and documents and information submitted to ADB by the client, including monitoring reports in accordance with para 49. This type of financing includes corporate finance, including debt, equity, and guarantees.

N. Institutional and Implementation Arrangements

71. ADB will allocate responsibilities and appropriate resources to support the effective implementation of this E&S Policy.
72. The ESF will become effective from ________2025. The ESF will supersede the Safeguard Policy Statement (2009), subject to the following transitional arrangements:
   (i) for projects that have been approved or have a concept note approved by ADB prior to the effective date of this ESF, ADB’s Safeguard Policy Statement (2009) will continue to apply; and
   (ii) for new projects for which a concept note is approved by ADB on or after the effective date of this ESF, the E&S Policy, ESSs and the Prohibited Investment Activities List will apply; and the E&S requirements as set out in paras 62-70 will supersede and replace the E&S requirements covered in the existing provisions of the ADB policies set out in appendix 1.

73. ADB will commence review of the ESF no later than 10 years after its effective date. The Board of Directors may approve revisions to any part of the ESF at any stage where the need for such revisions arises as a result of changes in the operating context of E&S risks and impacts.

O. Relation to Other Policies

74. Any reference in this E&S Policy and in ESSs to other ADB policies includes those other policies as amended from time to time.
Appendix 1 - Changes to the environmental and social requirements in other policies

The environmental and social safeguard requirements in the following existing policy papers for specific financing modalities and products will be superseded by the E&S approach for the assessment and management of E&S risks and impacts as set out in paras 62-70. The E&S requirements will be further detailed in the ADB Management approved document. These changes will apply to projects that initiate preparation after the effective date of the ESF, as described in para 72. The relevant E&S safeguard requirements are contained in the following paragraphs:

(i) para 83 of the Revised Disaster and Emergency Assistance Policy (R95-21), and para 46 of the Revised Emergency Assistance Loan Policy (R96-21);
(ii) paras 84 and 85 of the Mainstreaming the Multitranche Financing Facility (R121-08) and para 20(v)(ii) of the Enhancing the Asian Development Bank’s Multitranche Financing Facility (R255-10). The disclosure requirements for the E&S documents for ADB as set out in the E&S Policy and for the borrowers as set out in ESS10 will supersede the safeguard document disclosure requirements in paras 91 of the R121-08;
(iii) para 29 of the Review of ADB’s Policy-Based Lending (R84-11);
(iv) paras 41(vii), and 72-81 of the Mainstreaming the Results-Based Lending for Programs (R67-19);
(v) para 27 of the Proposal for ADB’s New Products and Modalities (R56-18);
(vi) para 31 and Appendix 2 paras 9 and 29 of the Proposal for ADB’s New Products and Modalities (R56-18); and
(vii) para 77(ii) of the Enhancing Operational Efficiency of the Asian Development Bank (R167-15).
I. INTRODUCTION

1. This Environmental and Social Standard (ESS) 1 sets out the borrower’s/client’s responsibilities for screening and scoping, assessing, managing, and monitoring environmental and social (E&S) risks and impacts of a project, in a manner proportionate to the nature and scale of the potential risks and impacts. The ESSs are designed to help the borrower/client manage the E&S risks and impacts of a project, and improve E&S performance, through a risk and outcomes-based approach.

II. OBJECTIVES

a. Screen and scope, assess, manage, and monitor the E&S risks and impacts of a project in a manner consistent with this ESS and other applicable ESSs;

b. Adopt a mitigation hierarchy approach to: (i) anticipate and as a first priority avoid E&S risks and impacts; (ii) where avoidance is not possible, minimize or reduce E&S risks and impacts to acceptable levels; and (iii) once E&S risks and impacts have been minimized or reduced, mitigate and/or compensate for adverse impacts on the environment and project-affected persons;

c. Require that a project is environmentally and socially sound and sustainable, and support the integration of E&S considerations into the project decision-making process;

d. Adopt differentiated measures so that adverse impacts do not fall disproportionately on the disadvantaged or vulnerable, taking into account gender-related risks, and ensure that they are not disadvantaged in sharing development benefits and opportunities resulting from a project;

e. Promote improved E&S performance, in ways which recognize and enhance borrower/client capacity.

III. SCOPE OF APPLICATION

2. The requirements of this ESS1 and the ESSs apply, to the extent such ESSs are determined to be applicable, to ADB-financed and/or ADB-administered sovereign and private sector projects and their components regardless of the source of financing, including investment projects funded by a loan and/or a grant and/or other means, such as equity and/or guarantees, hereafter broadly referred to as projects. A project’s legal agreement describes a project to which the E&S requirements apply. Paras 60-67 explain the approach for the assessment and management of E&S risks and impacts for projects across different financing modalities and products offered by ADB, and the E&S requirements will be further be detailed in the ADB Management approved document.

3. The ESSs do not apply to activities that are not part of a project, nor to activities that the borrower/client implements following project completion without financing support from ADB, with the exception of associated facilities as set out in paras 15-18.

4. The application of this ESS1 and other ESSs to associated facilities, existing facilities, and those projects or components cofinanced with other parties are described in paras 15-20.

5. The borrower/client will ensure that a project does not include activities on the Prohibited Investment Activities List.
IV. REQUIREMENTS

6. The borrower/client will meet all requirements under ESSs applicable to a project and will provide ADB with information reasonably requested to ascertain the appropriate risk classification of a project in accordance with the E&S Policy. The assigned risk classification will form the basis for assessing and managing a project’s E&S risks and impacts.

7. The borrower/client will determine the scope of E&S assessment. Based on the scope, the borrower/client will screen, assess, manage, and monitor the E&S risks and impacts of a project in accordance with the relevant ESSs, proportionate to the nature and scale of its potential E&S risks and impacts.

8. The borrower/client will ensure that the E&S assessment process addresses, in an integrated way, all direct, indirect, and cumulative E&S risks and impacts such that relevant E&S factors, including those set out in para 24(i) and (ii), are considered comprehensively and in a non-fragmented manner, throughout the concept design, preparation, and implementation phases of a project cycle together with any project-specific issues raised by ADB or identified by the borrower/client.

9. The borrower/client will undertake stakeholder engagement and disclose information in accordance with ESS10. The borrower/client, in consultation with ADB, will initiate the E&S assessment and stakeholder engagement and information disclosure, as early as possible in a project cycle. This is to ensure that the E&S assessment process and the stakeholder engagement process are designed to meet the requirements of the ESSs, and the findings and the mitigation measures based on the mitigation hierarchy are incorporated into project selection, siting, and design decisions.

10. Throughout the E&S assessment process, the borrower/client will identify project-affected persons that may be disproportionately affected by a project because of their disadvantaged or vulnerable status. Where such disadvantaged or vulnerable persons are identified, the borrower/client will implement differentiated measures to mitigate the adverse impacts and ensure the project risks do not fall disproportionately on them. The borrower/client will ensure that, through these measures, such disadvantaged or vulnerable persons can share equitably in benefits and opportunities resulting from a project. The design of these measures and their implementation will take into consideration the particular circumstances of such persons, project and country context, including the host country’s legal and institutional frameworks and other factors set out in para 28, to the extent possible and as determined by ADB.

11. The borrower/client will comply with the host country’s applicable laws, including those laws implementing the host country’s obligations under international laws. Where ESSs set out more stringent requirements or measures more protective for project-affected persons or the environment than the requirements of the host country’s applicable laws, the borrower/client will comply with the requirements of the ESSs. Borrowers/clients will apply the relevant requirements of internationally recognized standards such as World Bank Group Environmental, Health, and Safety Guidelines (EHSGs) and other good international practice (GIP), as required under the ESSs and as applicable.

12. Where the borrower/client proposes less stringent standards or measures than those provided in the EHSGs or in applicable GIP, the borrower/client will provide detailed assessment and justification for the proposed alternatives. In this justification, the borrower/client will demonstrate, to the satisfaction of ADB, that the choice of any alternative performance level is...
consistent with the objectives of the ESSs and the applicable EHSGs or GIP and is unlikely to result in significant environmental or social harm.

13. The borrower/client will ensure that all E&S assessment requirements under the relevant ESSs have been identified and undertaken to the extent possible to the satisfaction of ADB to enhance E&S readiness of a project.

14. The borrower/client will develop an environmental and social commitment plan (ESCP)/environmental and social action plan (ESAP) for a project as detailed in paras 39-44, implement all measures and actions set out in the ESCP/ESAP, and conduct monitoring and reporting on the E&S performance of a project against all applicable ESSs as set out in the ESCP/ESAP.

A. Associated Facilities

15. For the purpose of the E&S Policy and the ESSs, the term “associated facilities” means new facilities or activities that are not funded as part of a project and, in the judgment of ADB, are: (i) directly and significantly related to the project; and (ii) developed, or contemporaneously planned to be developed, with the project; and (iii) necessary for the project to be viable and would not have been developed if the project did not exist.

16. The borrower/client will ensure that the E&S assessment and management provisions, consistent with this ESS1 and other ESSs apply to associated facilities, to the extent that the borrower/client has control or influence over the associated facilities.

17. Where ADB determines that requirements of the common approach under para 20 or the requirements of other multilateral or bilateral agencies or organizations will enable the associated facilities to achieve objectives materially consistent with the ESSs, the borrower/client may agree with ADB to apply such requirements, instead of the ESSs, to the associated facilities.

18. The borrower/client will be required to demonstrate the extent to which it cannot exercise control or influence over the associated facilities, providing details of the considerations for such a determination. If the borrower/client does not have control or influence, the E&S assessment for a project will still identify and consider the E&S risks and impacts that may be presented by the associated facilities to the project.

B. Existing Facilities

19. For a project that includes existing facilities or existing activities as a component, the borrower/client will undertake an E&S compliance audit, including an on-site assessment, to identify past or present concerns related to E&S risks and impacts. The scope of the E&S audit will be proportionate to the nature and scale of E&S risks and impacts of the existing facilities or existing activities. As part of the audit, the borrower/client will analyze the legal and institutional framework for the existing facilities or existing activities, including the issues set out in para 28 below, any existing operating permits and licenses, and existing plans developed to address specific E&S risks and impacts for the existing facilities or existing activities, and where applicable, any E&S requirements of the existing financiers. If such audit identifies any past or present E&S risks and impacts, the audit will propose and justify measures and actions to mitigate such E&S risks and impacts, estimate the cost of such measures and actions, and recommend a schedule for implementing them. The proposed measures and actions will depend on a project’s intended use of existing facilities or existing activities and the intended purpose of the ADB financing and will also take into account the financial and technical feasibility of such measures and actions.
Modifications to, or new components of, such existing facilities or existing activities financed by ADB will meet the requirements of the applicable ESSs.

C. Common Approach

20. Where ADB is cofinancing a project with other multilateral or bilateral agencies or organizations, and where appropriate, the borrower/client will cooperate with ADB and such cofinancier(s) to agree on a common approach in the assessment, development, and implementation of a project. In determining whether the common approach is acceptable, consideration will be given to the policies, standards, and implementation procedures of the multilateral or bilateral agencies or organizations, as applicable. A decision on the use of a common approach will be made by ADB as early as possible but no later than project appraisal or final credit approval. Where a common approach has been agreed for a project, an ESCP/ESAP will require that E&S performance will be measured against the common approach. A common approach will apply to associated facilities financed by the same co-financier(s) if agreed by ADB and the borrower/client. The borrower/client will also coordinate with ADB and such cofinancier(s) so that ADB and the borrower/client may be able to disclose one set of project information and documentation for stakeholder engagement.

D. Environmental and Social Assessment

21. The borrower/client will determine the scope of the E&S assessment based on the ESSs that are relevant to a project and ensure that the assessment is proportionate to the nature and scale of the potential E&S risks and impacts of a project.

22. The borrower/client will undertake an E&S assessment of a project to assess the E&S risks and impacts of a project. E&S assessment is a generic term and refers to a flexible process. Different assessment tools may be used to carry out the E&S assessment for a project depending on the nature and scale of identified E&S risks and impacts and the applicable ESSs. These may include, as appropriate, a combination of elements from a number of assessment tools along with the indicative outlines of the different assessment and management tools that are listed in Annex 1.

23. The borrower/client, in consultation with ADB, will identify and use the appropriate assessment tools to undertake the project-specific E&S assessment.

24. The borrower/client will ensure that the E&S assessment will take into account all relevant E&S risks and impacts of a project as described in detail in ESSs 2 –10, including:

(i) **Environmental risks and impacts such as**: pollution to air, water, and soil; health, safety, and security of project workers and communities; threats to the protection, conservation, and maintenance of natural and critical habitats and biodiversity, ecosystem services, living natural resources and the maintenance of environmental flows; risks to cultural heritage; and climate change mitigation and adaptation.

(ii) **Social risks and impacts such as**: any impacts from land acquisition and land use restrictions; adverse impacts on communities of Indigenous Peoples; risks associated with labor, working conditions, and rights of project workers; data privacy; risks that project impacts fall disproportionately on the disadvantaged or vulnerable; and gender-related risks, including potential risks of sexual exploitation, abuse, and harassment.
25. The borrower/client will ensure that the E&S assessment is an adequate, accurate, and objective evaluation of the **E&S risks and impacts** of a project, prepared by qualified and experienced specialists. The borrower/client will hire an independent third-party specialist if ADB has determined that the potential significance of **E&S risks and impacts** requires the assistance of such a specialist.

26. The borrower/client will engage internationally recognized experts for **High Risk** and **Substantial Risk** projects that are contentious, involve serious and multidimensional issues, and generally have interrelated potential E&S risks and impacts. These experts may be engaged individually or as an advisory panel, to carry out the E&S assessment, and assess and/or monitor the implementation of the measures identified through the E&S assessment process.

27. The borrower/client will ensure that the E&S assessment is based on current information, including an accurate description of the scope of a project, its components and **associated facilities**, and E&S baseline data at an appropriate level of detail sufficient to inform characterization and identification of **E&S risks and impacts** and mitigation, management, and monitoring measures. The borrower/client will ensure that the E&S assessment process for a project examines project alternatives and identifies ways of improving project selection, siting, planning, design, and implementation. The borrower/client will seek opportunities to enhance the positive impacts of a project, subject to the requirements of the ESSs. The borrower/client will undertake **stakeholder engagement** as an integral part of the E&S assessment process in accordance with ESS10. The borrower/client will ensure that stakeholder engagement is inclusive and without discrimination against **project-affected persons**, including those deemed disadvantaged or vulnerable.

28. The borrower/client will ensure that the E&S assessment takes into account the **host country**’s applicable policy framework; the **host country**’s applicable laws; institutional capabilities for implementation relating to E&S issues; project context; and host country environmental or social status reports and/or national environmental or social action plans, where these exist. The borrower/client will ensure that the E&S assessment is undertaken in coordination with the economic, financial, institutional, social, and technical analysis of a project.

29. The borrower/client will ensure that the E&S assessment applies the **mitigation hierarchy** to: (i) anticipate and avoid **E&S risks and impacts** as a first priority; (ii) where avoidance is not possible, minimize or reduce E&S risks and impacts to acceptable levels; and (iii) once E&S risks and impacts have been minimized or reduced, mitigate and/or compensate for adverse impacts on the environment and **project-affected persons**. The borrower/client will ensure that the cost of addressing E&S risks and impacts through the mitigation hierarchy, are considered as part of a project’s costs.

30. Where significant residual impacts remain, the borrower/client will compensate for or **offset** them, where technically and financially feasible. Where this is not technically or financially feasible, the borrower/client will set out the rationale and justification for this determination in the E&S assessment.

31. Where the E&S assessment identifies loss of assets or access to assets or resources resulting in losses in incomes or livelihoods, that are not a direct result of project activities under **land acquisition and land use restrictions**, the borrower/client will prepare a livelihood restoration plan, in consultation with ADB, and provide appropriate livelihood restoration measures in accordance with the principles set out in ESS5.
32. The borrower/client will integrate and consolidate the findings of all assessments and plans into a project's E&S assessment process in a timely manner.

33. Where the borrower/client has completed or partially completed E&S assessment prior to ADB’s involvement in a project, the borrower/client will conduct an audit to determine whether the completed assessment meets the requirements of the ESSs. Based on the findings of the audit, the borrower/client may be required to undertake additional assessments and the associated consultations and disclosures.

34. Where ADB is financing a project for which certain E&S assessment and management have already been undertaken in compliance with the requirements of other multilateral or bilateral funding agencies, ADB may agree to rely on such assessment and management of the E&S risks and impacts for the project, provided that the requirements will enable the project to achieve objectives materially consistent with the applicable ESSs.

35. The borrower/client will ensure that the E&S assessment process includes a review of the institutional capacity of the agency responsible for implementing a project’s management tools and ESCP/ESAP. Where necessary to ensure the capacity is in place, the borrower/client will include components or activities in a project to strengthen its technical capacity to carry out the E&S assessment process. The borrower/client will ensure that E&S responsibilities are well defined with clear lines of responsibility and authority and communicated to all personnel involved. Where a project includes one or more elements of capacity strengthening, these elements will be subject to monitoring and evaluation.

E. Environmental and Social Management Tools

36. The borrower/client will develop management tools, in consultation with ADB, to implement the mitigation measures identified by the applicable ESSs. The management tools will address adverse E&S risks and impacts, identify the responses to potentially adverse impacts and define a project’s desired outcomes in measurable terms, against baseline conditions and, to the extent possible, with targets that can be tracked over defined time periods.

37. The borrower/client will ensure that these management tools are proportionate to the nature and scale of E&S risks and impacts assessed and consist of the mitigation, monitoring, and institutional measures to be taken during implementation of a project. The management tools may include: the overall environmental and social management plan (ESMP), environmental and social management framework (ESMF), and plans such as land acquisition plan/framework, livelihood restoration plan; Indigenous Peoples plan, biodiversity action plan, cultural heritage management plan, labor management plan, community health and safety plan, land acquisition plan, stakeholder engagement plan, climate risk assessment, and other plans required by the relevant ESSs and as agreed with ADB.

38. The borrower/client will prepare the management tools as a standalone document and/or incorporate them into the ESMP.

F. Environmental and Social Commitment/Action Plan

39. The borrower/client will agree with ADB on an adaptive management process in which measures and actions necessary to meet the requirements of the ESSs will be identified and implemented over a specified timeframe. These measures and actions may include those that
are: (i) required to bring a project into compliance with the applicable ESSs; (ii) set out in the ESMP and/or other management tools prepared under the relevant ESSs; and/or (iii) to be undertaken during project implementation that are considered necessary for a project to achieve compliance with the ESSs. Those measures and actions that fall in the category of (ii) and (iii) will typically be included in an ESCP, while those that fall within the category of (i) will typically be included in an ESAP. The borrower/client will specify a completion date for each action in the ESCP/ESAP. The legal agreement for a project will include obligations of the borrower/client to implement the ESCP/ESAP. A draft ESCP/ESAP will be disclosed as early as possible, and before project appraisal or final credit approval.

40. If there are changes to a project that result in additional E&S risks and impacts, particularly where these will impact project-affected persons, the borrower/client will provide information on such risks and impacts and meaningfully consult with project-affected persons on how to mitigate these risks and impacts. The borrower/client will update the ESCP/ESAP, as necessary, setting out any additional measures and actions. The updated ESCP/ESAP will be disclosed.

41. The borrower/client will ensure sufficient high-level commitment, and human and financial resources, are provided on an ongoing basis to implement the ESCP/ESAP.

42. The borrower/client will include in the ESCP/ESAP, a description of trainings to address the specific measures and actions required to support effective and continuous E&S performance. The ESCP/ESAP will also include the details of the human and financial resources associated with such trainings.

43. The borrower/client will implement the measures and actions identified in the ESCP/ESAP in accordance with the specified timeframes and will review the status of implementation of the ESCP/ESAP as part of its monitoring and reporting.

44. Where the borrower/client is required under the ESCP/ESAP to plan or take specific measures and actions over a specified timeframe, the borrower/client may not carry out any activities in relation to the project that may cause material adverse E&S risks and impacts, until the relevant plans, measures, or actions have been completed in accordance with the ESCP/ESAP, including satisfying applicable requirements on consultation and disclosure.

G. Environmental and Social Assessments in Fragile and Conflict Situations

45. For projects in fragile and conflict-affected situations where there are constraints to the availability of information and data required to prepare assessment tools and management tools proportionate to the nature and scale of E&S risks and impacts, the borrower/client will address key risks and impacts and propose management measures, to the extent possible. In cases where it is not possible to complete the E&S assessment process before ADB’s approval of such projects, the borrower/client will agree with ADB to adopt a framework approach and an ESMF will be prepared and documented in the ESCP/ESAP.

H. Monitoring, Adaptive Management, and Reporting

46. The monitoring process will record information, track performance, and establish relevant operational controls to verify compliance and progress with the ESMP or other management tools required through the relevant ESSs, the ESCP/ESAP, and a project’s legal agreements. The borrower/client will ensure that the management tools developed take a long-term and
phased approach to accommodate the dynamic nature of the concept design, preparation and implementation phases of a project cycle and are responsive to changes in project circumstances, unforeseen events, regulatory changes, and the results of monitoring and review. The borrower/client will agree with ADB on the extent and methods of monitoring to be set out in the ESCP/ESAP and, where required, will make adjustments based on project performance experience or any actions requested by the regulatory authorities of a host country.

47. The borrower/client will engage external monitors to complement and/or verify its own monitoring activities, as necessary and as agreed to in the ESCP/ESAP. Where third parties have the responsibility for managing specific E&S risks and impacts and associated mitigation measures, the borrower/client will monitor implementation of such mitigation measures and engage with the third parties to ensure satisfactory implementation. Where appropriate, the borrower/client may involve representatives of project-affected persons and other stakeholders to participate in project monitoring activities, including by providing inputs to define appropriate indicators.

48. The borrower/client will submit to ADB for disclosure, in accordance with ESS10, monitoring reports documenting the E&S performance of a project as required in the ESCP/ESAP. Monitoring reports will be submitted to ADB at least semi-annually for projects deemed to have High Risk and Substantial Risk, and at least annually for projects deemed to have Moderate Risk and Low Risk, or as otherwise stated in the ESCP/ESAP. The borrower/client will ensure that these reports provide an accurate and objective record of project implementation, including compliance with ESMP and other relevant management tools. These reports will also include information on stakeholder engagement conducted during project implementation in accordance with ESS10.

49. Based on the results of the monitoring, the borrower/client will identify any necessary preventive and corrective actions to ensure compliance with the ESCP/ESAP, and will update the ESCP/ESAP or the relevant management tools, in a manner acceptable to ADB. The borrower/client will implement the agreed preventive and corrective actions in accordance with the updated ESCP/ESAP or relevant management tools and monitor and report on these actions.

50. The borrower/client will facilitate site visits by ADB staff or consultants acting on ADB’s behalf.

51. The borrower/client will notify ADB promptly of any incident or accident relating to a project which has, or is likely to have, a significant adverse effect on the environment, project-affected persons, project workers, or the public. The borrower/client will include in the notification sufficient detail describing such an incident or accident and its consequences, including any fatalities or serious injuries. The borrower/client will take immediate measures to satisfactorily address the incident or accident and to prevent any recurrence, including in accordance with the host country’s applicable laws, including those laws implementing the host country’s obligations under international laws, and the applicable ESSs. For any injury, ill-health, or fatalities caused by project activities, the borrower/client will provide appropriate compensation as set out in ESS4.

I. Stakeholder Engagement and Information Disclosure

52. As described in ESS10, the borrower/client will continue to engage with and provide sufficient information to stakeholders throughout the concept design, preparation, and implementation phases of a project cycle, in a manner appropriate to the nature of their interests
and the potential E&S risks and impacts of a project.

53. The borrower/client will submit to ADB for disclosure the E&S assessment reports, ESMP, any other management tools as required by the ESSs, audit reports, and the ESCP/ESAP for a project prior to project appraisal or final credit approval by ADB.

54. The borrower/client will submit to ADB for disclosure any assessment tools, management tools, and/or any such documents that are prepared as required, and according to the timeframe specified in the ESCP/ESAP after ADB project appraisal or final credit approval.

55. The borrower/client will submit to ADB for disclosure monitoring reports and, as necessary, corrective action plans documenting the E&S performance of a project as stated in the ESCP/ESAP.

J. Use of Borrower’s Environmental and Social System

56. In a sovereign operation, ADB may support the use of the borrower’s E&S system in the assessment, development, and implementation of a project, provided this is likely to address the E&S risks and impacts of the project, and enable the project to achieve objectives materially consistent with the ESSs. The borrower’s E&S system will include those aspects of the host country’s policy, applicable laws, and institutional framework, including its national, subnational, or sectoral implementing institutions, and implementation capacity which are relevant to the E&S risks and impacts of a project. Where there are inconsistencies or lack of clarity within a borrower’s E&S system as to competent government authorities or their jurisdiction, these will be identified and discussed with the borrower. The aspects of a borrower’s existing E&S system that are relevant will vary from project to project, depending on such factors as the type, scale, location, and potential E&S risks and impacts of a project and the role and authority of different institutions.

57. Where the borrower and ADB propose to use all, or part, of the borrower’s E&S system, ADB will undertake an assessment to determine whether and to what extent the borrower’s E&S system can be used to address the E&S risks and impacts of the project, and achieve objectives materially consistent with the ESSs. The borrower/client will provide information reasonably requested by ADB in connection with this assessment. A final decision on the use of all, or part, of a borrower’s E&S system for a project will be made by ADB’s Board of Directors.

58. Where the assessment identifies gaps in the borrower’s E&S system, the borrower will work with ADB to identify measures and actions to address such gaps and strengthen the borrower’s E&S system. Such measures and actions may be implemented during project preparation or project implementation and will include, where necessary, capacity development measures for any relevant national, subnational, or sectoral implementing institution, and any implementing agency. The agreed measures and actions, together with the timeframes for their completion, will form part of an ESCP/ESAP. An ESCP/ESAP will also require that E&S performance will be measured against the approved E&S system.

59. Where the use of the borrower’s E&S system is approved by ADB, the borrower will take all actions necessary to maintain the same E&S system, as well as acceptable implementation practices, track record, and capacity, in accordance with the measures and actions identified in the ESCP/ESAP, throughout the concept design, preparation, and implementation phases of a project cycle. The borrower will notify and discuss with ADB any changes in the borrower’s E&S system that may materially adversely affect a project for which use of the borrower’s E&S system
has been approved. If the borrower’s E&S system is changed in a manner inconsistent with the requirement of para 56 and the ESCP/ESAP, the borrower will carry out, as appropriate, additional assessment and stakeholder engagement in accordance with the ESSs, and propose changes, for approval by ADB, to the ESCP/ESAP. If, in the opinion of ADB, such changes serve to further improve the borrower’s E&S system, the borrower will apply such changes to a project, after reflecting the new requirements in the ESCP/ESAP.

K. Environmental and Social Approach to Financing Modalities and Products

60. The approach to the assessment and management of E&S risks and impacts will differ depending on the type of support ADB financing offers and the intended use of the proceeds. The borrower/client will apply the relevant requirements of the ESSs to the financing modalities and products, except to the extent such requirements are modified through the general E&S approach described in paras 60-67. The specific E&S requirements for the financing modalities and products will be detailed in the ADB management approved document. For financing modalities and products that are developed by ADB post-effectiveness of the ESF, the application of the requirements of the ESSs will be guided by paras 60-67, and the ADB Management document will be updated to include the detailed E&S requirements specific to such new financing modalities and products, as appropriate.

61. Where any significant strategic, geographic, and/or sector-wide E&S risks and impacts related to the scope and nature of ADB financing are identified by a borrower or ADB, the borrower will undertake further assessment, such as a strategic environmental and social assessment, to inform the design of the ADB financing and associated E&S management.

62. ADB may finance investments where, at the time of approval by ADB, E&S risks and impacts cannot be fully identified or assessed. This may be because (i) not all sub-projects or activities to be financed are identified, (ii) their details are not yet available, or (iii) due to urgency of the financing needs assessment process cannot be completed, as in the case of an emergency response. In such cases, the borrower and ADB will agree on the principles for the assessment and management of E&S risks and the borrower/client, as appropriate, will prepare an environmental and social management framework (ESMF) to guide the assessment and management of E&S risks and impacts of such sub-projects or activities. Once the necessary information and details of sub-projects or activities become available, the borrower will follow the ESMF, and the requirements of ESS1 and the relevant ESSs to assess and manage the E&S risks and impacts. This type of investment includes sector lending, emergency assistance loans, and multitranche financing facilities.

63. Where ADB provides financing to a borrower based on the completion of specified policy actions, the borrower will identify and assess the potential direct and indirect E&S risks and impacts associated with the policy actions, and will integrate mitigation measures into the design of the final policy actions to achieve objectives materially consistent with the relevant ESSs. This type of investment includes policy-based lending. The E&S approach described in this para is also relevant where ADB provides consulting services support or sector financing with an output that is intended to directly support the host country’s policy reforms or development expenditure programs that are likely to have E&S risks and impacts.

64. Where ADB provides financing to a borrower/client for pilot testing and/or small works and equipment to support a project, the borrower will assess and incorporate the E&S considerations into the design of such financing, consistent with the relevant requirements of the ESSs. This type of investment includes project readiness financing, small expenditure financing facility, and
technical assistance.

65. Where ADB provides financing to a borrower for achieving certain outputs or results using the E&S system for the program, the focus will be on the adequacy of the system to achieve the objectives consistent with the ESSs. The borrower will comply with the applicable objectives of the ESSs for the program. Under such financing, all activities assessed to be classified as having High Risk are not eligible for financing. This type of investment includes results-based lending.

66. Where ADB financing is provided directly, through sovereign borrowers, or through other entity to a financial intermediaries (FIs), the focus is to determine the adequacy of FIs’ E&S systems or environmental and social management systems (ESMS) to assess and manage the E&S risks and impacts associated with the intended use of ADB financing. For higher risk transactions to be supported by ADB financing, an FI will use the relevant ESSs as the underlying risk assessment and management standard in ESMS. The FIs will refer all such transactions to ADB for its review and clearance of the screening and risk classification of transactions. The FIs will also submit to ADB for disclosure, subject to applicable disclosure considerations, the relevant E&S documentations prepared by FI borrowers/investees for higher risk transactions. FI-1 and FI-2 will be required to submit E&S monitoring reports to ADB for review and disclosure. The extent and frequency of monitoring report will be proportionate to the E&S risks and impacts of the activities and transactions supported by ADB financing but will be at least annually. This type of financing includes loans, debt securities, equity investments, credit lines, and guarantees to FIs.

67. Where ADB financing is provided to a corporate finance client, the focus is to determine the adequacy of such client’s E&S systems or ESMS, and capacity to assess and manage the E&S risks and impacts associated with the intended use of the ADB financing. Where the activities and transactions supported by ADB financing present high, substantial or moderate E&S risks and impacts, the client will use the relevant ESSs as the underlying risk assessment and management standard in the ESMS. All such clients receiving ADB financing will be required to submit E&S monitoring reports to ADB for disclosure. The extent and frequency of monitoring reports will be proportionate to the E&S risks and impacts of the portfolio supported by ADB, but will be submitted at least annually. This type of financing includes corporate finance, including debt, equity, and guarantees.

L. Management of Contractors

68. The borrower/client will require that all contractors and sub-contractors engaged on a project operate in a manner consistent with the requirements of the ESSs, including the specific requirements set out in the ESCP/ESAP, such as preparation of additional plans or assessments as required by the ESSs and as relevant to the financing modality or product. The borrower/client will manage all contractors in an effective manner, including:

(i) Assessing the E&S risks and impacts associated with such contracts;
(ii) Ascertaining that contractors engaged in connection with a project are legitimate and reliable enterprises, and have necessary E&S knowledge and skills needed to fulfill their contractual commitments with regards to managing E&S risks and impacts; Incorporating all relevant aspects of the ESCP/ESAP into tender documents;
(iii) Contractually requiring contractors to apply the relevant aspects of the ESCP/ESAP and the relevant management tools;
(iv) Requiring contractors to implement any corrective action plans to bring a project into compliance as and when needed;
(v) Monitoring contractor compliance with their contractual commitments; and
(vi) In the case of subcontracting third parties requiring contractors to have equivalent arrangements with their subcontractors.
Annex 1: Environmental and Social Assessment

1. The E&S assessment is the primary process used by decision makers to identify the E&S risks and impacts of a project, determine measures to mitigate those risks and impacts, and ensure that the project is environmentally and socially sound and sustainable.

2. The manner in which the E&S assessment is conducted and the issues it addresses will vary for each project. The borrower/client will consult with ADB to determine the process to be used, taking into account a number of activities, including scoping, stakeholder engagement, potential E&S issues, and any specific issues raised between ADB and the borrower/client. The E&S assessment will include and take into account coordination and consultation with project-affected persons and other interested parties, particularly at an early stage, to ensure that all potentially significant E&S risks and impacts are identified and addressed.

3. The different assessment tools will include, as appropriate, the following:

   (i) **Environmental and Social Impact Assessment**

   Environmental and social impact assessment (ESIA) is an instrument to identify and assess the potential E&S impacts of a proposed project, evaluate alternatives, and design appropriate mitigation, management, and monitoring measures.

   (ii) **Environmental and Social Audit**

   Environmental and social audit is an instrument to determine the nature and extent of all E&S areas of concern at existing facilities or activities. The audit identifies and justifies appropriate measures and actions to mitigate the areas of concern, estimates the cost of the measures and actions, and recommends a schedule for implementing them. For certain projects, the E&S assessment may consist of an environmental or social audit alone; in other cases, the audit forms part of the E&S assessment.

   (iii) **Cumulative Impact Assessment**

   Cumulative impact assessment is an instrument to consider cumulative impacts of a project in combination with impacts from other relevant past, present, and reasonably foreseeable developments as well as unplanned but predictable activities enabled by a project that may occur later or at a different location.

   (iv) **Environmental and Social Management Plan**

   Environmental and social management plan (ESMP) is an instrument that details (i) the measures to be taken during the implementation and operation of a project to eliminate or offset adverse E&S impacts, or to reduce them to acceptable levels; and (ii) the actions needed to implement these measures.

   (v) **Environmental and Social Management Framework**

   Environmental and social management framework (ESMF) is an instrument that examines the E&S risks and impacts where a project consists of a program and/or series of subprojects, and the E&S risks and impacts cannot be determined until the program or
subproject details have been identified. Details of the content of an ESMF are included in Annex 1 (A-4).

(vi) Strategic Environmental and Social Assessment

Strategic environmental and social assessment (SESA) is a systematic examination of E&S risks and impacts and issues associated with a policy, plan, or program, typically at the national, subnational or sector level. The examination will screen and assess the potential application of the ESSs1-10, and will focus on the strategic, geographic, and/or sector-wide E&S risks and impacts covered in the relevant ESSs.

(vii) Environmental and Social Management System

An Environmental and Social Management System (ESMS) is a dynamic and continuous process initiated and supported by the borrower/client and involves engagement between the borrower/client and project stakeholders. The ESMS provides a methodological approach to managing E&S risks and impacts in a systematic and structured way on an ongoing basis. An ESMS is prepared for financial intermediary (FI) and corporate finance (CF) financing and is proportionate to the nature and scale of a project, promotes sound and sustainable E&S performance, and can lead to improved E&S outcomes. Details of the indicative content of an ESMS are included in Annex 1 (A-5).
A-1: Indicative Outline of Environmental and Social Impact Assessment

Where an ESIA is prepared as part of the E&S assessment process, it will include the following:

(i) **Executive Summary**
Provides a concise discussion of significant findings and recommended actions.

(ii) **Legal and Institutional Framework**
Analyzes the legal and institutional framework for a project, within which the E&S assessment is carried out, including the issues described in ESS1. Compares the borrower's/client's existing E&S framework and the ESSs and identifies the gaps between them. Identifies and assesses the E&S requirements of any co-financiers.

(iii) **Project Description**
- Concisely describes a proposed project and its geographic, environmental, social, and temporal context, including any offsite investments that may be required (e.g., dedicated pipelines, access roads, power supply, water supply, housing, and raw material and product storage facilities), as well as a project's primary suppliers.
- Through consideration of the details of a project, indicates the need for any plan to meet the requirements of ESSs1-10.
- Includes a schematic in sufficient detail, showing the project site and the area that may be affected by a project's **direct**, **indirect**, and **cumulative impacts**.

(iv) **Baseline Data**
- Sets out in detail the baseline data that is relevant to decisions about project location, design, operation, or mitigation measures. This should include a discussion of the accuracy, reliability, and sources of the data as well as information about dates surrounding project identification, planning, and implementation.
- Identifies and estimates the extent and quality of available data, key data gaps, and uncertainties associated with predictions.
- Based on current information, assesses the scope of the area to be studied and describes relevant physical, biological, and socio-economic conditions, including any changes anticipated before a project commences.
- Takes into account current and proposed development activities within the project area but not directly connected to a project.

(v) **Environmental and Social Risks and Impacts**
Takes into account all relevant **E&S risks and impacts** of a project. This will include the E&S risks and impacts specifically identified in ESSs2–10, and any other E&S risks and impacts arising as a consequence of the specific nature and context of a project, including the E&S risks and impacts identified in this ESS1, para 24(i) and (ii).

(vi) **Mitigation Measures**
- Identifies mitigation measures and significant residual adverse impacts that cannot be mitigated and, to the extent possible, assesses the acceptability of those residual adverse impacts. Identifies differentiated measures so that adverse impacts do not fall disproportionately on the **disadvantaged or vulnerable**.
Assesses the feasibility of mitigating the E&S risks and impacts; the capital and recurrent costs of proposed mitigation measures and their suitability under local conditions; and the institutional, training, and monitoring requirements for the proposed mitigation measures.

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

(vii) 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 E&S risks and impacts.
- Assesses the alternatives’ feasibility of mitigating the E&S risks and impacts; the capital and recurrent costs of alternative mitigation measures and their suitability under local conditions; and the institutional, training, and monitoring requirements for the alternative mitigation measures.
- For each of the alternatives, quantifies the E&S risks and impacts to the extent possible, and attaches economic values where feasible.

(viii) Design Measures

Sets out the basis for selecting the particular project design proposed and specifies the applicable EHSGs or national standards, whichever are more stringent and, if these are determined to be inapplicable, justifies recommended emission levels and approaches to pollution prevention and abatement that are consistent with GIP.

(ix) Key Measures and Actions for the Environmental and Social Commitment Plan/Environmental and Social Action Plan

Summarizes key measures and actions and the timeframe required for the project to meet the requirements of the ESSs. This will be used in developing the ESCP/ESAP.

(x) Appendices

- List of the individuals or organizations that prepared or contributed to the E&S assessment.
- References setting out the written materials, both published and unpublished, that have been used.
- Record of meetings, consultations, and surveys with stakeholders, including those with project-affected persons and other interested parties, as required in ESS10.
- The record specifies the means of such stakeholder engagement that were used to obtain the views of project-affected persons and other interested parties.
- Tables presenting the relevant data referred to or summarized in the main text.
- List of associated reports or plans.
A-2: Indicative Outline of an Environmental and Social Management Plan

An ESMP consists of the set of mitigation, monitoring, and institutional measures to be taken during implementation and operation of a project to address adverse E&S risks and impacts, offset them, or reduce them to acceptable levels as identified in the E&S assessment. The ESMP also includes the measures and actions needed to implement these measures. The borrower/client will: (i) identify the set of responses to potentially adverse impacts; (ii) determine requirements for ensuring that those responses are made effectively and in a timely manner; and (iii) describe the means for meeting those requirements.

Depending on the project, an ESMP may be prepared as a standalone document, incorporating the measures and actions identified through the management plans prepared under the other ESSs applicable for a project. Alternatively, proportionate to the scale of the project, these measures may directly be incorporated directly into the project ESCP/ESAP.

The content of the ESMP will include the following:

(i) **Mitigation**
Based on the findings of the project E&S assessment where mitigation options are discussed, the ESMP identifies measures and actions in accordance with the mitigation hierarchy that reduce potentially adverse E&S impacts to acceptable levels. The plan will include compensatory measures, if applicable. Specifically, the ESMP:

a. identifies and summarizes all anticipated adverse E&S impacts and also includes those involving Indigenous Peoples or land acquisition and land use restriction;

b. describes with technical details each mitigation measure, including the type of impact to which it relates and the conditions under which it is required, e.g., continuously or in the event of contingencies, together with designs, equipment descriptions, and operating procedures, as appropriate;

c. estimates any potential E&S risks and impacts of these mitigation measures; and

d. takes into account, and is consistent with, other mitigation plans required for the project, e.g., for land acquisition and land use restriction, Indigenous Peoples, or cultural heritage.

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

To support timely and effective implementation of E&S project components and mitigation measures, the ESMP draws on the E&S assessment of the presence, role, and capability of responsible parties/personnel on site or at the agency and ministry level.

Specifically, the ESMP provides a description of institutional arrangements, identifying which party is responsible for carrying out the mitigation and monitoring measures, e.g., for operation, supervision, enforcement, monitoring of implementation, remedial action, financing, reporting, and staff training. Social and environmental responsibilities need to be well defined with clear lines of responsibility and authority and communicated to all personnel involved.

To strengthen E&S management capability in the agencies responsible for implementation, the ESMP recommends the establishment or expansion of the parties responsible, the training of staff and any additional measures that may be necessary to support implementation of mitigation measures and any other recommendations of the E&S assessment.

(iv) **Implementation Schedule and Cost Estimates**

For all three aspects, mitigation, monitoring, and capacity development, the ESMP provides (i) an implementation schedule for measures that must be carried out as part of a project, showing phasing and coordination with overall project implementation plans; and (ii) the capital and recurrent cost estimates and sources of funds for implementing the ESMP.

(v) **Integration of ESMP with Project**

The borrower's/client's decision to proceed with a project, and ADB's decision to support it, are predicated in part on the expectation that the ESMP, either standalone or as incorporated into the ESCP/ESAP, will be executed effectively. Consequently, each of the measures and actions to be implemented will be clearly specified, including the individual mitigation and monitoring measures and actions and the institutional responsibilities relating to each, and the costs of so doing will be integrated into a project’s overall planning, design, budget, and implementation.
A-3: Indicative Outline of Environmental and Social Audit

The aim of the audit is to identify significant E&S issues in existing facilities or activities, and assess their current status, specifically in terms of meeting the requirements of the ESSs.

(i) **Executive summary**
Present a concise discussion of significant findings and set out recommended measures, actions, and timeframes.

(ii) **Legal and Institutional Framework**
Analyzes the legal and institutional framework for existing facilities or activities, including the issues described in this ESS1 and, where relevant, any applicable E&S requirements of existing financiers.

(iii) **Project Description**
Concisely describes existing facilities or activities, and the geographic, environmental, social, and temporal context and any Associated Facilities. Identifies the existence of any plans already developed to address specific E&S risks and impacts, e.g., land acquisition plan, cultural heritage plan, biodiversity plan. Includes graphic details, layouts, and plans in sufficient detail, showing the site of existing facilities or activities and the proposed site for the proposed project.

(iv) **Environmental and Social Issues Associated with Existing Facilities or Activities**
The review will consider the key E&S risks and impacts relating to existing facilities or activities. This will cover the E&S risks and impacts identified in ESSs1–10, as relevant to the existing facilities or activities. The audit will also review issues not covered by the ESSs, to the extent that they represent key E&S risks and impacts in the circumstances of a project.

(v) **Environmental and Social Analysis**
The audit will also assess: (i) the potential E&S risks and impacts of a proposed project, taking into account the findings of the audit with regard to existing facilities or activities; and (ii) the ability of the proposed project to meet the requirements of the ESSs.

(vi) **Proposed Environmental and Social Measures**
Based on the findings of the audit, this section will set out the suggested measures to address such findings. These measures will be included in the ESCP/ESAP for the proposed project. Measures typically covered under this section include the following:
- specific actions required to meet the requirements of the ESSs;
- corrective measures and actions to mitigate potentially significant E&S risks and impacts associated with existing facilities or activities;
- measures to avoid or mitigate any potential adverse E&S risks and impacts associated with a proposed project.
A-4: Indicative Contents of the Environmental and Social Management Framework (ESMF)

1. The use of an ESMF will be considered for sector lending, emergency assistance loans, and MFF. ESMF may also be considered for projects in fragile and conflict-affected situations, as set out in ESS1. Para 2 sets out the content of an ESMF that will need to be prepared by a borrower/client.

2. An ESMF will: (i) describe the project and its subprojects and/or components; (ii) explain the general anticipated environmental and/or social impacts of the components or subprojects to be or proposed to be financed under the project; (iii) specify the requirements for subproject screening and risk classification, assessment, and planning, including arrangements for meaningful consultation with project-affected persons and other stakeholders and information disclosure requirements and, where applicable, safeguard criteria that are to be used in selecting subprojects and/or components; (iv) identify needs for capacity development of the agency responsible for implementing the requirements under the ESSs and ESAP; (v) specify implementation procedures, including the budget, institutional arrangements, and capacity development requirements; (vi) specify monitoring and reporting requirements; and (vii) describe the responsibilities of the borrower/client and of ADB in relation to the preparation, implementation, and progress review of safeguard documents of subprojects. The level of effort, the amount of analysis, the comprehensiveness, and the level and scope of detail required for the framework will depend on the nature and scale of the potential E&S risks and impacts of a project.

3. An ESMF will also include an outline for land acquisition and land use restriction and Indigenous Peoples related assessments, as set out in ESS 5 and ESS 7, respectively.
A-5: Indicative Contents of Environmental and Social Management System (ESMS)

1. An ESMS will consist of the following elements: (i) an E&S policy; (ii) internal organizational capacity and competency; (iii) due diligence processes/procedures to identify E&S risks and impacts of an FI’s borrowers’/investees’ activities and transactions or a CF Client’s activities and transactions financed by ADB; (iv) monitoring, reviewing, and reporting of activities, transactions, and/or portfolio; and (v) stakeholder engagement and grievance mechanism. The following section describes indicative content of each of the components of an ESMS, which will be detailed proportionate to the E&S risks and impacts of the activities, transactions, and/or portfolio supported by ADB financing:

(i) **E&S Policy**
- Describes the overarching E&S policy, to be endorsed by senior management, defining the E&S objectives, principles, and E&S requirements and standards that will apply to manage the E&S risks and impacts associated with the borrower's/client's activities and transactions.

(ii) **Internal Organizational Capacity and Competency**
- Describe an organizational structure that defines roles, responsibilities, and authority to implement the ESMS. This requires designating qualified personnel and communicating well-defined E&S responsibilities to relevant personnel.

(iii) **E&S Risk Identification, Assessment and Management Planning – Due Diligence Processes**
- Establish processes to identify, assess, and manage E&S risks and impacts associated with an FI’s or a CF Client’s activities and transactions financed by ADB, and where appropriate, will require an ESAP.
- FI ESDD will: (i) review relevant documents and information provided by an FI’s borrowers/investees; (ii) review E&S risks and impacts of the activities against pre-determined criteria such as ADB’s Prohibited Investment Activities List, applicable ESSs (for higher risk transactions) and the host country’s applicable E&S laws; (iii) conduct site visits, as appropriate; and (iv) review the track record of an FI’s borrowers/investees on E&S issues.
- CF Client ESDD will identify and assess the E&S risks and impacts against applicable ESSs and the host country’s applicable laws (for activities and transactions financed by ADB classified as high, substantial, or moderate risk), and review against pre-determined criteria such as ADB’s Prohibited Investment Activities List.
- Require documentation of the findings of the FI or CF Client ESDD in a report or internal records, including recommendations on whether to proceed with financing and any conditions of investment, which will be reflected in an ESAP.

(iv) **Monitoring, Reviewing, and Reporting**
- Establish monitoring procedures to review progress with the ESAP and implementation of the ESMS. The extent and frequency of monitoring will be proportionate to the E&S risks and impacts of the activities and transactions as identified through FI or CF Client ESDD, but will be done at least annually.
(v) **Stakeholder Engagement and Grievance Mechanism**

- Describe procedure for stakeholder engagement that includes methods to receive, register, screen, analyze, and assess, track, and if necessary, respond to and act upon, external inquiries, views, opinions, concerns (real or perceived), requests for information and complaints from the public regarding the operations, investment activities or in the case of an FI, an FI’s borrowers/investees in its portfolio. Such a procedure will also take into consideration confidentiality of information. The complexity of such a procedure will be proportionate to the nature and scale of E&S risks and impacts associated with an FI’s CF Clients’ activities and transactions.

- Provide publicly available and easily accessible channels to receive communications and requests from the public for information regarding E&S issues.

- Assess the relevance of the external communication received and determine the level of response and actions required, if any.

- Require a grievance mechanism if an FI’s or a CF Client’s activities and transactions are likely to generate adverse E&S risks and impacts on project-affected persons or the environment.

2. For those FI that support higher risk transactions and CF Clients that support activities and transactions with high, substantial, and moderate risks, if any gaps are identified through ADB’s review, between the existing ESMS of an FI or CF Client and the applicable ESSs, ADB and the FI or CF Client will reach an agreement on a corrective action plan that sets out time-bound measures and associated budget needs to implement such a plan. Such a corrective action plan will be reflected in the corporate ESMS and in an ESAP, as necessary. Where ADB DD has determined that an FI or a CF Client does not have adequate in-house capacity, an ESAP will describe how an FI or a CF Client will strengthen its in-house capacity or if that is not possible, retain qualified specialists to develop and implement an ESMS.
ESS2: LABOR AND WORKING CONDITIONS

I. INTRODUCTION

1. This Environmental and Social Standard (ESS) 2 recognizes that borrowers/clients can advance the social and economic well-being of project workers through employment generation and that project workers play a major role in delivering quality projects. Equitable standards for labor and working conditions are fundamental to the employment relationship for both borrowers/clients and project workers. The borrower/client will promote good human resource management and relationships that support respect for project workers.

II. OBJECTIVES

a. Promote fair treatment, nondiscrimination, and equal opportunity for project workers;
b. Prevent and address any forms of violence and harassment, bullying, intimidation and exploitation against project workers, including any forms of sexual exploitation, abuse, and harassment;
c. Support the principles of freedom of association and collective bargaining;
d. Prevent the use of forced labor and child labor;
e. Promote, develop, and maintain transparent project worker management relationships;
f. Provide project workers with accessible means to raise workplace concerns.

III. SCOPE OF APPLICATION

2. The applicability of this ESS2 is established during the environmental and social (E&S) assessment process described in ESS1. The scope of application of this ESS2 depends on the type of employment and nature of the employment relationship between the borrower/client and project workers during the implementation phase of a project cycle.

3. Project workers means:
   (i) direct workers – workers engaged or employed directly by a borrower/client to work on a project. The requirements in paras 5-31 apply;
   (ii) contracted workers – workers engaged or employed by a third party to perform work related to a project, regardless of location. The requirements in paras 5-32 apply;
   (iii) primary supply workers – workers engaged or employed by a borrower’s/client’s primary suppliers. Primary suppliers are suppliers who provide directly to a project goods or materials essential for production and/or service processes that are necessary for a specific project activity and without which a project cannot continue. The requirements in paras 20-26 and 37-39 apply; and
   (iv) community workers – workers engaged or employed by a borrower/client from a community or communities in a project-affected area who contribute their labor to a community development project through different working arrangements. The requirements in paras 20-26 and 33-35 apply.

4. Where government civil servants are working with a project, whether full-time or part-time, they will remain subject to the terms and conditions of their existing public sector employment agreement or arrangement, unless there has been an effective legal transfer of their employment or engagement to the project. This ESS2 will not apply to such government civil servants, except for the provisions of paras 20-26.
IV. GENERAL REQUIREMENTS

5. The borrower/client will require that all project workers, contractors, and subcontractors or other third-party contractors engaged on a project operate in a manner consistent with the requirements of this ESS2 and the requirements under the host country's applicable laws related to labor and social security, including those laws implementing host country obligations under international laws.

A. Working Conditions and Management of the Relationship with Project Workers

6. The borrower/client will, in consultation with ADB, maintain or adopt and implement for a project a labor management plan. The plan will identify the different types of project workers engaged by the project and set out how they will be managed based on the employment relationships. The plan will also set out the way in which project workers will be managed, in accordance with the requirements of the host country’s applicable laws, this ESS2 and, if relevant, a good international practice (GIP). The plan will address the way in which this ESS2 will apply to different categories of project workers, and the way in which the borrower/client will require third parties to manage their workers. It will be proportionate to the size, needs, and risks involved in a project’s workforce. The borrower/client will ensure that a project’s labor management plan is accessible, clear, and communicated to project workers in a language and format that they will understand.

7. If there are significant changes to a project that will result in additional risks for and impacts on project workers, the borrower/client will meaningfully consult with project workers and review and update the project’s labor management plan where necessary to indicate how such risks and impacts will be mitigated.

B. Terms and Conditions of Work

8. The borrower/client will ensure that, at the beginning of the working relationship, project workers are provided with written contracts and/or other forms of information and documentation that contain clear and understandable terms and conditions of their employment. The contracts, information, and/or documentation will set out the project workers’ rights under the host country’s applicable laws and any applicable collective agreements, including rights related to hours of work, wages, overtime, and compensating benefits, as well as those arising from the requirements of this ESS2. The borrower/client will ensure that project workers are provided with additional information and documentation when any material changes to their terms or conditions of employment occur.

9. The borrower/client will establish and maintain two-way communications with project workers in a language and format that project workers understand and which provide: (i) adequate information on changes that might affect them, particularly any anticipated and unanticipated changes related to a project as they occur; and (ii) the opportunity for project workers to provide comments and concerns, including how to raise grievances as specified in para 31.

10. The borrower/client will ensure that project workers are: (i) paid on a regular basis including overtime where applicable; and (ii) provided with adequate periods of rest per week, annual holidays, and sickness, maternity and family leave, as set out in written contracts or other forms of information and documentation and/or otherwise in accordance with a project's labor management plan. Deductions from payment of wages will only be made as specified in a
project’s labor management plan or if allowed by the host country’s applicable laws, and the borrower/client will ensure that project workers are informed of the conditions under which such deductions will be made.

11. The borrower/client will ensure that project workers receive a written notice of termination of employment and details of severance payments in a timely manner, and in accordance with the requirements of the host country’s applicable laws and a project’s labor management plan. The borrower/client will ensure that all wages, social security benefits, pension contributions, and any other entitlements earned or accrued will be paid on or before termination of the working relationship, either directly to the project workers or, where appropriate, for the benefit of the project workers. Where payments are made for the benefit of project workers, the borrower/client will ensure that project workers are given notice in advance of such payments and provided with evidence of them.

C. Non-Discrimination and Equality of Opportunity and Treatment

12. The borrower/client will: (i) not make project employment decisions on the basis of personal characteristics unrelated to inherent job requirements, particularly for those project workers who are disadvantaged or vulnerable; (ii) base the employment relationship on the principle of equal opportunity and fair treatment; and (iii) not discriminate with respect to any aspect of the employment relationship, such as recruitment and hiring, job assignment, compensation (wages and benefits), working conditions and terms of employment including reasonable adaptation of the workplace related to disabilities, access to training, promotion, termination of employment, retirement, and disciplinary practices.

13. The following measures will not be considered discrimination: special measures of protection or assistance to remedy past discriminatory actions; measures to promote local employment opportunities; and selection for a particular job based on the inherent requirements of the job that are in accordance with the host country’s applicable laws.

14. The borrower/client will implement appropriate measures to protect and assist disadvantaged or vulnerable project workers. Such measures may be necessary only for specific periods of time, depending on the circumstances of the project worker and the nature of the disadvantage or vulnerability. Such measures of protection and assistance will not be deemed as discrimination, provided they are consistent with the host country’s applicable laws, a project’s labor management plan, and this ESS2.

15. The borrower/client will take appropriate measures to prevent and address in a project context any form of violence and harassment, bullying, intimidation, and/or exploitation, including any form of sexual exploitation, abuse, and harassment (SEAH).

V. SPECIFIC REQUIREMENTS

A. Project Worker Accommodation

16. Where accommodation is provided for project workers, the borrower/client will include in a project’s labor management plan specific requirements on the quality and management of the accommodation and provision of basic services. The accommodation services will be provided in a manner consistent with the principles of non-discrimination and equal opportunity, including prevention of SEAH. The borrower/client will ensure that project workers’ accommodation arrangements will not restrict their freedom of movement or of association.
B. Freedom of Association and Collective Bargaining

17. In countries where the host country’s applicable laws recognize workers’ rights to form and to join workers’ organizations of their choosing and to bargain collectively, the borrower/client will inform project workers of these rights, and a project will be implemented in accordance with such laws. The borrower/client will not discriminate or retaliate against project workers who act as representatives, participate or seek to participate in such organization or in collective bargaining, and will not interfere in the formation or functioning of worker organizations. The borrower/client will engage with such workers’ representatives or organizations and provide them with information needed for meaningful negotiation in a timely manner.

18. Where the host country’s applicable laws restrict the establishment or functioning of workers’ organizations, the borrower/client will not restrict project workers from developing alternative mechanisms to represent their interests and protect their rights regarding working conditions and terms of employment, appropriate to the size and needs of a project’s workforce. The borrower/client will not discriminate or retaliate against project workers who participate, or seek to participate, in such workers' organizations and alternative mechanisms. The borrower/client will neither seek to influence nor control these alternative mechanisms.

19. Where the host country’s applicable laws are silent, the borrower/client will not discourage project workers from electing worker representatives, forming or joining workers' organizations of their choosing, or from bargaining collectively, and will not discriminate or retaliate against project workers who participate, or seek to participate, in such organizations and collective bargaining. The borrower/client will engage with such workers’ representatives and workers’ organizations and provide them with information needed for meaningful negotiation in a timely manner.

C. Protecting the Work Force

a). Child Labor

20. The borrower/client will not employ or engage a child under the age of completion of compulsory schooling, and in any case not under the minimum age of 15 in connection with a project, unless the host country’s applicable laws specify a higher age. The borrower/client will specify the minimum age for employment or engagement in connection with a project in the project’s labor management plan.

21. The borrower/client will not employ or engage a child over the minimum age and under the age of 18 in connection with a project in a 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. Hazardous child labor is work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety, or morals of children. Hazardous child labor includes work and activities: (i) with exposure to physical, psychological, or SEAH; (ii) occurring 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.
22. The borrower/client will ensure that any project workers identified as over the minimum age and under 18 years of age will be subject to appropriate assessment of their physical health prior to commencing work and to regular monitoring of health, working conditions, hours of work, and other requirements of this ESS2.

23. The borrower/client may engage a child who is 13 to 15 years old for light work that will not (i) be harmful to their health or development; and (ii) prejudice their attendance at school, their participation in vocational orientation or training programs approved by the competent government authority, or their capacity to benefit from the instruction received, if the host country’s applicable laws justify engaging such child consistent with the applicable international convention and ADB agrees.

24. Where a child is engaged in a project, regardless of age, the borrower/client will take appropriate measures to prevent and address any form of violence and harassment, bullying, intimidation, and/or exploitation, including any form of SEAH, and ensure access to grievance mechanism under para 31. If cases of child labor are identified, the borrower/client will promptly take corrective actions to eliminate such practice from a project.

   b). Forced Labor

25. The borrower/client will not employ forced labor in connection with a project. Forced labor is all work or service which is exacted from any person under the threat of a penalty and for which the person has not offered themself voluntarily. This prohibition covers any involuntary or compulsory labor, such as indentured labor, bonded labor, or similar labor-contracting arrangements. Work is performed on a voluntary basis when it is done with the free and informed consent of a project worker, and whose consent can be revoked freely by the project worker throughout the employment relationship. The borrower/client will assess the authenticity of a project worker’s free and informed consent, and confirm that no external constraint or indirect coercion has been carried out, either by an act of the competent government authorities or by an employer’s practice.

26. The borrower/client will not engage any trafficked persons in connection with a project. Trafficking in persons means 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 purposes of exploitation. If forced labor or other exploitative form of labor practices are identified, the borrower/client will promptly take corrective actions to eliminate such practices from a project.

D. Collective Dismissal

27. The borrower/client will provide advance notification to ADB of any planned collective dismissal.

28. In cases of a collective dismissal, the project’s labor management plan will be revised to incorporate the plan for collective dismissal and associated measures to be implemented by the borrower/client.

29. Prior to implementing any collective dismissal in connection with a project, the borrower/client will carry out an analysis of alternatives to the planned workforce reduction. If the
analysis does not identify any alternatives that are technically and financially feasible, the borrower/client will develop and implement a labor restructuring plan to assess, reduce, and mitigate the adverse impacts of the workforce reduction on project workers based on the principle of non-discrimination, and in meaningful consultation with project workers and their organizations, if any. The borrower/client will ensure that the process to identify project workers who will be subject to collective dismissal is transparent, based on fair, objective, consistently-applied criteria, and subject to an effective grievance mechanism.

30. In carrying out any collective dismissal, the borrower/client will comply with a project’s labor restructuring and labor management plans on collective dismissal. The borrower/client will ensure notification to competent government authorities, where required, and provision of information to, and meaningful consultation with, project workers and their organizations, if any. The borrower/client will ensure that severance pay and all wages, social security benefits, pension contributions, and any other entitlements earned or accrued will be paid: (i) to the project workers on or before termination of the working relationship; (ii) where appropriate, for the benefit of the project workers; or (iii) in accordance with a timeline set out in any applicable agreement reached through collective bargaining. Where payments are made for the benefit of project workers, the borrower/client will ensure that they are provided with evidence of such payments.

E. Grievance Mechanism

31. The borrower/client will set up an effective grievance mechanism through which project workers and their organizations, where they exist, can raise workplace concerns. This grievance mechanism will be separate, and in addition to, the grievance mechanism described in ESS10 for a project. The borrower/client will ensure that the grievance mechanism set up under this ESS2 addresses concerns promptly and is readily accessible to project workers. The grievance mechanism under this ESS2 will follow the principles of the grievance mechanism described in ESS10. The grievance mechanism will be proportionate to the nature and scale of the potential risks and impacts of a project and will involve an appropriate level of representation from management and project workers to address concerns promptly, using an understandable and transparent process that provides timely feedback to those concerned, without threat of reprisal. The grievance mechanism will include provisions for confidential complaints, and those requiring special protection measures such as reports of SEAH. The mechanism will not prevent access to judicial or administrative remedies of the host country that might be available under law or through existing arbitration or mediation procedures, nor will it substitute for grievance mechanisms provided through workers’ organizations or collective agreements. The borrower/client will inform project workers of the grievance mechanism at the time of recruitment and the measures put in place to protect them against any threat of reprisal for its use. The borrower/client will establish a procedure to regularly monitor the use of the grievance mechanism. Where monitoring indicates that the grievance mechanism requires modification to make it appropriately responsive to project workers’ needs, the borrower/client will ensure that such modifications are made and communicated to project workers in a timely manner and in a language and format they will understand.

F. Contracted Workers

32. The borrower/client will identify risks associated with the recruitment, engagement, and demobilization of project workers by third parties, develop proportionate procedures, and implement a contractor management plan for managing and monitoring the performance of such third-party employers in relation to a project and requirements of this ESS2. The borrower/client will make reasonable efforts to find out that a third-party employer who engages contracted
workers has appropriate human resource policies and labor management systems and procedures that are consistent with this ESS2. The borrower/client will also ascertain that contractors are legitimate and reliable enterprises and have knowledge and skills to perform their project tasks in accordance with their contractual commitments. The borrower/client will incorporate the requirements of this ESS2 and all applicable aspects of the environmental and social commitment plan (ESCP)/environmental and social action plan (ESAP) into contractual agreements with a third-party employer, and require that such third-party employer include equivalent requirements into its contractual agreements with its contracted workers. The borrower/client will monitor compliance with such contractual agreements. The borrower/client will ensure that all contracted workers have access to a project's grievance mechanism.

G. Community Workers

33. **Community workers** are those who contribute their labor to a project as part of their community work, or to a project that is designed and implemented for the purpose of fostering community-driven development, providing a social safety net such as food for work or community public works or similar programs, or providing targeted assistance in fragile and conflict-affected situations.

34. Where a project involves the provision of labor by community workers, the borrower/client will include measures in a project’s labor management plan to determine whether workers are performing work on a voluntary basis as an outcome of individual or community agreement. Those community workers voluntarily employed or engaged for a project will not be paid salary and benefits but will still have the same rights and responsibilities of other project workers, with the main difference being the absence of a salary and benefits package for their work. Any community workers contracted to perform work for wages and benefits are contracted workers. The measures to be included in a project’s labor management plan will reflect and will be proportionate to: (i) the nature and scope of the project; (ii) the specific project activities in which the community workers are engaged; and (iii) the nature of the potential risks to and impacts on the community workers.

35. The borrower/client will assess whether there is a risk of child labor or forced labor among community workers, identifying those risks consistent with paras 20-26. The borrower/client will ensure that a project's labor management plan will set out roles and responsibilities for supervising and monitoring the labor and working conditions of community workers. If cases of child labor or forced labor among community workers are identified, the borrower/client will promptly take corrective action to remove such practices from a project and provide access to the project’s grievance mechanism.

H. Migrant Workers

36. The borrower/client will identify project workers who have migrated from one country to another or from one part of the country to another for purposes of employment, and ensure that they are engaged on terms and conditions of work that are not less favorable than those for non-migrant project workers carrying out the same work, as set out in paras 5 to 31. The borrower/client will ensure that all migrant project workers have access to a project’s grievance mechanism.

I. Primary Suppliers and Primary Supply Workers
37. As part of the E&S assessment process described in ESS1, the borrower/client will identify and assess potential or actual risks of child labor, forced labor, and serious safety issues which may arise in relation to primary suppliers. Where there is a significant risk of child labor or forced labor related to primary supply workers and suppliers engaged by a primary supplier, the borrower/client will require the primary supplier to adhere to the requirements in paras 20-26, in a manner proportionate to its control or influence over the primary supplier, to the satisfaction of ADB. The borrower/client will monitor its primary suppliers on an ongoing basis, identify any significant changes in the primary supply workers and/or suppliers engaged by a primary supplier and if new risks or incidents of child and/or forced labor are identified, the borrower/client will require the primary supplier to address such risks, in a manner proportionate to its control or influence over the primary supplier, to the satisfaction of ADB.

38. Where the E&S assessment process described in ESS1 identifies a significant risk of serious safety issues related to primary supply workers, the borrower/client will require the primary supplier to introduce procedures and mitigation measures to address such safety issues. The borrower/client will periodically review such procedures and mitigation measures to ascertain their effectiveness.

39. The ability of a borrower/client to address risks in paras 37 and 38 will depend on the borrower’s/client’s level of control or influence over its primary suppliers. The borrower/client will be required to demonstrate the extent to which it cannot exercise control or influence over a primary supplier by providing details of the considerations for such determination, which may include legal, regulatory, and institutional factors. Where corrective action to bring a project into compliance with this ESS2 is not possible, the borrower/client will, within a reasonable period of time, shift a project’s primary suppliers to suppliers that can demonstrate that they have the capacity to comply with this ESS2.

VI. MONITORING AND DISCLOSURE

40. Depending on the level of risks and impacts with regards to labor and working conditions, the borrower/client will prepare and disclose a project labor management plan as a standalone plan or as part of the project environmental and social management plan (ESMP) in accordance with ESS1 and ESS10.

41. The borrower/client will monitor the implementation of the requirements of the labor management tools in accordance with the requirements in the ESCP/ESAP and ESS10.
ESS3: RESOURCE CONSERVATION AND POLLUTION PREVENTION

I. INTRODUCTION

1. This Environmental and Social Standard (ESS) 3 recognizes that economic and social activity often generates physical, biological and/or chemical pollution to air, water, and soil and consumes finite resources at levels that may threaten people, the environment, and the ecosystem services the environment provides at the local, national, and global levels.

2. A key principle of this ESS3 is the expectation that the borrower/client will apply the principles of circular economy through resource conservation and pollution prevention.

3. This ESS3 is also based on the precautionary approach, the polluter pays principle, and the principle of rectification of environmental harm at the source. Another foundational principle is the application of the mitigation hierarchy.

II. OBJECTIVES

a. Promote the sustainable use of resources, including energy, water, soil, and raw materials;

b. Avoid and, where avoidance is not possible, minimize adverse impacts on human health and the environment from all types of pollution generated from project activities;

c. Avoid and, where avoidance is not possible, minimize project-related emissions and discharges which cause pollution to environmental media, including air, water, and soil;

d. Avoid and, where avoidance is not possible, minimize generation of all types of hazardous and non-hazardous waste and when such waste is generated, manage it appropriately;

e. Avoid, minimize, and manage the risks and impacts associated with the use, storage, haulage, application, and production of hazardous chemicals, substances, and materials;

f. Avoid, minimize, and manage the risks and impacts associated with pesticide use.

III. SCOPE OF APPLICATION

4. The applicability of this ESS3 is established during the environmental and social (E&S) assessment process described in ESS1. Resource conservation and pollution prevention and/or management will be a primary consideration during concept design, preparation, and implementation phases of a project cycle.

IV. REQUIREMENTS

5. The borrower/client will consider ambient conditions, apply measures for resource conservation and efficiency and pollution prevention and/or management in accordance with the mitigation hierarchy and maintain the technical and financial feasibility of a project.

6. The borrower/client will ensure that measures are proportionate to the nature and scale of the potential E&S risks and impacts associated with a project, and are consistent with the host country’s applicable laws, including those laws implementing host country obligations under international laws, and the applicable internationally recognized standards such as the World Bank Group Environmental, Health, and Safety Guidelines (EHSGs) or good international practice (GIP). Where the requirements under the host country’s applicable laws differ from such
internationally recognized standards, the borrower/client will achieve whichever is more stringent or more protective for project-affected persons or the environment.

7. If less stringent standards are proposed, the borrower/client will provide detailed assessment and justification for the proposed alternatives, as required under ESS1. The borrower/client will demonstrate, to the satisfaction of ADB, that the choice of any alternative performance levels is consistent with the objectives of this ESS3 and the applicable EHSGs or GIP and is unlikely to result in significant environmental or social harm.

A. Resource Conservation and Efficiency

8. This ESS3 emphasizes safeguarding the life-supporting capacity of air, water, and soil ecosystems. For a project, the borrower/client will implement technically and financially feasible measures for improving resource conservation, minimizing the intensity of resource use, and ensuring efficient consumption of energy, water, soil, and raw materials, as well as other resources.

9. For projects involving existing facilities or activities, the recommendations of the E&S audit must be implemented, and the borrower/client will seek to demonstrate improvements in resource use and efficiency. For any modifications to or new components in existing facilities or for new projects financed by ADB, the borrower/client will comply with the requirements of this ESS3. The E&S audit requirements for existing facilities will be consistent with the requirements described as set out in ESS1.

10. The borrower/client will ensure that the measures integrate the principles of circular economy into all aspects of a project, including waste generation, minimization, and management. For a project with high resource demands, the borrower/client will undertake an early stage best available technologies (BAT) study, benchmarking the project against relevant global comparators, where such data are available, to establish the relative level of efficiency and intensity of resource use.

11. Where technically and financially feasible, the borrower/client will obtain an appropriate system of independent certification to demonstrate the sustainable management of resources, including the use of living natural resources, in accordance with the requirements of ESS6.

B. Energy Use

12. The borrower/client will seek to contribute to environmental sustainability through the efficient use of energy. When a project is a potentially significant user of energy, in addition to applying the resource conservation and efficiency requirements of this ESS3, the borrower/client will adopt measures specified in the sector-specific standards such as EHSGs to optimize energy usage, where technically and financially feasible. For such a project, the borrower/client will also consider the reuse of waste energy, applying the principles of circular economy, or the use of renewable energy or other low-carbon alternatives, as appropriate.

C. Water Consumption

13. When a project is a potentially significant user of water or will have potentially significant adverse impacts on water quality and/or availability to communities, other users, and the environment, in addition to applying the resource conservation and efficiency requirements of this ESS3, the borrower/client will:
(i) avoid or, where avoidance is not possible, minimize water consumption so that a
project’s water use does not have significant adverse impacts on communities,
other users, and the environment;
(ii) conduct as applicable water balance studies or mathematical modelling as part
of project development and design and during the E&S assessment process
described in ESS1;
(iii) assess annual water use or intensity on a project, submit annual monitoring reports
on project water use, and develop and implement a continuous improvement plan
to reduce total water use or intensity, whichever measure is agreed with ADB;
(iv) benchmark project operations to applicable standards for water use efficiency; and
(v) only as a last resort, implement water consumption offsets to maintain total
demand for water resources within the available supply.

D. Raw Material Use

14. When a project is a potentially significant user of raw materials, in addition to applying this
ESS3 and the requirements under the host country’s applicable laws, the borrower/client will
consider and adopt measures appropriate for a project, such as those specified in the EHSGs,
including but not limited to, preference for reuse of raw materials, the use of existing legally-
approved quarries/borrow pits where necessary, and the minimization of transportation.

E. Soil

15. This ESS3 recognizes soil as an important resource. Borrowers/clients will protect soils
by implementing measures to avoid and, where avoidance is not possible, minimize soil
degradation and erosion in a project.

16. For an agriculture project, the borrower/client will, where technically and financially
feasible, implement measures consistent with sustainable and/or regenerative farming by
protecting and enhancing soil quality and, in cases where soil is already degraded, restoring it.

F. Pollution Prevention and Management

17. As part of the E&S assessment process described in ESS1, the borrower/client will identify
a project’s sources, types, and fate and transport of pollutants, estimate or quantify, where
possible, the pollutant load, and examine project alternatives that avoid or minimize emissions
and discharges.

18. The borrower/client will avoid the release of pollutants or, where avoidance is not possible,
minimize and control the intensity and concentration of their release using performance levels,
measures, and standards specified in the host country’s applicable laws, internationally
recognized standards such as the EHSGs and other GIP. The borrower/client will avoid the
release of pollutants to air, water, and soil due to routine, nonroutine, and accidental
circumstances, and with the potential for local, national, and/or transboundary impacts.

19. To address potential adverse pollution impacts the borrower/client will consider factors
that include: (i) existing ambient conditions; (ii) the remaining assimilative capacity of the
physical, biological, and socio-economic environment in areas already impacted by pollution; (iii)
existing and future land use; (iv) a project’s proximity to areas of high sensitivity for E&S receptors;
(v) the potential for cumulative impacts with uncertain and/or irreversible consequences; and
(vi) impacts of climate change.
20. Where a project involves historical pollution that could pose E&S risks and impacts, the borrower/client will undertake, through audit methodology acceptable to ADB, an environment, health, and safety risk assessment of the existing pollution to determine an appropriate course of action. If such action involves remediation of a site, the borrower/client will ensure that it is appropriately undertaken in accordance with this ESS3.

21. When a project has the potential to constitute a significant source of emissions or discharges in an already degraded area, the borrower/client will adopt measures that avoid and, where avoidance is not possible, minimize further degradation of such area. The borrower/client will ensure that these measures include evaluation of alternatives to a project’s location, design, and processes, and emissions offsets.

G. Management of Hazardous and Non-hazardous Waste

22. Following the principles of circular economy in a project, the borrower/client will avoid the direct or indirect generation of hazardous and non-hazardous waste, including plastics, e-waste, and other non-biodegradable waste. Where significant quantities of waste generation are anticipated and avoidance is not possible, the borrower/client will undertake a waste estimation study for the implementation phase of a project cycle. The study will inform the development of proposed measures to apply the waste management hierarchy to minimize the generation of waste and reuse, recycle, and recover waste in a manner that is safe for human and ecosystem health, as defined by the host country’s applicable laws or the EHSGs, whichever is more stringent. Where waste cannot be reused, recycled, or recovered, the borrower/client will treat, destroy, or dispose of it in an environmentally sound and safe manner that includes appropriate control of emissions, discharges, and residues resulting from the handling and processing of the waste material.

23. Where inert construction waste is generated in a project, the borrower/client will explore opportunities for reuse in accordance with the principles of circular economy, and where reuse is not possible, ensure that such waste is disposed of in compliance with the host country’s applicable laws. Where necessary because of the volume, nature, or toxicity of the waste, the borrower/client may be required to undertake additional environmental assessment for disposal sites in accordance with the process described in ESS1.

24. If project-generated waste is considered hazardous as specified in the host country’s applicable laws, including those laws implementing the host country’s obligations under international laws, the borrower/client will comply with requirements for its management including storage, transportation, and disposal set out in such laws or agreements including those relating to transboundary movement. When hazardous waste management is conducted by third parties, the borrower/client will use contractors that are licensed, permitted, or approved by the competent government authorities to conduct hazardous waste management.

25. For hazardous and non-hazardous waste disposal in a project, the borrower/client will use licensed disposal sites, preferentially ones that are designed, constructed, and demonstrated as being operated to applicable GIP. Where licensed disposal sites do not meet such standards or do not exist, the borrower/client will assess alternative disposal options that comply with these standards of the applicable GIP, including the possibility of developing its own recovery or disposal facilities at a project site or elsewhere.
26. When project-generated waste is, or is planned to be, transferred offsite to a licensed disposal site and/or waste disposal is managed by third parties, the borrower/client will use contractors that are licensed by the competent government authorities. The borrower/client will also obtain chain of custody documentation for transfer to the final destination, unless such documentation is not available, and its absence is justified to the satisfaction of ADB.

H. Management of Hazardous Chemicals, Substances, and Materials

27. For a project, the borrower/client will avoid the manufacture, trade, and use of hazardous chemicals, substances, and materials which may include chemical fertilizers and chemicals other than pesticides, subject to or proposed for international bans, restrictions, or phaseouts, unless for an acceptable purpose as defined by applicable international agreements, or if an exemption has been obtained by the host country, consistent with the commitments under the applicable international agreements.

28. In a project, the borrower/client will avoid and, where avoidance is not possible, minimize and control the use and release of hazardous chemicals, substances, and materials. The borrower/client will assess and manage the transportation, handling, and storage of hazardous chemicals, substances, and materials for project activities, or where such materials are intended to be used in manufacturing processes or other operations within a project as set out in the E&S assessment process described in ESS1. Where avoidance of the use or release is not possible, the borrower/client will consider less hazardous alternatives and/or implement measures to ensure the health and safety of workers, communities, and the environment.

I. Management of Pesticides

29. As part of the E&S assessment process described in ESS1, the borrower/client will identify whether a project involves pest management measures. Where a project involves pest management measures, the borrower/client will give preference to integrated pest management (IPM) or integrated vector management (IVM) or a combination of approaches. Priority will be given to the use of traditional and biological methods and chemical pesticides will be used as a last resort to prevent unacceptable levels of pest damage.

30. For a project involving significant pest management issues, or contemplating activities that may lead to pest management and/or pesticide use issues, or when a project will finance substantial quantities of pesticides, the borrower/client will, in consultation with ADB, prepare a pest management plan (PMP), which may be a standalone plan or integrated into the relevant management tools as described in ESS1. The PMP will be proportionate to the nature and scale of a project’s potential E&S risks and impacts from pesticide use. A pest management plan is not required for the procurement or use of insecticides or pest control measures that follow internationally recognized approaches for mosquitoes.

31. In the procurement of any pesticide for a project, the borrower/client will assess the nature and degree of associated risks during the E&S assessment described in ESS1 and develop appropriate management and mitigation measures, taking into account the proposed use.

32. The borrower/client will, on a case-by-case basis and in consultation with ADB, consider the use of pesticides not yet subject to extensive international regulatory tests, with a presumption against their use on a project. Before such consideration, the borrower/client will engage a qualified expert to conduct a risk assessment, justify the use of such chemicals, and explain in detail any risks to any E&S receptors, based on internationally peer-reviewed evidence.
33. The borrower/client will apply the following criteria to the selection and use of such pesticides: (i) they will have negligible adverse human and ecosystem health effects; (ii) they will be shown by documented evidence to be effective against the target species; and (iii) they will have minimal effect on non-target species and the natural environment, as supported by internationally peer-reviewed scientific evidence. The methods, timing, and frequency of pesticide application are aimed to minimize damage to all other non-target species.

34. The borrower/client will ensure that pesticides used in public health programs are demonstrated to be safe for inhabitants and domestic animals in the treated areas, as well as for personnel applying them. The borrower/client will ensure that: (i) their use will take into account the need to prevent the development of resistance in pests; and (ii) where registration is required, all pesticides will be registered or otherwise authorized for use on the crops and livestock, or for the use patterns, for which they are intended under a project.

35. The borrower/client will avoid and, where avoidance is not possible, minimize as far as possible the use of pesticides in areas sensitive for groundwater, surface water, and biodiversity, and areas where the risks of E&S receptors’ exposure to pesticides is high.

V. MONITORING AND DISCLOSURE

36. Depending on the level of risks and impacts with regards to pollution prevention and resources conservation, the borrower/client may prepare additional studies and management tools that are required through this ESS3 and as relevant to a project and its E&S risks and impacts. As specified in ESS1, these will support the analysis of risks and impacts and identification of mitigation measures and will be part of or may be annexed to the E&S assessment undertaken for a project.

37. The management tools as required by this ESS3 will be prepared and disclosed as standalone documents or as part of the project environmental and social management plan (ESMP).

38. The borrower/client will monitor the implementation of the E&S management tools prepared under this ESS3 in accordance with the requirements in the environmental and social commitment plan (ESCP)/environmental and social action plan (ESAP) and ESS10.
I. INTRODUCTION

1. This Environmental and Social Standard (ESS) 4 recognizes that project activities, equipment, and infrastructure may increase the potential for project workers and project-affected persons to be exposed to health, safety, and security risks. Project activities may also exacerbate natural hazard and climate change risks or impacts on project-affected persons.

2. This ESS4 recognizes that the borrower/client has the primary responsibility, in collaboration with competent government authorities, to manage health, safety, and security risks associated with project activities that impact project workers and project-affected persons to avoid or minimize such risks and impacts, with particular attention to those who may be disadvantaged or vulnerable.

II. OBJECTIVES

a. Protect and promote the health, safety, and security of project workers by promoting a culture of safety, ensuring safe, healthy, and secure working conditions, and implementing protective measures proportionate to the nature and scale of the potential risks and impacts of a project;

b. Anticipate and avoid and, where avoidance is not possible, establish measures and procedures to minimize, mitigate, and respond to, adverse impacts on the health, safety, and security, including sexual exploitation, abuse, and harassment (SEAH)-related issues, of project workers and project-affected persons;

c. Consider potential geophysical and physical climate risks and impacts in the design and construction of infrastructure;

d. Avoid, or where avoidance is not possible, minimize and mitigate the exposure of persons and communities to project-related traffic and road safety hazards, diseases, and hazardous chemicals, substances, materials, and wastes;

e. Ensure that the safeguarding of personnel and property is carried out in a manner that avoids or minimizes risks to project workers and project-affected persons.

III. SCOPE OF APPLICATION

3. The applicability of this ESS4 is established during the environmental and social (E&S) assessment process as described in ESS1. The potential risks to project workers and project-affected persons may vary depending on the nature, scale, and stage of a project. This ESS4 establishes requirements for ensuring the health, safety, and security of project workers and project-affected persons.

IV. REQUIREMENTS

A. General Requirements for Ensuring Health and Safety

4. The borrower/client will adopt measures to prevent fatality, accident, injury, and ill-health among project workers and project-affected persons, arising from or associated with a project. The borrower/client will, in consultation with ADB, prepare and implement plans with detailed
measures to manage health and safety risks in accordance with the mitigation hierarchy, the host country’s applicable laws, including those laws implementing host country obligations under international laws, and applicable internationally recognized standards such as the World Bank Group Environmental, Health, and Safety Guidelines (EHSGs) or good international practice (GIP). Where the requirements under the host country’s applicable laws differ from such internationally recognized standards, the borrower/client will achieve whichever is more stringent or more protective for project workers and project-affected persons or the environment.

5. The borrower/client will undertake, as part of the E&S assessment process described in ESS1, a health, safety, and security assessment proportionate to the nature and scale of the potential risks and impacts of a project and develop a project-specific health and safety management plan (HSMP) that may be a standalone plan or may be integrated into the project environmental and social management plan (ESMP) or any relevant management tools. The borrower/client will liaise with the contractor to update and regularly review the HSMP to evaluate its effectiveness in avoiding, reducing, and mitigating risks and impacts.

6. The borrower/client will provide project workers and project-affected persons with information, guidance, instruction, and training relating to health and safety hazards, risks, and emergency arrangements that are necessary for their health and safety during the preparation and implementation phases of a project cycle.

7. If there are significant changes to a project that result in additional risks for and impacts on the health, safety, and security of project workers and project-affected persons, the borrower/client will meaningfully consult with project workers and project-affected persons on how to mitigate these risks and impacts and on any additional mitigation measures that may be required.

8. The borrower/client will require that all project workers, contractors and subcontractors or other third-party contractors engaged on a project operate in a manner consistent with the requirements of this ESS4.

B. Occupational Health and Safety

9. The borrower/client will provide project workers with a safe and healthy workplace, taking into account inherent risks in its particular sector and specific classes of hazards that may be present.

10. Where there are specific risks associated with certain work activities that could result in adverse effects on the health and safety of disadvantaged or vulnerable project workers, the borrower/client will carry out more detailed risk assessment and integrate the findings and the related occupational health and safety (OHS) measures into the HSMP.

11. The borrower/client will designate a person responsible for OHS, who will implement the HSMP. The borrower/client will require its non-employee project workers, contractors, and other third parties on project sites to also comply with the HSMP. The borrower/client will provide personal protective equipment and access to safety equipment at no cost to project workers.

12. During the course of any work activity, the borrower/client will ensure that project workers are dully qualified and competent to undertake assigned tasks, are provided with continued and appropriate supervision to ensure safe use of work equipment, and adequate implementation and enforcement of the HSMP.
13. The borrower/client will monitor the health and safety of project workers and meaningfully consult with them on OHS related measures in the HSMP. The borrower/client will ensure that this monitoring and meaningful consultation includes, at a minimum, accident investigation, risk assessment, development of safe methods and procedures of work, and selection of work equipment. The borrower/client will encourage project workers to stop work in situations of imminent danger and report any unsafe acts and conditions in the workplace.

14. The borrower/client will put in place workplace processes including a grievance mechanism for project workers to report work situations that they believe are not safe or healthy, and to enable them to remove themselves from a work situation which they have reasonable justification to believe presents an imminent and serious danger to their life or health. Project workers who remove themselves from such situations will not be required to return to work until necessary remedial action to correct the situation has been taken.

15. Where project workers are employed or engaged by more than one party and are working together in one location, the borrower/client will require that the parties who employ or engage the workers will collaborate in applying the OHS related measures in the HSMP, without prejudice to the responsibility of each party for the health and safety of its own workers.

16. The borrower/client will regularly review and monitor the implementation of the OHS related measures in the HSMP. The review will include identification of safety and health hazards and risks, implementation of effective methods for responding to identified hazards and risks, setting priorities for taking action, and evaluation of results.

C. Community Health and Safety

17. The borrower/client will identify and assess project-related risks and adverse impacts on the health and safety of potential project-affected persons throughout the concept design, preparation, and implementation phases of a project cycle. The borrower/client will avoid such risks and impacts, and where avoidance is not possible, develop preventive and protective measures for community health and safety proportionate to the nature and scale of a project, and incorporate such measures into the HSMP. The borrower/client will communicate with project-affected persons and other stakeholders, as appropriate, on the community health and safety related measures within the HSMP. The borrower/client will ensure that such measures are consistent with the mitigation hierarchy and GIP.

18. Where there are specific risks that could result in adverse impacts on the health and safety of disadvantaged or vulnerable persons, the borrower/client will carry out a more detailed risk assessment and develop measures to manage the risks, including preventing injury and ill health, and include them in the HSMP.
V. SPECIFIC REQUIREMENTS FOR HEALTH AND SAFETY MANAGEMENT

D. Reporting of Accidents and Injuries including Fatalities

19. Where any fatality, accident, injury, or ill-health occur in the course of implementing project activities, or there is a potential of such occurrence, the borrower/client will investigate, document, and analyze the findings, adopt measures to prevent occurrence or recurrence and, where required by law, notify and cooperate with the competent government authorities. The borrower/client will report to ADB any major incident, fatality, or significant injury within three working days of its occurrence or when it became aware of, followed up by a detailed report outlining root cause analysis and future preventative measures and actions within 21 working days. In circumstances where it is not possible to complete the detailed report, the borrower/client and ADB will agree on a more feasible date. The borrower/client will require its contractor(s) to record and maintain an accident and incident register throughout the project construction and implementation phases. For any fatality, accidents, injury, or ill-health caused by project activities, the borrower/client will provide appropriate compensation in accordance with the requirements of the host country’s applicable laws, and, if relevant, a GIP.

E. Safety of Services

20. Where a project involves provision of services to communities, the borrower/client will establish and implement appropriate health and safety and quality control measures to anticipate and minimize risks and impacts that such services may have on community health and safety. The borrower/client will consider features that will permit access and use to the greatest extent possible by people in the communities regardless of their age, size, ability or disability, where technically and financially feasible.

F. Exposure to Disease

21. The borrower/client will avoid or minimize the potential exposure of project workers and project-affected persons to diseases which could result from, or be exacerbated by, project activities. The borrower/client will take into consideration differentiated exposure to, and higher sensitivity of, disadvantaged or vulnerable groups and will develop appropriate mitigation measures in meaningful consultation with such groups and the competent government authorities.

22. Where specific diseases are endemic to the geographic area of project-affected communities, the borrower/client is encouraged to identify opportunities throughout the concept design, preparation, and implementation phases of a project cycle to improve conditions that could help minimize their incidence, both among project workers and project-affected persons. The borrower/client will take measures to avoid or minimize transmission of communicable diseases that may be associated with the influx of project workers.

G. Ecosystem Service

23. A project’s direct impacts on provisioning and regulating ecosystem services, including those that may be exacerbated by climate change, may result in adverse health and safety risks to and impacts on biodiversity and project-affected persons. The borrower/client will ensure that adverse impacts on such ecosystem services are avoided and, where avoidance is not possible, will implement appropriate mitigation measures.
H. Natural Hazards

24. The borrower/client will identify and assess the potential risks and impacts from extreme weather and geophysical hazards, as these relate to a project and will design and implement measures to avoid and/or minimize their impact. The borrower/client will also avoid or minimize the exacerbation of risks and impacts caused by natural hazards, such as landslides or floods, that could result from land use changes due to project activities.

25. The borrower/client will undertake a climate risk assessment in accordance with ESS9. The borrower/client will identify and assess alternatives to a project’s proposed location and/or technology and identify appropriate climate change mitigation, and climate change adaptation and resilience measures to be integrated into the project design.

I. Sexual Exploitation, Abuse, and Harassment (SEAH)

26. The borrower/client will assess project-related risks of SEAH to project workers consistent with ESS2 and project-affected persons, including those who may be disproportionately affected because of their disadvantaged or vulnerable status. The borrower/client will adopt specific and differentiated measures to prevent and address SEAH, following a survivor-centered approach, and will establish a confidential grievance mechanism for reporting incidents and referral systems to provide support to SEAH survivors.

J. Product Safety

27. Where a project involves production of and/or trade in consumer products, the borrower/client will ensure product safety through good design and manufacturing processes, as well as adequate storage, handling, and transportation for product distribution. The borrower/client will comply with the requirements of the host country’s applicable laws and the product safety standards and codes of practice in a given business sector, as agreed with ADB.

28. During the assessment process, the borrower/client will identify and evaluate health and safety risks to consumers associated with its products. The borrower’s/client’s approach to product safety will adhere to the mitigation hierarchy and ensure that adequate information on a product’s health and safety risks is provided to consumers. For situations involving products which may pose serious health threats, the borrower/client will ensure that product recall and product withdrawal policies and procedures are in place before product distribution to consumers.

K. Infrastructure, Building and Equipment Design and Safety

29. During the concept design, preparation, and implementation phases of a project cycle, the borrower/client will ensure that structural elements of a project comply with the requirements of the host country’s applicable laws and, if relevant GIP, taking into consideration health, safety, and security risks to project-affected persons and other stakeholders. The borrower/client will ensure that structural elements of a project are designed, constructed, and certified by competent professionals and approved by competent government authorities, and that structural design takes potential climate change-related risks and impacts into account, as appropriate.

30. Where a project includes new buildings and structures that will be accessed by members of the public, the borrower/client will consider the incremental risks of the public’s potential exposure to operational incidents or natural hazards. Where technically and financially feasible,
the borrower/client will consider features that will permit access and use to the greatest extent possible by people in the communities regardless of their age, ability or disability.

31. When structural elements or components of a project are situated in high-risk locations, including those with risk of extreme weather, geophysical hazards, or slow onset events, and their failure or malfunction may threaten the health, safety, and security of project workers and project-affected persons, the borrower/client will engage one or more experts with recognized experience in similar situations and projects, who are independent from those responsible for project-related design and construction. The borrower/client will ensure that these independent experts conduct a review as early as possible in project concept design or preparation phases to confirm the safety and structural integrity of structural elements or components and will monitor their safety and structural integrity throughout the implementation phase of a project cycle. Where a project involves a new or existing dam, the borrower/client will provide sufficient resources to apply the requirements for safety of dams, as set out in Annex 1.

L. Traffic and Road Safety

32. The borrower/client will identify, evaluate, and monitor the potential traffic and road safety risks to project workers, project-affected persons, and road users throughout the concept design, preparation, and implementation phases of a project cycle and will incorporate technically and financially feasible road safety measures into a project.

33. Where appropriate, the borrower/client will undertake a road safety assessment for each phase of a project, monitor incidents and accidents, and prepare regular reports of such monitoring as determined by the requirements of ESS1. The borrower/client will use the reports to identify negative safety issues and establish and implement measures to resolve them.

34. For vehicles or fleets of vehicles owned or leased for the purposes of a project, the borrower/client will put in place appropriate systems, including procedures for driver training, to improve driver and vehicle safety, as well as for maintenance and repair, monitoring, and enforcement. The borrower/client will consider the safety record or rating of vehicles in purchase or leasing decisions and require regular maintenance of all vehicles owned or leased for a project.

35. For projects that operate construction and other equipment on public roads or where the use of project equipment could have an impact on public roads or other public infrastructure, the borrower/client will take appropriate safety measures to avoid the occurrence of incidents and injuries to members of the public associated with the operation of such equipment.

M. Management and Safety of Hazardous Chemicals, Substances, Materials, and Wastes

36. The borrower/client will avoid or reduce the potential for exposure of project workers and project-affected persons to hazardous chemicals, substances, materials, and wastes that may be used in or released by a project. Where there is a potential for project workers and project-affected persons to be exposed to hazardous chemicals, substances, materials, or wastes, the borrower/client will exercise due care to manage their exposure by eliminating, substituting, or isolating the activities that use or release the hazardous chemicals, substances, materials, or wastes.

37. Where use of hazardous chemicals, substances, and materials and the generation of hazardous waste cannot be avoided, the borrower/client will take necessary measures for safe
and secure handling, storage, transport, and disposal in accordance with GIP and will implement measures to avoid or reduce the exposure of project workers and project-affected persons. Where a project includes hazardous chemicals, materials, substances, or wastes that are part of existing facilities or activities, an E&S audit will be undertaken to identify risks and impacts and identify measures and actions required in accordance with ESS1, to prevent exposure of project workers and project-affected persons to them.

N. Emergency Preparedness and Response

38. The borrower/client will identify and implement measures to address emergency. The borrower/client will ensure that measures are designed to address an emergency in a coordinated and expeditious manner, in accordance with the requirements under the host country’s applicable laws, and to minimize, mitigate, and compensate for any adverse impacts that may occur to the health, safety, and security of project workers and project-affected persons.

39. Borrowers/clients engaged in projects having the potential to generate emergency will conduct a risk hazard assessment as part of the assessment process described in ESS1. Based on the results of such assessments, the borrower/client will prepare an emergency response plan (ERP) in coordination with the competent local authorities, project workers, and project-affected persons.

40. The borrower/client will document project emergency preparedness and response activities, resources, and responsibilities, and will disclose appropriate information, as well as any subsequent material changes, to project workers, project-affected persons, and competent government authorities. The borrower/client will assist and collaborate with project workers, project-affected persons, competent government authorities, and other stakeholders in their preparations to respond effectively to an emergency, especially where their participation and collaboration will be an important part of an effective response.

41. The borrower/client will review the ERP on a regular basis throughout the implementation phase of a project cycle and confirm that it addresses the potential range of emergency that might arise in connection with a project. The borrower/client will support project workers, project-affected persons, and competent government authorities, through training and other collaboration on emergency preparedness.

O. Security Management

42. The borrower/client will identify and assess project security threats to project workers and project-affected persons. Where risks are identified, the borrower/client will implement security management arrangements that are proportionate to the nature and scale of the threats.

43. When a borrower/client retains employees or contractors to provide security services for its personnel and property, it will assess risks posed by the security arrangements to those within and outside a project site and implement and monitor a security management plan that is proportionate to the nature and scale of the assessed risks. In making such arrangements, the borrower/client will ensure that security personnel are hired in accordance with the host country’s applicable laws.

44. The borrower/client will: (i) make reasonable efforts to verify that the employees or contractors it retains to provide security services are not implicated in past abuses, including those related to SEAH; (ii) train them adequately or determine that they are properly trained in
appropriate conduct toward project workers and project-affected persons; (iii) train them adequately or determine that they are properly trained in the use of force and, where applicable, firearms; and (iv) require them to comply with the requirements of the host country’s applicable laws. The borrower/client will not sanction any use of force by security personnel except for preventive and defensive purposes proportionate to the nature and extent of the threat.

45. If security services are the responsibility of government authorities, the borrower/client will collaborate, to the extent permitted, with the competent government authorities to achieve outcomes that are consistent with this ESS. The borrower/client will communicate to the competent government authorities its intent that the security personnel act in a manner consistent with para 43 and encourage the competent government authorities to disclose the security arrangements for the borrower’s/client’s facilities to the public, subject to overriding security concerns.

46. The borrower/client will establish and maintain an effective grievance mechanism as described in ESS10 to allow project workers and project-affected persons to express concerns about security arrangements and the actions of security personnel and will inform project workers and project-affected persons of the availability and use of the grievance mechanism.

47. The borrower/client will investigate any allegations of unlawful or abusive acts by security personnel, take action or urge appropriate parties to take action to prevent recurrence, and report unlawful and abusive acts to competent government authorities and to ADB.

VI. MONITORING AND DISCLOSURE

48. Depending on the level of risks and impacts with regards to the health, safety and security of project workers and project-affected persons, the borrower/client may prepare additional studies and management tools that are required through this ESS4 and as relevant to a project and its risks and impacts. As described in ESS1, these will support the analysis of impacts and identification of mitigation measures and will be part of or may be annexed to the E&S assessment undertaken for a project.

49. The management tools as required by this ESS4 may include the cultural heritage management plan (CHMP), ERP, and the security management plan, and all of which may be prepared and disclosed as standalone documents or as part of the project ESMP.

50. The borrower/client will monitor the implementation of the management tools prepared under this ESS4 in accordance with the requirements in the environmental and social commitment plan (ESCP)/environmental and social action plan (ESAP) and ESS10.
Annex 1: Safety of Dams

A. NEW DAMS

1. The borrower/client will engage experienced and competent professionals for the supervision of the design and construction of new dams, and require the owner of a dam to adopt and implement dam safety measures during the design, bid tendering, construction, operation, and maintenance of the dam and associated works.

2. The dam safety requirements set out in this Annex apply to:
   (i) Large dams, which are defined as dams with a height of 15 meters or greater from the lowest foundation to crest or dams between 5 meters and 15 meters impounding more than 3 million cubic meters;
   (ii) Small dams, which are all other dams regardless of size or retention capacity that (i) could cause safety risks, such as an unusually large flood-handling requirement, location in a zone of high seismicity, foundations that are complex and difficult to prepare, retention of toxic materials, or potential for significant downstream impacts; or (ii) are expected to become large dams during their operating life.

3. The dams referred to in para 2 of this Annex require:
   (i) Reviews by an independent dam safety panel of experts of the investigation, design, and construction of the dam and the start of operations;
   (ii) Preparation and implementation of detailed plans, as described in Section C, including; a plan for construction supervision and quality assurance, an instrumentation plan, an operation and maintenance plan, and an emergency preparedness plan. Note that as part of established dam safety practices in some countries, the operation and maintenance (O&M) plan includes the instrumentation plan and the emergency preparedness plan as specific sections of the O&M plan. This method will be acceptable provided the relevant sections of the O&M plan contain the details, and are prepared in accordance with the timing set out in Section C overleaf.
   (iii) Prequalification of bidders during procurement and bid tendering if suggested as an outcome of the strategy procurement process; and
   (iv) Periodic safety inspections of the dam after completion, and implementation of measures required to address safety deficiencies.

4. The risks associated with a dam are design- and situation-specific, and will vary depending on structural components, socioeconomic factors, and the environment within which the dam is being constructed and will operate. Application of the requirements set out in para 3 of this Annex will reflect these considerations, and be proportionate to the size, complexity, and potential risk of a dam.

5. Where a dam does not fall into the categories set out in para 2 of this Annex, such as farm ponds, local silt retention dams, and low embankment tanks, the borrower/client will adopt and implement dam safety measures designed by qualified engineers in accordance with GIP. In such circumstances, the borrower will confirm, through the E&S assessment process under ESS1, that there will be no or only negligible risk of significant adverse impacts due to potential failure of the dam structure to local communities and assets, including assets to be financed as part of a proposed project.
6. The panel referred to in para 3(i) of this Annex consists of three or more experts, appointed by the borrower/client and acceptable to ADB, with expertise in the various technical fields relevant to the safety aspects of a particular dam. The number, professional breadth, technical expertise, and experience of panel members are proportionate to the size, complexity, and hazard potential of the dam under consideration. For high-hazard dams, in particular, the panel members will possess recognized international expertise in their field. The panel will review and advise the borrower/client on matters relative to dam safety and other critical aspects of a dam, its appurtenant structures, the catchment area, the area surrounding the reservoir, and downstream areas. The borrower/client will normally extend the panel’s composition and terms of reference beyond dam safety, to cover such areas as project formulation, technical design, construction procedures, and, for water storage dams, associated works such as power facilities, river diversion during construction, ship lifts, and fish ladders.

7. The borrower/client will contract the services of the panel and will provide administrative support for its activities. Beginning as early in project preparation as possible, the borrower/client will arrange for periodic panel meetings and reviews, which will continue through the investigation, design, construction, and initial filling and start-up phases of a dam. If ADB’s involvement begins at a later stage than project preparation, the panel is constituted as soon as possible and reviews any aspects of the project that have already been carried out. The borrower/client will inform ADB in advance of panel meetings and ADB may send an observer to these meetings. After each meeting, the panel will provide the borrower/client with a written report of its conclusions and recommendations, signed by each participating member, and the borrower/client will provide a copy of the panel’s report to ADB for disclosure in accordance with ESS9. Following the filling of the reservoir and start-up of a dam, ADB will review the panel’s findings and recommendations. If no significant difficulties are encountered or anticipated in the filling and start-up of a dam, the borrower/client may disband the panel.

### B. EXISTING DAMS AND DAMS UNDER CONSTRUCTION

8. Where a project relies or may rely on the performance of an existing dam or a dam under construction in the host country, the borrower/client will arrange for one or more independent dam specialists to: (i) inspect and evaluate the safety status of the existing dam or dam under construction, its appurtenances, and its performance history; (ii) review and evaluate the owner’s operation and maintenance procedures; and (iii) provide a written report of findings and recommendations for any remedial work or safety-related measures necessary to upgrade the existing dam or dam under construction to an acceptable standard of safety.

9. Such projects include, for example, power stations or water supply systems that draw directly from a reservoir controlled by an existing dam or a dam under construction; diversion dams, or hydraulic structures downstream from an existing dam or a dam under construction, where failure of the upstream dam could cause extensive damage to or failure of the project facilities; and irrigation or water supply projects that will depend on the storage and operation of an existing dam or a dam under construction for their supply of water and could not function if the dam failed. They also include projects that require increases in the capacity of an existing dam, or changes in the characteristics of the impounded materials, where failure of the existing dam could cause extensive damage to or failure of project facilities.

10. The borrower/client may use a previously prepared dam safety assessment or recommendations for improvements needed in an existing dam or dam under construction, if: (i) an effective dam safety program is already in operation; and (ii) full-level inspections and dam
safety assessments of the existing dam or dam under construction have already been conducted and documented and are satisfactory to ADB.

11. For projects that include additional dam safety measures or require remedial work, the borrower/client will require that: (i) a dam is designed and its construction is supervised by competent professionals; and (ii) the reports and plans required for a new dam, as specified in para 3(ii) of this Annex are prepared and implemented. For high-hazard cases involving significant and complex remedial work, the borrower/client will also employ a panel of independent experts on the same basis as for a new dam, as required in paras 3(i) and 6 of this Annex.

12. When the owner of an existing dam or dam under construction is an entity other than the borrower/client, the borrower/client will enter into agreements or arrangements providing for the measures set out in paras 8 to 11 of this Annex to be undertaken by the owner.

13. Where appropriate, the borrower/client may discuss with ADB any measures necessary to strengthen the institutional, legislative, and regulatory frameworks for dam safety programs in the host country.

C. DAM SAFETY REPORTS

14. Dam safety reports will contain the information set out below and be prepared as follows:

(i) **Plan for construction supervision and quality assurance.** This plan will set out details of the organization, staffing levels, procedures, equipment, and qualifications for supervision of the construction of a new dam or of remedial work on an existing dam. For a dam other than a water storage dam, this plan takes into account the usual long construction period, covering the supervision requirements as the dam grows in height — with any accompanying changes in construction materials or the characteristics of the impounded material — over a period of years. The borrower/client will prepare and submit this plan to the panel and ADB during project preparation.

(ii) **Instrumentation plan.** This is a detailed plan for the installation of instruments to monitor and record dam behavior and the related hydrometeorological, structural, and seismic factors. The borrower/client will prepare and submit this plan to the panel and ADB before bid tendering.

(iii) **Operation and maintenance (O&M) plan.** This plan will set out details of the organizational structure, staffing, technical expertise, and training required, equipment and facilities needed to operate and maintain a dam, O&M procedures, and arrangements for funding, including long-term maintenance and safety inspections. The O&M plan for a dam other than a water storage dam, in particular, will reflect changes in the dam’s structure or in the nature of the impounded material that may be expected over a period of years. Elements required to finalize the plan and initiate operations are normally financed under a project. The borrower/client will prepare a preliminary plan and submit it to the panel and ADB during project preparation. The borrower/client will refine and complete this plan during project implementation. The borrower/client will complete the final plan not less than six months prior to the start of the initial filling of the reservoir. Elements required to finalize the plan and initiate operations are normally financed under a project.
(iv) **Emergency preparedness and response plan.** This plan will specify the roles of responsible parties when dam failure is considered imminent, or when expected operational flow release threatens downstream life, property, or economic operations that depend on river flow levels. It will include the following: clear statements on the responsibility for decision-making relating to dam operations and for the related emergency communications; maps outlining inundation levels for various emergency conditions; flood warning system characteristics; and procedures for evacuating threatened areas and mobilizing emergency forces and equipment. The plan for emergency communication will include the mechanism through which potentially affected downstream communities will be informed. The borrower/client will prepare the broad framework plan and an estimate of funds needed to prepare the plan in detail and submit it to ADB during project preparation and prior to approval. The borrower/client will prepare the plan itself during implementation and submit it to the panel and ADB for review not later than one year before the projected date of initial filling of the reservoir.
ESS5: LAND ACQUISITION AND LAND USE RESTRICTION

I. INTRODUCTION

1. This Environmental and Social Standard (ESS) 5 recognizes that project-related land acquisition and land use restriction (LA/LUR), if unmitigated, could give rise to significant economic and/or environmental and social (E&S) risks and impacts, and may result in long-term hardship and impoverishment. LA/LUR refers to all methods of obtaining land or restricting land use in connection with a project. Project-related LA/LUR may cause physical displacement, economic displacement, or both to affected persons. Affected persons are legal or natural persons experiencing economic or physical displacement or both as a result of project-related LA/LUR. Physical displacement occurs when there is a loss of residential or business premises, residential and/or homestead land, loss of shelter, and/or the loss of essential public facilities, amenities, and utilities, resulting in relocation and resettlement. Economic displacement occurs when there is a loss of land, assets, access to land assets, and resources, and/or loss of income sources and means of livelihood.

II. OBJECTIVES

a. Avoid economic and physical displacement or, when unavoidable, minimize such displacement by considering feasible alternative project designs and sites.
b. Avoid forced eviction.
c. Mitigate unavoidable adverse social and economic risks and impacts from LA/LUR by (i) providing timely compensation for loss of assets at full replacement cost, and (ii) assisting affected persons in their efforts to improve or at least restore their livelihoods and standards of living in real terms relative to pre-displacement levels or to levels prevailing prior to the beginning of project implementation, whichever is higher.
d. Improve livelihoods and living conditions of disadvantaged or vulnerable persons, including by providing adequate housing with essential services, utilities, and security of tenure to those who are physically displaced.
e. Ensure that LA/LUR activities are planned and implemented through appropriate stakeholder engagement, including information disclosure, meaningful consultation, and grievance management.

III. SCOPE OF APPLICATION

2. The applicability of this ESS5 is established during the E&S assessment process described in ESS1.

3. This ESS5 applies to the full, partial, permanent, and temporary economic and physical displacement resulting from involuntary LA/LUR undertaken or imposed in connection with a project. LA/LUR is considered involuntary when affected persons do not have the right to refuse LA/LUR that results in displacement.

4. This ESS5 applies to project-related voluntary LA/LUR in accordance with Section IV.C, which describes criteria and due diligence requirements to ensure that such transactions are fair, consensual, and informed. This ESS5 does not apply to voluntary, legally recorded market transactions such as transfer of formal ownership rights through the sale and purchase of land and other assets or other similar market transactions between a willing buyer and a willing seller in which the seller is given a genuine opportunity to retain land/assets and to refuse the transaction, except as set forth in Section IV.C.
5. This ESS5 applies to any LA/LUR carried out prior to a project that was undertaken or initiated in anticipation of, or in preparation for that project.

6. This ESS5 covers displacement of persons without formal, traditional, or recognizable property and use rights under the host country’s applicable laws, who occupy or utilize land prior to a publicly established cut-off date as set forth in paragraph 21.

7. This ESS5 applies to LA/LUR that may occur in host communities due to the relocation of persons physically displaced by a project into such communities.

8. This ESS5 does not apply to risks to and impacts on incomes or livelihoods that are not a direct result of LA/LUR. Such risks and impacts will be identified and addressed as part of the E&S assessment process described in ESS1.

9. This ESS5 does not apply to disputes between private parties arising in the context of project-supported land titling or other project activities intended to confirm, regularize, or determine land rights. However, where affected persons are required to vacate land as a direct result of a project-supported determination that the land in question is state land, this ESS5 will apply.

10. This ESS5 does not apply to management of refugees or persons internally displaced by natural disasters, conflict, crime, or violence where the displacement of such persons is not the result of project-related LA/LUR.

11. For purposes of this ESS5, the following definitions apply:

   (i) **Involuntary land acquisition** involves acquisition of formal legal and recognizable legal land rights and/or land use rights through expropriation or other compulsory procedures within the purview of compulsory acquisition, as well as through **negotiated settlement**, where expropriation or other compulsory procedures under compulsory acquisition can be initiated in case negotiation fails. Involuntary land acquisition may include outright transfer, expropriation of property, and acquisition of access rights, such as easements or rights of way. It may also include acquisition of unoccupied or unutilized land whether or not the landholder relies upon such land for income or livelihood purposes.

   (ii) **Involuntary land use restriction** refers to limitations and/or prohibitions on the use of agricultural, residential, commercial, or other land, that are directly introduced and put into effect as part of a project. This may include repossession of public land that is used or occupied by individuals or households, project impacts that result in land being submerged or otherwise rendered unusable or inaccessible, restrictions on access to natural resources and legally designated parks and protected areas, including those established as part of a project, restrictions on access to other common property resources, communal property and natural resources including waterbodies, such as freshwater and marine environments, and restrictions on land use within utility easements or safety zones.

   (iii) **Voluntary land acquisition and voluntary land use restriction** refers to methods of obtaining land or land use that are not compulsory and involve: (i) the land rights or claims to land or resources relinquished by individuals or communities without provision of full compensation, voluntary donation of land for project purposes by willing donors, or land pooling and land readjustment among consenting members of local communities; (ii) the voluntary transfer of use rights to legally owned land and resources through the lease of land and...
other assets or an agreement to grant use rights through an easement; and (iii)
voluntary land use restriction for persons and communities consenting to
relinquish or limit their right to the use of land and access to resources, such
as under a community-based natural resource management project. Where
voluntary transactions result in economic or physical displacement of persons,
rather than the right holder, who occupy, use, or claim rights to the land in
question, such as customary allotees, sharecroppers, renters, lessees, or
persons without recognizable claims to land, such displacement is considered
involuntary.

(iv) Livelihood refers to the full range of ways and means that affected persons
and communities utilize to make a living such as wages from employment; cash
income earned through an enterprise or through sale of produce, goods,
handicrafts or services; rental income from land or premises; income from a
harvest or animal husbandry, share of a harvest, such as various
sharecropping arrangements, or livestock production; self-produced goods or
produce used for self-consumption, exchange or barter; self-consumed goods
or produce; food, materials, fuel and goods for personal or household use or
trade derived from natural or common resources; pensions and various types
of government allowances.

(v) Land includes anything growing on or permanently affixed to land, such as
crops, buildings, and other improvements, including those located above and
below the land, and appurtenant water bodies, including freshwater and marine
environments.

(vi) Host communities are communities living in areas to which physically displaced
persons are relocated.

IV. REQUIREMENTS

A. General Requirements for All Types of Land Acquisition/Land Use Restriction

12. At an early stage of the E&S assessment process described in ESS1, the
borrower/client, through screening and scoping, will identify if any physical
and/or economic displacement is likely to be caused by a project and assess the likelihood of any future
additional land and resource needs of the project. Where displacement impacts are noted
during scoping, the borrower/client will then conduct a full LA/LUR assessment as described
in this Section IV to characterize the baseline socio-economic circumstances of affected persons
and the potential risks and impacts of a project to them. Such full LA/LUR assessment will establish the legal status and asset/resource losses of all affected persons.

13. Affected persons may be classified as follows:

(i) persons who have formal legal rights to the land or assets, including customary
and traditional rights recognized under host country’s applicable laws;
(ii) persons who do not have formal legal rights to land or assets but have a claim
to such land or assets that is recognized or recognizable under host country’s
applicable laws. Claims under this category can be derived from adverse
possession or from customary or traditional tenure arrangements and land use
rights, including customary or traditional use to which ESS7 applies; or
(iii) persons who have neither formal legal rights nor recognized or recognizable
claims to the land or assets they occupy and/or use.

14. Where the E&S assessment has identified that a project may entail LA/LUR risks and
impacts, the borrower/client demonstrate that the proposed LA/LUR is limited to direct project
requirements for clearly specified project purposes within a clearly specified period. The
borrower/client will consider feasible alternative project designs and sites to avoid LA/LUR,
while balancing environmental, social, and financial costs and benefits, paying particular attention to gender impacts, and avoiding adverse impacts on disadvantaged or vulnerable persons. Where avoidance is not possible, the borrower/client will minimize displacement and develop appropriate measures to mitigate adverse impacts on affected persons. In balancing costs and benefits, the borrower/client may consider situations where avoidance may not be an appropriate approach for public health, safety, or similar reasons, and where displacement can bring direct positive development outcomes to affected persons and communities, including improved housing and strengthened security of tenure or other improvements to standards of living of affected persons.

1. Stakeholder Engagement and Information Disclosure

a. Meaningful Consultation and Information Disclosure

15. The borrower/client will undertake meaningful consultation in accordance with ESS10 and this ESS5 with stakeholders on project design alternatives, as relevant to LA/LUR, and on applicable mitigation measures. The borrower/client will ensure participation of affected persons in the negotiation, planning, implementation, monitoring, evaluation, and reporting on compensation, livelihood restoration, and relocation activities, with special attention to the views of disadvantaged or vulnerable persons. The borrower/client will consult with affected persons on appropriate options and alternatives for the mitigation of adverse impacts, or relocation and livelihood restoration, from which they may choose.

16. The borrower/client will maintain and disclose relevant information about LA/LUR to affected persons, including information on alternative project designs, mitigation entitlements and options, and valuation approaches as well as the results of monitoring, evaluation, and reporting in accordance with ESS10 and this ESS5. Such information will include a description of the stakeholders consulted, a summary of the feedback received and an explanation of how the feedback was taken into account, or the reasons why it was not. The borrower/client will consult with affected persons on appropriate options and alternatives for the mitigation of adverse impacts, or relocation and livelihood restoration, from which they may choose.

b. Grievance Mechanism

17. The borrower/client will establish a grievance mechanism as early as possible in the LA/LUR process and in accordance with the requirements of ESS10, in order to receive, facilitate resolution of, and monitor any concerns and grievances due to LA/LUR. If a grievance mechanism is not yet established for a project, the borrower/client will provide affected persons as early as feasible during LA/LUR scoping and assessment, an opportunity to raise their concerns related to the LA/LUR as part of the stakeholder engagement process. The borrower/client will register and monitor such concerns and document them in a LAP, LAF, Due Diligence Report (DDR) and/or monitoring reports and will also incorporate them into the grievance mechanism once established.

2. Assessment of Land Acquisition and Land Use Restriction Impacts

18. The borrower/client will identify all applicable LA/LUR modes for a project and carry out an assessment of the LA/LUR risks and impacts. The extent of the assessment will be sufficient to characterize the potential risks and impacts and take into account the views of affected persons and other relevant stakeholders. The borrower/client will conduct a census and socio-economic baseline studies of affected persons and an assessment of lost assets and livelihood resources, and valuation once a project’s final detailed engineering design has matured sufficiently to identify and enumerate all eligible persons affected by economic and/or physical displacement due to LA/LUR. The borrower/client will ensure the
synchronization of such LA/LUR assessments with preparation of the final detailed engineering designs.

19. Where LA/LUR is carried out by a borrower/client, or by third parties if relevant, prior to a project but which was undertaken or initiated in anticipation of, or in preparation for, a project, the borrower/client will conduct an audit to identify any gaps and corrective actions to bring LA/LUR into compliance with this ESS5. The borrower/client will prepare a CAP to describe all activities to reach compliance with this ESS5 in the form of a time-bound plan, including a budget, implementation arrangements, allocation of roles and responsibilities, and will be reflected in an environmental and social commitment plan (ESCP)/environmental and social action plan (ESAP).

   a. Census and Socio-Economic Baseline Studies

20. The borrower/client will carry out a census to enumerate all affected persons. The borrower/client will conduct socio-economic baseline studies to: (i) record the relevant social, economic, and cultural characteristics of the affected persons, including their ownership and use rights with respect to land and other assets, sources of formal and informal livelihoods and resource use, access to basic services, and vulnerability characteristics as well as severity of LA/LUR risks and impacts; (ii) determine who will be eligible for compensation and assistance; and (iii) evaluate the impact of the mitigation of LA/LUR risks and impacts at the time of project completion. The studies will also address the claims of communities or groups who, for valid reasons, may not be present in a project area during the time of the census, such as seasonal resource users. The borrower/client will recruit qualified and experienced social specialists and will apply appropriate quantitative and qualitative social research methods to conduct the census and the socio-economic studies. The level of detail of the assessment will be proportionate to the nature and scope of LA/LUR risks and impacts of a project. Sensitive or confidential information collected will be managed and protected in accordance with a project's stakeholder engagement plan (SEP) as described in ESS10.

   b. Declaration of Cut-Off Date

21. The cut-off date is established to determine who will be eligible for compensation and assistance based on full and complete LA/LUR assessment, and to discourage ineligible persons, including ineligible affected persons, from claiming benefits. The borrower/client will declare and disclose to affected persons a cut-off date for the eligibility for compensation in accordance with the requirements of the host country's applicable laws, such as public notification of a project by competent government authorities or, at the latest, at the beginning of the census and assessment of lost assets. Information regarding the cut-off date will be documented and disseminated throughout the project area at regular intervals in a form, language, and manner that is culturally appropriate, gender-responsive, understandable, and readily accessible to affected persons. This will include posted warnings that persons settling in a project area after the cut-off date may be subject to removal. The validity of the cut-off date will be time-limited, and if the completion of the LA/LUR process is significantly delayed, the borrower/client will declare and disclose a new cut-off date following an updated LA/LUR assessment. The borrower/client will declare a separate new cut-off date for any additional unanticipated or omitted LA/LUR risks and impacts not included or inaccurately assessed in a LAP.

   c. Inventory of Lost Assets and Livelihood Resources and Access to the Assets

22. The borrower/client will carry out an inventory of affected assets and livelihood resources, as well as a detailed measurement survey. Lost assets may include land, and improvements to the land such as structures and other physical assets attached to the land,
such as buildings, equipment and machinery, or the crops and trees grown on the affected land, and access to such assets; as well as all other resources such as formal and/or informal sources of livelihood and modes of income generation from trade, crafts, manufacturing, services, agricultural and livestock production, and other natural resource-based activities, and employment. The borrower/client will assess the full range of rights held or asserted by affected persons, including those based on custom or practice, access, or use for livelihood purposes, and rights held in common. The detailed measurement survey will provide exact quantitative and qualitative information about the lost assets and livelihood resources, such as their type, size, or weight, use and purpose, and/or property and employment relations, as applicable. The borrower/client will also identify any conflicting claims and disputes over affected assets and livelihood resources and support their legal resolution, as feasible. The detailed measurement survey will be carried out in the presence of affected persons and other relevant stakeholders.

d. Valuation of Lost Assets and Livelihood Resources

23. The borrower/client will conduct valuation to determine the replacement cost of lost assets and livelihood resources. “Replacement cost” is a value sufficient to replace an asset, plus necessary transaction costs, including administrative charges, taxes, legal, land survey and title registration fees, transition costs, and any other applicable payments and provisions associated with asset or livelihood resource replacement. Depreciation of structures and assets will not be taken into account. Where functioning markets exist, replacement cost is the market value as established through competent and qualified real estate valuation plus transaction costs. Where functioning markets do not exist, replacement cost may be determined through alternative means such as calculation of output value for land or productive assets, the productive potential and location, and the undepreciated value of replacement material and labor for construction of structures or other fixed assets, plus transaction costs. Where physical displacement results in the loss of residential or business premises, the borrower/client will review valuation and augment it to ensure that it is adequate to enable the purchase or construction of replacement housing/business premises and/or other structures that meet acceptable minimum community standards of quality and safety.

24. The borrower/client will engage competent and qualified valuation experts to undertake an assessment of lost assets and livelihood resources due to the project-related LA/LUR. The valuation methodology for determining replacement cost will be documented and included in LA/LUR management tools. To ensure compensation at replacement cost, the borrower/client may be required to update or confirm planned replacement cost rates in project areas where inflation is high or there are otherwise significant and/or unanticipated adverse fluctuations in the value of assets, the cost of restoring resources, or the period of time between calculation of replacement cost rates and delivery of cash compensation measures is extensive and generally exceeds one year. The borrower/client will ensure that project staff responsible for LA/LUR have an operational understanding of the valuation process and applicable host country and international valuation practices and standards. The cost of all LA/LUR mitigation measures will be included by the borrower/client in the project cost.

e. Loss of Community Facilities, Utilities and Public Amenities

25. Where a project involves the loss of community facilities, utilities, or public amenities, or access thereto, the borrower/client will replace these to ensure an equal or better level of service, based on consultation with affected persons and competent government authorities to identify and agree upon suitable alternatives.

3. Planning of Land Acquisition and Land Use Restriction
a. Land Acquisition Plan

26. To address the risks and impacts identified during the E&S assessment process described in ESS1, the borrower/client will, in consultation with ADB, prepare a LAP or other management tool proportionate to the nature and scale of the LA/LUR risks and impacts associated with a project, the mode(s) of LA/LUR, and the civil works procurement arrangements under a project. A LAP will be required for all types of LA/LUR. For projects and project components involving civil works which do not result in any LA/LUR risks and impacts, the borrower/client will prepare a DDR instead of a LAP, to confirm the absence of such risks and impacts. The borrower/client will engage qualified and experienced social specialist(s) to assist in the preparation of a LAP. The borrower/client will consider the mitigation hierarchy and document alternatives considered and selected options in a LAP to demonstrate that LA/LUR has been avoided and minimized to the extent possible. All project LAPs and DDRs will be publicly disclosed on the websites of the borrower/client and of ADB in accordance with ESS10.

27. In a LAP, the borrower/client will provide an account of the process and planned outcomes of all applicable involuntary as well as voluntary modes of LA/LUR. A LAP will be based on final detailed engineering designs and include the following: (i) proposed project, considered design alternatives, and the detailed justification of the selected design options; (ii) LA/LUR assessment, including the screening and/or scoping activities, the census and socio-economic baseline studies, and the assessment and valuation of lost assets and livelihood resources; (iii) stakeholder engagement activities in accordance with ESS10 and this ESS5; (iv) planned mitigation measures; (v) legal and policy gap analysis comparing the host country’s applicable laws for LA/LUR with the requirements of this ESS5; (vi) entitlement matrix for all applicable permanent and temporary, full and partial types of losses, eligible affected persons and entitlements for mitigation and compensation; (vii) livelihood and income restoration measures, livelihood improvement measures as applicable, as well measures necessary for relocation and resettlement; (viii) LA/LUR outcomes; (ix) implementation arrangements for the proposed LA/LUR mitigation measures, including sequencing them to synchronize LA/LUR activities and civil works procurement under a project; (x) monitoring, evaluation, and reporting arrangements for LA/LUR; and (xi) implementation timeline and detailed budget proportionate to the mitigation measures.

28. In cases of unanticipated LA/LUR risks and impacts occurring during project implementation after the preparation of a LAP, the borrower/client will conduct additional stakeholder engagement and LA/LUR assessment activities, develop appropriate mitigation measures, and prepare an addendum to the LAP, or an updated or new LAP for such unanticipated impacts with an amended entitlement matrix which does not lower the standards of the original and in accordance with the provisions and requirements of the original LAP and this ESS5.

b. Land Acquisition Framework

29. The borrower/client will, in consultation with ADB, prepare a LAF for projects or project sub-components for which the final detailed engineering design of project facilities have not been completed and where the nature and magnitude of LA/LUR are still uncertain during project preparation. The LAF will establish a project’s general principles, approach, and procedures for the assessment and mitigation of all probable types of LA/LUR risks and impacts and for the preparation of a future LAP. A LAF will include the results of an appropriate and feasible scoping to identify potential LA/LUR risks and impacts, as well as indicate all other applicable arrangements as per the LAP structure and incorporate a tentative budget with adequate contingencies. The borrower/client will demonstrate availability of monetary and institutional resources and commitment to undertake all outstanding LA/LUR assessment and
planning activities, should the borrower/client pursue the preparation of a LAF. All LAFs will be publicly disclosed on the websites of the borrower/client and of ADB.

c. Private-Sector Projects with Government-Managed Land Acquisition and Land Use Restriction

30. In private sector projects where LA/LUR is the responsibility of the host country government, a borrower/client will: (i) engage the competent government authorities early in the project development process to explore ways and means to reach compliance with this ESS5; (ii) identify gaps between requirements under the host country’s applicable laws and the practices of the competent government authorities against the requirements of this ESS5; (iii) take responsibility for bridging the gaps in a manner that is acceptable to ADB; and (iv) collaborate with the competent government authority, to the extent permitted, to achieve outcomes that are materially consistent with the objectives of this ESS5. A borrower/client will prepare a plan to complement the documents prepared and implemented by the competent government authorities, if necessary to satisfy the requirements set out in this para 30. Such plan will include proposed measures to bridge any gaps with requirements of this ESS5 and the financial and implementation responsibilities of the competent government authorities and the borrower/client in the execution of the plan. The borrower/client will retain the responsibility for providing monitoring, evaluation, and reporting of government-managed LA/LUR activities.

d. Budget and Fund Flow

31. The borrower/client will prepare a definitive overall LA/LUR budget proportionate to the required LA/LUR-related planning, mitigation, and monitoring, evaluation, and reporting activities, including: (i) stakeholder engagement, LA/LUR assessment, cash and in-kind compensation, livelihood restoration and livelihood improvement, relocation and resettlement, and other assistance and corrective actions; (ii) LA/LUR staffing and related operational cost; (iii) all LA/LUR-related capacity building measures; and (iv) progress monitoring, including internal and external, evaluation and reporting of all LA/LUR-related activities. The budget will be itemized in line with LA/LUR risks and impacts and activities, and will indicate the unit types, unit rates, the number of units, and the cost. The budget will contain adequate contingencies to finance corrective actions as well as the planning and mitigation of unanticipated impacts, if any. The borrower/client will consider allowances for inflation, population growth in a project area, and any other potential contingencies to meet the replacement cost requirement. The applicable LA/LUR budget(s) will be specified in a LAP and LAF, ESCP/ESAP, and other project documents, as applicable. For projects using a LAF, a borrower/client will prepare an estimated tentative budget based on scoping of anticipated LA/LUR risks and impacts and with sufficient contingency, with a commitment for future allocations of funds for a LAP to be developed and implemented during the implementation phase of a project cycle.

32. The borrower/client will ensure the availability and timeliness of the required funds. In each LAP or LAF, a borrower/client will describe how LA/LUR activities will be financed, including how ADB funding will be applied, if any. The borrower/client will also describe the channels and procedures for the transfer of funds to affected persons. Any cost arrangements with service providers, including non-governmental organizations (NGOs) and community-based organizations (CBOs), and other providers of training and support services will also be described in a LAP or a LAF.

4. Monitoring, Evaluation, and Reporting

33. For all projects with LA/LUR risks and impacts, the borrower/client will establish procedures for and monitor progress and outcomes and evaluate the implementation of a
LAP/LAF. The extent of monitoring will be proportionate to the nature and scope of a project’s potential LA/LUR risks and impacts. The borrower/client will carry out stakeholder engagement with the participation of affected persons, including women and disadvantaged or vulnerable persons, as well as other relevant stakeholders, and will consider their concerns and feedback as part of monitoring activities. The borrower/client will report on the status of the delivery of mitigation measures to all affected persons, including disadvantaged or vulnerable persons and provide a gender-disaggregated analysis of mitigation activities. The borrower/client will ensure the availability of designated financial and staff resources to undertake monitoring, evaluation, and reporting. All reports will be publicly disclosed on the websites of the borrower/client and of ADB.

34. The borrower/client will prepare the following monitoring reports:

(i) At least a semiannual internal progress monitoring report, commencing from the start of the implementation phase of a project cycle, at the latest. The borrower/client will confirm implementation of a LAP for relevant project components before commencement of civil works through a conformation review report, to demonstrate that: (i) cash compensation of lost assets and livelihood resources at full replacement cost and additional financial assistance for livelihood restoration and for the relocation of physically displaced persons, has been paid to each eligible displaced person; (ii) entitlements to in-kind replacement of lost assets and livelihood resources at full replacement value, including relocation of physically displaced persons by a project, are provided to each eligible affected person; and (iii) a livelihood restoration program, supported by an adequate budget, is in place. For projects with significant LA/LUR risks and impacts, the borrower/client will hire qualified and experienced external social monitoring experts other than their internal social specialists to undertake external progress monitoring to verify and validate the borrower’s/client’s monitoring information through external monitoring report.

(ii) The borrower/client will undertake completion reporting upon completion of LA/LUR and livelihood restoration activities in order to demonstrate the project’s full compliance with the requirements of this ESS5, and the applicable LAP/LAF. The borrower/client will ensure that a project will not be closed until the LA/LUR completion report is prepared, approved, and disclosed, and related CAPs, if any, are fully implemented. External completion reporting will be required for projects with significant LA/LUR risks and impacts.

(iii) For projects with significant LA/LUR risks and impacts, the borrower/client will undertake external evaluation, conducted by external social monitoring and evaluation experts to assess the outcomes of LA/LUR mitigation twelve months after the completion of all LA/LUR-related activities or as agreed under the ESCP/ESAP. Should gaps in achieving LA/LUR outcomes be identified, the borrower/client will prepare a CAP.

35. The borrower/client will ensure that the external social monitoring and evaluation experts have full access to all LA/LUR-related information.

36. The borrower/client will develop and disclose a CAP and take corrective actions at any stage of a project cycle when necessary to achieve the objectives of this ESS5. A CAP will describe all cases of non-compliance and respective activities required to reach compliance with this ESS5, and include a budget, implementation arrangements, allocation of roles and responsibilities, and an implementation schedule. Implementation of CAPs will be monitored and documented as part of progress monitoring. The borrower/client will not apply CAPs in lieu of timely LA/LUR assessment and mitigation.
37. The borrower/client will support third-party monitors whom ADB may directly engage to monitor and evaluate the LA/LUR planning and implementation process and outcomes. The borrower/client will share all relevant information and otherwise facilitate access to related project areas for such monitors.

38. For projects involving civil works and assessed to be without LA/LUR risks and impacts, the borrower/client will confirm a continued absence of LA/LUR risks and impacts through available reporting mechanisms. The borrower/client will ensure that any unanticipated LA/LUR risks and impacts are noted, assessed, and addressed in accordance with this ESS5.

5. Institutional Arrangements and Integration with Other Project Activities

a. Organizational Capacity

39. The borrower/client will establish, maintain, and strengthen, as necessary, an organizational structure that defines roles, responsibilities, and authority to plan and implement LA/LUR in accordance with this ESS5. The institutional arrangements for the management of LA/LUR will be reflected in an ESCP/ESAP, LAP, and LAF, as relevant, as well as any other applicable safeguards management tools.

b. Integration with Project Design, Procurement, and Contract Management Activities

40. The borrower/client will prepare a detailed time-bound schedule for all LA/LUR-related activities, and integrate such schedule fully with project design, procurement, and civil works contract management activities. The schedule will stipulate the preparation and completion of a LAP vis-à-vis civil works contract signing depending on procurement modality, and the implementation of a LAP before the commencement of civil works. For projects and project components involving employer design, the borrower/client will award such contracts after a LAP is prepared and cleared by ADB. For projects and project components involving contractor design, the borrower/client will include additional measures in a LAP and procurement documentation to avoid economic and physical displacement prior to LA/LUR risk and impact mitigation. The borrower/client will ensure that project LAP/LAF provisions apply to project components which fall under retroactive financing and advance procurement.

41. The borrower/client will ensure that all provisions related to the assessment, mitigation, and reporting of LA/LUR risks and impacts as well as other impacts which may result in economic and/or physical displacement are included in bidding documentation and contractors’ contracts.

6. Treatment of Disadvantaged or Vulnerable Persons

42. The borrower/client will identify, assess, and address risks to and impacts on disadvantaged or vulnerable persons, while also taking into account gender considerations, in the planning and implementation of LA/LUR throughout the concept design, preparation, and implementation phases of a project cycle. The borrower/client will include gender-disaggregated analysis in the census and socio-economic baseline studies to generate understanding of the gender aspects of LA/LUR risks and impacts. The borrower/client will ensure that disadvantaged or vulnerable persons receive fair and appropriate mitigation measures tailored to their needs and preferences and accounting for gender considerations, as it pertains to modalities of compensation, provision of livelihood restoration and livelihood improvement, and relocation and resettlement measures. When the host country’s applicable laws and tenure systems do not recognize the rights of women to hold or
exchange property, provision will be made to ensure, to the extent possible, that women can gain security of tenure.

B. Mitigation of Risks and Impacts from Involuntary Land Acquisition and Land Use Restriction

1. Compensation and Benefits for Affected Persons

43. To mitigate the risks and impacts caused by involuntary LA/LUR, the borrower/client will offer affected persons compensation at replacement cost, and other assistance as may be necessary to help affected persons improve or at least restore their standards of living and livelihoods. Compensation standards for affected land and assets will be disclosed and applied consistently. In all cases, a clear basis for calculation of compensation will be documented, and compensation distributed in accordance with transparent procedures.

44. Affected persons with a formal legal right to land or assets under paragraph 13(i) or with a claim to land or assets that is recognized or recognizable under the host country’s applicable laws under paragraph 13(ii), are entitled to compensation for the loss of their land and other assets with equivalent replacement land and assets or cash compensation at replacement cost. Affected persons without a formal legal right or recognizable claim to the land or asset as defined under paragraph 13(iii), and who occupy and/or use the land prior to a publicly established cut-off date, are entitled to compensation for their lost non-land assets at replacement cost, but not for land. To enable the re-establishment of residential or business premises and livelihoods of affected persons under paragraph 13(iii), the borrower/client will provide arrangements for access to adequate housing and/or facilities with secure tenure. Based on consultations with such affected persons, the borrower/client will provide resettlement assistance in lieu of compensation for land sufficient for them to restore their livelihoods, standard of living, and/or restore their business at an adequate alternative site.

45. The borrower/client will provide affected persons with compensation for their lost land and other assets at replacement cost or above. Payment of cash compensation for lost land or assets at replacement cost may be appropriate where: (i) livelihoods are not land-based; (ii) livelihoods are land-based but the land taken for a 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, affected persons use such markets, and there is sufficient supply of land and housing available through such markets. The borrower/client will give preference to land-based compensation strategies for affected persons whose livelihoods are land-based, or the land is collectively owned. The term “land-based” includes livelihood activities such as subsistence agriculture and related value addition activities, rotational cropping, and grazing of livestock as well as harvesting of natural resources. Replacement land and assets offered to affected persons will be at least equivalent in their material characteristics and use value in terms of their quality, productive potential, quantity, and purpose and will be provided with security of tenure and similar locational advantages. Where there is insufficient suitable replacement land available, the borrower/client will demonstrate and document this in a LAP.

46. The borrower/client, at the request of affected persons, will assess and acquire entire land parcels if partial acquisition would render the remainder economically unviable, or make the remaining parcel unsafe or inaccessible for human use or occupancy.

47. The borrower/client will take possession of land and related assets only after compensation in accordance with this ESS5 has been made available and, where applicable, physically displaced persons have been resettled with relevant assistance and entitlements provided. For the relocation of physically displaced persons, the borrower/client will make
relocation sites, replacement properties, and associated public services, amenities, and utilities available before physical displacement. At a minimum and in exceptional cases, a borrower/client will ensure relocation to temporary intermediate premises of equal or better quality and use value for a limited period of time not exceeding one year, and will formally commit, guarantee, and document all necessary arrangements for the transition to permanent relocation sites and replacement property.

48. Persons physically displaced from their residential or business premises temporarily or permanently are entitled to relocation and resettlement measures at full replacement cost. The borrower/client will consult physically displaced persons on their preferences for relocation and resettlement and may offer options for either relocation by the project in resettlement sites or in individual residential and business premises, or self-relocation. The borrower/client may offer a choice between a replacement property of equal or higher value with security of tenure, equivalent or better characteristics, including advantages of location, or cash compensation at full replacement cost. After meaningful consultations on the relocation and resettlement process, the borrower/client will inform physically displaced persons with adequate advance notice of the timing of relocation, taking potential impacts on agricultural and schooling calendars, among other factors, into consideration. Persons whose livelihoods are affected by relocation and resettlement, including lost income during the period of transition to relocation sites, will be compensated by the borrower/client in accordance with the requirements for livelihood restoration and livelihood improvement under paras 53 and 54 of this ESS5. Particular attention will be paid to the differentiated needs of disadvantaged or vulnerable affected persons. The borrower/client will improve living conditions of such affected persons through the provision of adequate housing, access to services and utilities, and security of tenure. Where the borrower/client demonstrates that an affected person derives substantive income from multiple illegal rental units, the compensation and other assistance that would otherwise be available to such affected person for non-land assets and livelihood restoration may be reduced with the prior agreement by ADB.

49. When offering resettlement sites, the borrower/client will ensure that such sites or the locations for individual housing and business premises offered by a project will include comparable or better essential public services and utilities, such as water and electricity supply, schools, health care, shopping, government offices, and the like. The borrower/client will consult affected persons, including host communities, as well as competent government authorities, to identify and agree upon such suitable options. The borrower/client will ensure that the cost of the establishment of new or improved existing public services and utilities will be borne by a project. For the preparation, construction, and occupation of a resettlement site, an E&S assessment will be undertaken by the borrower/client as required by ESS1 and this ESS5, and mitigation plans will be prepared and implemented in accordance with the applicable standards of the Environmental and Social Framework (ESF).

50. All physically displaced persons will be provided by the borrower/client with financial and logistical transition, moving, and relocation assistance. The borrower/client will document all transactions to acquire land rights, provision of compensation, and other assistance associated with relocation activities. All transition and transaction costs, including the cost of transport of personal effects and furnishings of lost residential premises and/or the transfer and reinstallation of the plant, machinery, or other equipment of lost business premises, in addition to logistical and administrative costs, survey and titling costs, as well as the cost of transition housing, if required, will be borne by a project or included in cash compensation.

51. The borrower/client will assess and mitigate any potential risks for and adverse impacts on host communities due to the relocation and resettlement of persons displaced by a project in accordance with this ESS5. The host communities will be fully informed and consulted about a project’s adverse impacts and mitigation measures in accordance with ESS10.
52. The borrower/client will not resort to forced eviction of affected persons. “Forced eviction” is defined as the permanent or temporary removal against the will of individuals, families, and/or communities from the homes and/or land which they occupy without the provision of, and access to, appropriate forms of legal and other protection, including all applicable requirements of this ESS5. The exercise of compulsory acquisition or similar powers by a borrower/client will not be considered to be forced eviction providing it complies with the requirements of the host country’s applicable laws and the provisions of this ESS5, and is conducted in a manner consistent with basic principles of due process, including provision of adequate advance notice, meaningful consultations and opportunities to lodge grievances and appeals, and avoidance of the use of unnecessary, disproportionate, or excessive force.

2. Livelihood Restoration and Livelihood Improvement

53. In projects where economic and physical displacement cause loss of livelihood and/or income sources, the borrower/client will undertake a commensurate livelihood restoration program, supported by an adequate budget and competent expertise, to ensure that affected persons can transition to and reestablish livelihood and/or income generation activities with at least equivalent or improved earning potential compared to pre-displacement levels. The borrower/client will identify all eligible affected persons prior to taking possession of land and related assets, with adequate budget formally allocated and made available to provide agreed livelihood restoration and improvement.

54. The requirement for livelihood restoration applies to all persons affected by livelihood losses, irrespective of the status of legal rights to the land or assets from which they are displaced, including owners, operators, cultivators, employees, lessees, and sharecrop tenants, as well as the users of natural resources located on acquired or restricted land. Physical displacement of businesses may cause long-term interruptions requiring appropriate business relocation and transition support measures, while business closures will necessitate comprehensive financial compensation, including adequate staff retrenchment measures and plans. The livelihood restoration program implemented by the borrower/client will include a combination of, but not be limited to, employment and business development, credit facilities, supply of agricultural or manufacturing inputs, skills training, and cash compensation. Income replacement to sustain livelihoods will be provided by the borrower/client until affected persons can reestablish equivalent income generation capacity through new livelihood activities within reasonable time. Livelihood losses due to impacts on income generation activities producing illicit goods and services may be restored by providing opportunities for the economically displaced persons to transition to alternative livelihoods and legal activities.

3. Use of Escrow or Similar Arrangements

55. In cases where legal and administrative impediments to the disbursement of cash compensation occur such as the failure of repeated efforts to contact absentee owners, the rejection of fair compensation offers by affected persons, or ongoing legal proceedings due to competing claims to the ownership of lands or assets, the borrower/client, on an exceptional basis and with prior agreement of ADB, may deposit the respective compensation funds indicated in a LAP in an interest-bearing escrow or other deposit account, after demonstrating that all reasonable efforts to resolve such constraints have been made. The borrower/client may then proceed with the relevant project activities provided all other available affected persons have been provided with applicable mitigation measures. Compensation deposited in an escrow account will be indexed for inflation and made available to eligible affected persons in a timely manner as issues are resolved. Through a LAP and progress/compliance monitoring, the borrower/client will inform ADB of the intent to use escrow accounts in lieu of
disbursement of compensation before taking possession of the land and other assets and seek ADB’s approval.

4. **Negotiated Settlement**

56. The requirements set forth in Section IV.A and IV.B apply to negotiated settlements, which are defined in paragraph 11(i) and are considered a mode of involuntary LA/LUR. While the borrower/client will offer adequate, fair, and agreeable prices and/or replacement assets for lost assets and livelihood resources, the rates for sale prices will be at least at replacement cost, and in-kind compensation will be at least at replacement value. Compensation rates may be subject to upward adjustment where negotiation strategies are employed. The borrower/client will apply all additional assistance and livelihood restoration measures as appropriate. The borrower/client will ensure that under negotiated settlement the risks of asymmetry of information and bargaining power of the parties involved in such transactions will be mitigated. For this purpose, relevant social monitoring experts will be engaged by the borrower/client to verify and document the negotiation and settlement process and assess its compliance with the requirements of a LAP and this ESS5 in monitoring reports.

5. **Land Use Restriction**

57. To address the mitigation of livelihood losses caused by land use restriction, the borrower/client will either permit continued, regulated, and/or restored access to project-affected land and resources, or provide access to culturally appropriate alternative resources with equivalent livelihood- and income-earning potential and accessibility. The borrower/client will assist affected persons to enhance the productivity of the remaining land and resources to which they have access. In case of temporary access restriction due to project construction works, the borrower/client will provide alternative access routes with appropriate community safety measures. The borrower/client will compensate the temporary loss to affected persons due to unavoidable access restrictions at replacement cost for the duration of the restriction. The borrower/client will mitigate physical displacement of persons affected by land use restriction through relocation and resettlement measures in accordance with the provisions for relocation and resettlement under this ESS5.

C. **Requirements for Voluntary Land Acquisition and Land Use Restrictions**

1. **General Criteria and Due Diligence Requirements**

58. If voluntary arrangements are proposed to be used to acquire land or restrict land use for project purposes, the requirements set forth in this Section IV.C apply. The borrower/client will confirm and provide evidence satisfactory to ADB, as relevant, that the requirements of this Section C have been met.

59. In order for LA/LUR to be considered voluntary, the following criteria apply:

   (i) The transaction is conducted in an open and transparent manner, with timely and complete information provided to affected persons sufficient to enable an informed choice.
   
   (ii) Affected persons have the right to refuse the LA/LUR, have been given full opportunity to effectively exercise that right, and have confirmed in writing their decision not to exercise the right of refusal.
   
   (iii) No coercion, intimidation, bribery, or undue influence is used to influence the decision of the affected persons.
   
   (iv) There is no threat of expropriation or other compulsory procedure if parties do not reach an agreement.
(v) The terms of the transaction ensure that affected persons are benefiting from the transaction and receiving fair value in exchange for the rights being voluntarily relinquished.

(vi) Affected persons are not rendered disadvantaged or vulnerable as a result of the transfer of their land rights.

(vii) Affected persons will not be required to vacate land or relinquish land rights until compliance with the above criteria and with other relevant requirements set forth below is confirmed.

60. Where voluntary LA/LUR may result in the displacement of persons, other than the parties to the transaction, who occupy, use, or claim rights to the land in question, such displacement is considered involuntary and is addressed and mitigated in accordance with Section IV.B.

2. Requirements Applicable to Specific Modes of Land Acquisition/Land Use Restriction

a. Voluntary Land Donation

61. In some projects, it may be proposed that part or all of the land to be used by a project is donated on a voluntary basis without provision or only partial provision of compensation. Subject to prior approval by ADB, the borrower/client may employ voluntary land donation provided the borrower/client demonstrates in a LAP that the criteria in paragraph 59, as well as the following additional requirements are met: (i) the amount of land being donated is minor and will not reduce the donor’s remaining land area below that required to maintain the donor’s current livelihood levels; (ii) no physical displacement is involved; (iii) the donor(s) are expected to benefit directly from project activities; (iv) for community or collective land, donations can only occur with the consent of all individuals using or occupying the land; (v) project components are not site-specific; and (vi) the borrower/client maintains a transparent record of auditable quality of all consultations and agreements reached and reflects them in a LAP. Voluntary land donation is also subject to the General Requirements in Section IV.A, modified as appropriate to reflect the nature of the transaction and proportionate to the risks and impacts involved.

b. Land Pooling and Readjustment

62. In some projects supporting rationalization of urban space or enhanced agricultural productivity, the borrower/client may seek agreement of affected persons to participate in a land pooling or land readjustment arrangement. Participants in such arrangements may elect to accept a partial loss of land or localized relocation in return for improvements that will increase the value of their property after development. A LAP will provide a comprehensive account of the process of reaching agreement and demonstrate the voluntary nature of the transactions agreed, applying the criteria set forth in paragraph 59. It will provide credible analysis and evidence-based calculations demonstrating the expected increase in value that the affected persons will realize. The land pooling and readjustment process will be supported by adequate financial resources for administrative, implementation and construction costs as specified in the budget of a LAP. The borrower/client will ensure transitional arrangements are in place so that affected persons are not disadvantaged nor their livelihoods adversely affected during the period between the initiation of development and the completion of improvements. The physical displacement of persons participating in land pooling and readjustment will be avoided as much as possible and where avoidance is not possible, affected persons will be compensated for asset losses and supported by relocation assistance in cash and/or kind in accordance with this ESS5. Land pooling and readjustment is subject to the General Requirements in Section IV.A, modified as appropriate to reflect the nature of the transaction and proportionate to the risks and impacts involved.
c. Voluntary Land Use Restriction in Community-based Natural Resource Management

63. Community-based natural resource management projects may entail voluntary collective agreement by a community to restrict access to resources that are being managed or conserved. In such cases, the borrower/client will ensure that a project engages the participating community, and especially all of the economically displaced community members with landownership or use rights, in a participatory and consensus-based process, to design and establish land use restrictions and alternative land use practices which simultaneously protect natural resource bases and affected persons’ livelihoods. The borrower/client will document the commitment of a community, with special attention to those most affected, to the agreed land use restrictions and modified land use practices and clarify how the livelihoods of the community members will be protected, restored, and improved. The borrower/client applies the criteria in paragraph 59 and confirms in a LAP that the agreement reached reflects voluntary, informed consensus through a transparent and fair decision-making process. Because conservation measures may have livelihood implications, particularly for disadvantaged or vulnerable households, a LAP will assess the nature and extent of such adverse impacts and appropriate mitigation measures will be agreed with the community and supported by the borrower/client. General Requirements in Section IV.A apply to such transactions, modified as appropriate to reflect the nature of the transaction and proportionate to the LUR risks and impacts involved.

d. Voluntary Sale and Purchase of Land through Legally Recorded Market Transactions

64. Voluntary land acquisition may entail voluntary, legally-recorded market transactions such as transfer of formal ownership rights through the sale and purchase of land and other assets or other similar transactions between a willing seller and a willing buyer in which the seller is given a genuine opportunity to retain land/assets and to refuse such transaction. The requirements in Section IV.A and IV.B do not apply to such transactions, provided the following conditions are met. Through the E&S assessment process described in ESS1, the borrower/client will transparently document the process and outcomes of the transaction, demonstrate the free consent of the sellers to the sale of land and/or other assets, and confirm that the voluntary sale will not render the sellers disadvantaged or vulnerable. For this purpose, the borrower/client will agree with ADB on meaningful consultation processes, policies, the host country’s applicable laws, qualified third-party validation, mechanisms for calculating the replacement cost of land and other assets affected, and record-keeping requirements. For market transactions which occurred prior to ADB involvement in a project, including those done by a third party, the borrower/client will conduct due diligence to confirm the sale was consistent with the above characteristics.
Annex 1. Land Acquisition Management Tools

This Appendix is part of this ESS5 and provides guidance for the documentation required to be prepared and publicly disclosed on the websites of the borrower/client and of ADB under this ESS5. Projects may use alternative nomenclature, depending on the scope and types of land acquisition transactions.

I. Land Acquisition Plan

The scope of requirements and level of detail of a LAP may vary with the magnitude, complexity, and types of land acquisition transactions. The plan is based on up-to-date detailed engineering designs-based information about LA/LUR risks and impacts as determined under the scope of this ESS5.

Outline

A. Executive Summary

- Provides a summary of the project scope, the purpose of the LAP, the key findings of the assessment of LA/LUR risk and impacts, the modes of land acquisition adopted and the planned mitigation measures, the institutional arrangements for project and LA/LUR planning and implementation and the overall budget for LA/LUR.

B. Project Description

- Summarizes a project and project area, including its E&S context.
- Documents design alternatives considered to avoid and minimize LA/LUR risks and impacts, with detailed justification of the selected design options considering E&S, technical, and financial costs, and benefits.

C. Land Acquisition/Land Use Restriction Assessment

Reports on the methodologies, findings and conclusions of the census and socio-economic baseline studies carried out and the magnitude and types of LA/LUR-related losses caused by a project, as well as the social and valuation specialists engaged to undertake the LA/LUR assessment, including the following:

- Summary of screening and scoping activities conducted in accordance with ESS1, to determine the scope of the social impact assessment and the modes of land acquisition to be adopted.
- Results of the census and socio-economic baseline studies based on detailed engineering designs to: (i) define, identify, and enumerate the number and types of all affected persons and communities, including host communities, if any, as well as their relevant social, economic, and cultural characteristics; and (ii) to ascertain their ownership and use rights with respect to land and other assets to determine their eligibility to compensation and assistance. All data and information are disaggregated by gender and for disadvantaged or vulnerable groups, and are supported by tables and diagrams, as applicable.
- Inventory, detailed measurement survey, and valuation of all losses, to identify and value the loss of land and other assets, land use rights and sources of livelihood.
- Synchronization of LA/LUR assessments with the preparation of a final detailed engineering design of project facilities.
- Identification of impacts with a pending assessment.

D. Stakeholder Engagement
Documents stakeholder engagement activities during LA/LUR planning and those to be undertaken during LAP implementation, including stakeholder identification, information disclosure, and grievance mechanism.

E. Legal and Policy Framework
Provides a legal gap analysis comparing the host country’s applicable laws with the requirements of this ESS5 and indicates measures adopted to fill any gaps. The analysis focuses on the land acquisition process, eligibility criteria for compensation and assistance, and valuation methods and entitlements relevant to a project's assessed LA/LUR risks and impacts.

F. Planned Mitigation Measures
Documents mitigation measures for all applicable permanent and temporary, full and partial types of LA/LUR-related losses, including:

- Entitlement matrix for all applicable types of losses, eligible affected persons, assistance, and entitlements.
- Measures for compensation for all lost assets and access to assets and livelihood resources.
- Options for livelihood and income restoration and improvement.
- Options for relocation and resettlement, including a detailed description of principle and process of site selection and preparation.
- Measures to address the specialized needs of the disadvantaged or vulnerable.

G. Outcomes of Land Acquisition/Land Use Restriction
Summarizes outcomes of the mitigation measures for LA/LUR, which will serve as indicators for monitoring and evaluation.

H. Implementation Arrangements and Timeline for Implementation of a LAP
Describes institutional roles, capacities, and responsibilities for LA/LUR planning and implementation as well as the arrangements to align the LA/LUR with procurement and commencement of civil works.

I. Monitoring, Evaluation, and Reporting
Documents requirements and indicators for internal and external monitoring and evaluation of the implementation of a LAP, as applicable.

J. Budget and Timeline
Indicates itemized LA/LUR budget and the flow of funds and includes a timeline for LAP implementation.

K. Appendix of the Land Acquisition Plan
Provides documentary evidence to support the results of the assessment of LA/LUR risks and impacts, and any other relevant information such as minutes and attendance lists of consultation events, detailed impact and compensation registers for all affected persons, baselines questionnaires, valuation reports, cut-off date notification, maps and photographs for the locations of planned project facilities and affected properties, etc. Local language documents will be translated into English.

II. Land Acquisition Framework
The purpose of a LAF is to: (i) establish principles, approach, and procedures for the assessment and mitigation of all potential types of LA/LUR risks and impacts in a project, and for the preparation of required future LAPs; (ii) present results of the scoping assessment to identify potential LA/LUR risks and impacts if preparation of a LAP is not yet feasible; and (iii)
estimate a budget based on such proportionate and feasible scoping. The LAF structure follows the same outline as that of a LAP.
ESS6: BIODIVERSITY CONSERVATION AND SUSTAINABLE NATURAL RESOURCES MANAGEMENT

I. INTRODUCTION

1. This Environmental and Social Standard (ESS) 6 recognizes that the conservation of biodiversity and sustainable management of living natural resources are fundamental to sustainable development.

2. This ESS6 recognizes the importance of maintaining core ecological functions of habitats and the biodiversity they support. Biodiversity often underpins ecosystem services valued by humans and therefore risks to, and impacts on, biodiversity often adversely affect the delivery of ecosystem services.

3. This ESS6 recognizes that the livelihoods of Indigenous Peoples and other project-affected persons that access or use ecosystem services may be disproportionately impacted by project activities.

II. OBJECTIVES

a. Protect and conserve biodiversity and ecological function and connectivity in a changing climate;

b. Apply the mitigation hierarchy and the precautionary approach to achieve a minimum of no net loss and, preferably, a net gain of biodiversity;

c. Maintain the benefits from ecosystem services and promote the sustainable management and use of living natural resources.

III. SCOPE OF APPLICATION

4. The applicability of this ESS6 is established during the environmental and social (E&S) assessment process described in ESS1.

IV. GENERAL

5. The E&S assessment process described in ESS1 will be used to determine potential direct, indirect, landscape-level, and cumulative project impacts to biodiversity or ecosystem services and the applicability of this ESS6. It will especially focus on habitat loss, degradation, and fragmentation, invasive alien species, overexploitation, hydrological changes, nutrient loading, pollution, and projected climate change impacts.

6. The borrower/client will use project screening and scoping to determine the requirements for a biodiversity assessment. The extent of the assessment will be proportionate to the nature and scale and potential risks and impacts of a project and the sensitivity of the biodiversity and ecosystem services that could be affected. The scoping process will also be used to determine the potential presence of natural habitats, priority biodiversity features, and critical habitat in a project-affected area.

7. The borrower/client will ensure that the biodiversity assessment applies good international practice (GIP), in consultation with ADB, and will retain appropriate experts as determined through the E&S assessment process described in ESS1.
8. The biodiversity assessment will be quantitative to the extent possible, depending on the nature and scale of a project’s potential risks to, and impacts on, biodiversity. Proportionate to the risks and impacts identified, the biodiversity assessment may be standalone or may be integrated into the E&S assessment process described in ESS1. Based on the results of the biodiversity assessment, the borrower/client may be required to undertake additional studies and/or monitoring linking to wider assessment work such as on environmental flows.

9. The borrower/client, as part of the biodiversity assessment, will also consider and, where possible, quantify a project’s dependence and impacts on ecosystem services within the project-affected area, as well as the use of and dependence on ecosystem services and natural capital by project-affected communities, including Indigenous Peoples.

10. As a priority, the borrower/client will avoid adverse impacts to biodiversity and ecosystem services. Where avoidance is not possible, the borrower/client will follow the mitigation hierarchy and minimize or mitigate adverse impacts within a project-affected area. The borrower/client will only consider offsets as a last resort, where any significant residual impacts remain despite best efforts to avoid, minimize, or mitigate adverse impacts.

11. The borrower/client will, in consultation with ADB, ensure all biodiversity assessment and development of subsequent management plans and a biodiversity action plan (BAP), where required, are completed before undertaking project activities that could adversely impact biodiversity.

12. The borrower/client will ensure activities comply with the host country’s applicable laws, including those implementing the host country’s obligations under international laws. Such laws will include those related to access and benefit sharing in the utilization of genetic resources. In the absence of the host country’s applicable laws on a specific topic, the borrower/client will follow the relevant GIP.

13. If there are significant changes to a project that result in additional risks to, or impacts on, biodiversity, particularly where these will impact project-affected persons, including Indigenous Peoples, the borrower/client will meaningfully consult with project-affected persons on how to mitigate these risks and impacts and will update relevant plans accordingly, setting out any additional mitigation measures. The borrower/client will disclose the updated plans.

A. Biodiversity Conservation

14. Where the E&S assessment process has identified potential project-related risks to and impacts on biodiversity, the borrower/client will manage these risks and impacts by following a precautionary approach, applying the mitigation hierarchy, and implementing adaptive management practices as necessary.

15. As part of the biodiversity assessment, the borrower/client will refine results of project screening and scoping to identify the degree of biodiversity importance and sensitivity by categorizing habitat located within a project-affected area as ‘modified habitats’, ‘natural habitats’ and/or ‘critical habitat’.
16. As part of the biodiversity assessment, the borrower/client will also identify **priority biodiversity features**. These features provide indicators of importance, sensitivity, and value and encompass: (i) threatened **ecosystems**; (ii) geographically-restricted ecosystems; (iii) **threatened species**; (iv) endemic/geographically restricted-range species; (v) geographically-restricted assemblages; (vi) aggregations of migratory or congregatory species; (vii) areas associated with key evolutionary processes; or (viii) **ecological functions** that are vital to maintaining the viability of **biodiversity** described in this para. Priority biodiversity features may be present in any category of **habitat** and are a sub-set of biodiversity that is particularly irreplaceable or vulnerable.

17. **Modified habitats** are areas that 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** or species composition. Within modified habitats, **priority biodiversity features** may occur, but at levels that may be too low to qualify these areas as **critical habitat**.

18. In areas of **modified habitats**, the borrower/client will implement mitigation measures to ensure no further degradation of **habitat** and **no net loss of biodiversity**. Particular measures may be required for **priority biodiversity features** depending on the nature and scale of project risks and impacts.

19. **Natural habitats** are areas composed of assemblages of plant and animal species of largely native origin, where human activity has not essentially modified an area’s primary **ecological functions** and species composition. Within natural habitats, **priority biodiversity features** may occur, but at levels that may be too low to qualify these areas as **critical habitat**.

20. The borrower/client will not implement any project activities which may cause significant adverse impacts to **natural habitats** or their **priority biodiversity features**, unless:

   (i) no other viable alternatives exist for development of a project in **modified habitats**;
   (ii) a project is permitted under the **host country’s applicable laws**, including those governing the priority biodiversity features, and all requirements under such laws have been complied with;
   (iii) **stakeholders** are consulted in accordance with ESS10; and
   (iv) mitigation measures are put in place, in accordance with the **mitigation hierarchy**, to ensure delivery of **no net loss**, or preferably, a **net gain**, of any impacted natural habitats and priority biodiversity features over the long term.

21. **Critical habitat** is a subset of **natural** and **modified habitats**, comprising areas of highest **biodiversity** value of significant importance to one or more types of **priority biodiversity features**.

22. The borrower/client will not implement any project activities which may cause adverse impacts to **critical habitat** or its **priority biodiversity features**, unless:

   (i) no other viable alternatives exist for development of a project in **modified habitats** or, where not possible, **natural habitats**;
   (ii) quantitative analysis demonstrates that the overall benefits from a project will substantially outweigh the project costs, including those to **ecosystem services**, **natural capital**, and **biodiversity**;
(iii) a project is permitted under the host country’s applicable laws, including those governing the priority biodiversity features, and all requirements under such laws have been complied with;
(iv) relevant stakeholders are consulted in accordance with ESS10;
(v) mitigation measures are put in place, in accordance with the mitigation hierarchy, to ensure delivery of a net gain of any potentially-impacted critical habitat or priority biodiversity features for which it was defined; and
(vi) a project is not anticipated to have a measurable adverse residual net impact on any other priority biodiversity features.

23. Some areas of critical habitat are of such high importance that the borrower/client will not propose financing for projects in such areas, or project activities by suppliers in these areas, with the exception of those projects specifically designed to contribute to the conservation of such areas, or unless otherwise agreed with ADB. These areas comprise:

(i) Alliance for Zero Extinction (AZE) sites;
(ii) UNESCO Natural and Mixed World Heritage (WH) Sites; and
(iii) Free-flowing sections of rivers 500 km or longer in length.

24. Where appropriate, the borrower/client will ensure that biodiversity conservation measures incorporate local and traditional knowledge and practices. When Indigenous Peoples are affected by a project, the borrower/client will integrate measures that incorporate the traditional culture, knowledge, and practices of affected Indigenous Peoples in accordance with ESS7.

B. Protected Areas and Internationally Recognized Areas

25. Where a project may occur within, or has the potential to adversely affect, a protected area and/or internationally recognized area, or an area that is formally proposed for either status by a competent government authority, the borrower/client will ensure that any project activities are consistent with the objectives of such areas and will follow the relevant requirements set out for modified, natural, and critical habitats. Where no such objectives exist, the borrower/client will consult with relevant stakeholders to establish what these objectives will be, and then act in a manner consistent with these objectives. The borrower/client will also:

(i) demonstrate that the proposed development in the area is legally permitted;
(ii) comply with any government-recognized management plans for such areas;
(iii) consult and involve protected area managers and stakeholders, in accordance with ESS10, including any Indigenous Peoples in accordance with ESS7;
(iv) fully apply the mitigation hierarchy so as to avoid or mitigate adverse impacts that could compromise the integrity, conservation objectives, or biodiversity importance of the area; and
(v) implement programs contributing to or that are additional to any that may be ongoing, to promote and enhance the conservation aims and effective management of the area.

26. The borrower/client will consider protected areas or parts of protected areas that have recently been downgraded, downsized, or degazetted in anticipation of a project as if they are still protected.
C. Project Design and Implementation

27. For projects where potential adverse risks to and impacts on biodiversity are identified, the borrower/client will specify mitigation measures in a biodiversity management plan (BMP) which, according to the nature and scale of a project’s risks to and impacts on biodiversity, may be a standalone plan or may be integrated into the ESMP described in ESS1. For projects in areas of critical habitat and for High Risk or Substantial Risk projects with significant biodiversity risks and impacts, the borrower/client will engage qualified experts to prepare a standalone BAP.

28. Biodiversity offsets are a last resort. Where it has been determined that they are necessary, the borrower/client will demonstrate that all other viable avoidance and mitigation options have first been exhausted. The borrower/client will also demonstrate through an assessment of project risks and impacts, mitigation, and realistic offset gains that a project will achieve no net loss or a net gain, as applicable, within a reasonable timeframe.

29. If offsets are being considered as part of a project, the borrower/client will demonstrate, as part of the E&S assessment process described in ESS1 and prior to project appraisal or final credit approval, the offsetability of the project, recognizing that some impacts are not offsetable.

30. In the event that biodiversity offsets are unavoidable, the borrower/client will plan offset implementation and financing to ensure maintenance of offset gains for at least as long as a project has impacts. This will be described in a standalone Biodiversity Offset Management Plan (BOMP) or, for small-scale offsets, may be included as part of a BAP. For offsets of unavoidable impacts on critical habitat, the borrower/client will engage qualified experts to prepare a BOMP.

31. For a project likely to cause significant adverse impacts to priority biodiversity features, the borrower/client will design a long-term monitoring and evaluation program for the priority biodiversity features using relevant management tools. The program will include quantitative completion indicators or targets. For a project implemented in areas of critical habitat and for high or substantial risk projects with significant biodiversity impacts, the borrower/client will produce a separate Biodiversity Monitoring and Evaluation Plan (BMEP) and will engage independent experts to verify monitoring information.

D. Invasive Alien Species

32. The borrower/client will avoid, and proactively prevent, accidental or deliberate introduction of invasive alien species that could have significant adverse impacts on biodiversity. Specifically, the borrower/client:

   (i) will not intentionally introduce alien species into areas where they are not normally found unless this is carried out in accordance with the regulatory framework governing such introduction;

   (ii) will not intentionally introduce species known to be invasive into new environments;

   (iii) will identify potential risks, impacts, and mitigation options related to accidental transfer and release of alien species;

   (iv) will comply with the host country’s applicable laws and relevant international conventions including those governing international shipping of goods;
(v) will exercise diligence in not spreading any alien species already established in the country or region of a proposed project into areas in which they have not already been established; and
(vi) will document mitigation of alien species risks and impacts in the BMP or BAP, as appropriate.

33. For the purposes of this ESS6, living modified organisms or genetically modified organisms that are or may be transported into a host country are considered to be alien species, with similar potential for invasive behavior as well as potential for gene flow to related species. Any potential introduction of such organisms should be assessed in compliance with a host country's applicable laws and requirements set out in this ESS, and if relevant, a GIP.

E. Primary Suppliers

34. Through the E&S assessment process described in ESS1, the borrower/client will identify risks relating to primary suppliers or suppliers engaged by such primary supplier which have, or whose supply of goods or services have, the potential to cause significant adverse impacts to ecosystems and the biodiversity that they support. The borrower/client will ensure risk-based sustainable resource procurement, management and verification procedures are in place to evaluate its primary suppliers or suppliers engaged by them. The procedure will specify that:

(i) only supplies of a legal and sustainable origin are procured;
(ii) the sourcing of supplies is monitored and documented; and
(iii) where possible, procurement of natural resources is limited to those suppliers that can demonstrate that they are not causing significant adverse impacts to natural habitats, priority biodiversity features, critical habitats, protected areas, or internationally recognized areas.

F. Sustainable Management of Living Natural Resources

35. The borrower/client will adhere to the requirements in this ESS6 where a project involves industrial agriculture or livestock activities, the primary production of living natural resources, or where such resources are essential for a specific project activity and without which a project cannot continue.

36. Where practices of sustainable management of living natural resources have been codified in standards that are globally, regionally, or nationally recognized, the borrower/client and ADB will agree on the applicable standard. Where no such standards exist for particular living natural resources that are affected by a project, the borrower/client will apply appropriate GIP for sustainable management of living natural resources.

37. Where a project involves industrial livestock activities, the borrower/client will apply appropriate GIP for animal welfare and livestock operations.

38. Where a project involving livestock production has the potential to interface with wild animals, the borrower/client will undertake additional specific assessment to identify potential risks for the spread of zoonotic diseases.
V. MONITORING AND DISCLOSURE

39. Depending on the level of risks and impacts with regards to biodiversity conservation and living natural resources in the context of a project, the borrower/client may prepare additional studies and management tools that are required through this ESS6 and as relevant to the project and its risks and impacts. As specified in ESS1, these will support the analysis of impacts and identification of mitigation measures and will be part of or may be annexed to the E&S assessment undertaken for a project.

40. The management tools required by this ESS6 may include biodiversity assessment, BOMP, BAP, and BEMP, and all of which may be prepared and disclosed as standalone documents or as part of the project ESMP.

41. The borrower/client will monitor the implementation of the management tools prepared under this ESS6 in accordance with the requirements in the environmental and social commitment plan (ESCP)/environmental and social action plan (ESAP) and ESS10.
ESS7: INDIGENOUS PEOPLES

I. INTRODUCTION

1. This Environmental and Social Standard (ESS) 7 establishes the requirements that borrowers/clients will meet to ensure that projects affecting Indigenous Peoples and their cultural identities, practices, and customary lands take the necessary measures to address them. Within Asia and the Pacific, individual indigenous communities reflect tremendous diversity in their cultures, histories, and current circumstances. The contexts in which such peoples live are varied and changing. Indigenous Peoples may be referred to in different countries by such terms that include indigenous ethnic minorities, indigenous cultural communities, aboriginals, hill tribes, minority nationalities, scheduled tribes, tribal groups, forest dwellers, hunter-gatherers, pastoralists, or other nomadic groups. This ESS7 applies to all such groups meeting the criteria outlined in paras 6 and 7.

2. This ESS7 recognizes that Indigenous Peoples are often among the most marginalized and vulnerable segments of the population. In many cases, their economic, social, and legal status limits their capacity to defend their rights to, and interests in, lands and natural and cultural resources, and may restrict their ability to participate in and benefit from development in ways that are in accordance with their worldview. Indigenous Peoples are increasingly threatened as development programs infringe into areas that they traditionally own, occupy, use, or view as ancestral domain. Indigenous Peoples are closely linked to the lands on which they live and the natural resources on which they depend. They 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 development projects than non-indigenous communities. They may also not receive equitable access to project benefits, or benefits may not be devised or delivered in a form that is culturally appropriate, and they may not always be adequately consulted about the design or implementation of projects that would profoundly affect their lives or communities.

3. The United Nations Declaration on the Rights of Indigenous Peoples was adopted by the United Nations General Assembly in September 2007. The Declaration is the most comprehensive international instrument on the rights of Indigenous Peoples. Many countries in Asia and the Pacific voted in favor of this declaration. ADB recognizes the rights of Indigenous Peoples to direct the course of their own development. This ESS7 recognizes that Indigenous Peoples do not automatically benefit from development, which is often planned and implemented by those in the mainstream or dominant population in the countries in which they live. Special efforts are needed to engage Indigenous Peoples in the planning of development programs that affect them, in particular, development programs that are supposedly designed to meet their specific needs and aspirations that affect their land and territories.

4. Development projects may, however, also create opportunities for Indigenous Peoples to improve their quality of life and well-being. 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. Indigenous Peoples may play a role in sustainable development by promoting and managing activities as partners in development. ADB member borrowers often play a central role in the management of Indigenous Peoples’ issues.
II. OBJECTIVES

a. Ensure that Indigenous Peoples do not suffer adverse impacts as a result of projects or, where avoidance is not possible, to minimize, mitigate, and/or compensate for such impacts;
b. Design and implement projects in a way that fosters full respect for Indigenous Peoples' identity, dignity, human rights, livelihood systems, and cultural uniqueness as defined by the Indigenous Peoples themselves;
c. Ensure that Indigenous Peoples receive culturally appropriate social and economic benefits and can participate actively in projects that affect them;
d. Promote sustainable development benefits and opportunities for Indigenous Peoples in a culturally appropriate manner;
e. Ensure free, prior, and informed consent (FPIC) in the three circumstances described in this ESS7;
f. Recognize, respect, and preserve the culture, knowledge, and practices of Indigenous Peoples where possible in a project context, and consider opportunity to adapt to changing conditions in a manner and in a time frame acceptable to them, as appropriate.

III. SCOPE OF APPLICATION

5. The applicability of this ESS7 is established during the environmental and social (E&S) assessment process described in ESS1. The scope and scale of meaningful consultation, subsequent project planning, documentation processes, and monitoring will be proportionate to the scope and scale of potential project risks and impacts as they may affect Indigenous Peoples. The requirements of this ESS7 also apply to actions conducted by a borrower/client in anticipation of or in preparation for a project.

6. For this ESS7, the term Indigenous Peoples refers to a distinct social and cultural group possessing the following characteristics in varying degrees:

(i) self-identification as members of a distinct indigenous social and cultural group and recognition of this identity by others;
(ii) collective attachment to geographically distinct areas or ancestral territories or areas of seasonal use or occupation, including nomadic and transhumance routes in a project-affected area and to the natural resources in these areas and territories;
(iii) customary cultural, economic, social, or political institutions, laws, or regulations that are separate from those of the dominant society and culture; and
(iv) a distinct language or dialect, often different from the official language of the country or region.

7. In considering these characteristics, a borrower/client will take into account the host country's applicable laws, including those laws implementing the host country's obligations under international laws, and customary laws.

8. Subject to the criteria listed in para 6, a borrower/client will also apply the provisions of this ESS7 to a group that has been assimilated, mainstreamed, or lost collective attachment to distinct areas or ancestral territories in a project-affected area because of forced severance, conflict, government resettlement programs, dispossession of their land, natural disasters, or
incorporation of such territories into an urban area. In such cases, some characteristics defined in para 6 may have eroded or be less evident for some groups or communities through integration into the broader society or economy.

9. This ESS7 will apply whenever Indigenous Peoples are present in, or have collective attachment to, a proposed project-affected area as determined during the E&S assessment process under ESS1. This ESS7 applies regardless of whether Indigenous Peoples are affected positively or negatively, directly or indirectly, and regardless of the significance of any such impacts. This ESS7 also applies irrespective of the presence or absence of discernible economic, political, or social vulnerabilities, although the nature and extent of vulnerabilities will be a key variable in designing plans to promote equitable access to benefits or to mitigate adverse impacts.

IV. GENERAL REQUIREMENTS

A. Impact Assessment for Indigenous Peoples

10. The borrower/client will retain qualified and experienced experts to carry out a comprehensive, field-based assessment of potential risks to and impacts on Indigenous Peoples. A project’s potential social, cultural, and economic risks and impacts will be assessed against the requirements set out in this ESS7 and the host country’s applicable laws that pertain to Indigenous Peoples matters, including those laws implementing host country obligations under international laws. The borrower/client will undertake a policy gap analysis comparing the host country’s applicable laws relevant for Indigenous Peoples with the requirements of this ESS7 and any gaps identified will be addressed by the borrower/client.

11. A borrower/client will conduct the impact assessment as part of the E&S assessment process described in ESS1 or as a standalone Indigenous Peoples assessment depending on the nature and scale of the potential risks and impacts. A borrower/client, in a gender-sensitive manner and in meaningful consultation with the Indigenous Peoples’ communities, will identify project-affected Indigenous Peoples and the potential risks and impacts of a proposed project on them. The assessment shall include physical and tangible and intangible cultural impacts, as set out in ESS8, as well as risks to and impacts on biodiversity and the ecosystem services upon which the identified Indigenous Peoples depend, as set out in ESS6. The borrower/client will use the impact assessment to document and create a baseline socio-economic profile of the Indigenous Peoples’ communities in a project-affected area. The assessment will assess the existing economic, political, social, and historical vulnerabilities amongst the project-affected Indigenous Peoples’ communities and with reference to the wider society. The borrower/client will, at minimum, assess: the Indigenous Peoples’ access to and opportunities to avail themselves of basic social and economic services; the short- and long-term, direct and indirect, and positive and adverse impacts of a project on each community’s social, cultural, and economic status; and subsequent approaches and resource requirements for addressing their concerns regarding a project that affects them.

12. The borrower/client will ensure that the level of detail and comprehensiveness of the assessment of potentially project-affected Indigenous Peoples will be proportionate to the nature and scale of a proposed project’s potential effects on Indigenous Peoples, whether positive or negative.
B. Meaningful Consultation

13. The borrower/client will undertake meaningful consultation, as described in ESS10, with project-affected Indigenous Peoples to ensure their informed participation in (i) designing, implementing, and monitoring measures to avoid adverse impacts on them or, where avoidance is not possible, to minimize, mitigate, and/or compensate for such impacts; and (ii) tailoring project benefits that accrue to them in a culturally appropriate manner. This includes meaningful consultation with affected Indigenous Peoples on climate risk assessment. The borrower/client will also undertake meaningful consultation where a project is intended to have only positive impacts to ensure that the impacts are indeed seen as positive by the project-affected Indigenous Peoples’ communities. The borrower/client will establish a context-specific strategy for inclusive and participatory consultation, including approaches for identifying appropriate Indigenous Peoples’ representatives, and consultation methods appropriate to the social and cultural values of the project-affected Indigenous Peoples’ communities. The borrower/client’s consultation process will provide sufficient time for Indigenous Peoples’ collective decision-making processes and will pay special attention to the concerns of indigenous women, youth, people with disabilities, and people with other disadvantages or vulnerabilities. The borrower/client will assess the willingness and capacity of the Indigenous Peoples’ communities to participate in consultation activities and where required, build such capacities prior to the commencement of meaningful consultation.

14. The borrower/client will carry out meaningful consultation in a manner proportionate to a project’s risks to and impacts on project-affected Indigenous Peoples’ communities. The borrower/client will document the consultation process and reflect its results in the Indigenous Peoples plan (IPP) or other form of documentation, as appropriate. For purposes of this ESS7, other forms of documentation will include an Indigenous Peoples planning framework (IPPF), Environmental and Social Management System, or other management tools described in ESS1.

C. Indigenous Peoples Planning

15. The borrower/client will engage qualified and experienced experts to prepare an IPP or other form of documentation, as appropriate based on an impact assessment as described in paras 10-12. The borrower/client, in consultation and in agreement with ADB, may propose an alternative title to IPP based on the national context. The borrower/client will also ensure that the IPP reflects the results of the meaningful consultation with project-affected Indigenous Peoples’ communities. The level of detail and comprehensiveness of an IPP will vary depending on the specific project and the nature of risks and impacts to be addressed. In the IPP, the borrower/client will set out measures to ensure that (i) potential adverse impacts on Indigenous Peoples are avoided to the maximum extent possible and (ii) project-affected Indigenous Peoples receive culturally appropriate social and economic benefits and meaningfully participate in project preparation and implementation processes. Where avoidance is not possible, based on meaningful consultation with project-affected Indigenous Peoples’ communities, the borrower/client will, in the IPP, outline measures to minimize, mitigate, and/or compensate for the adverse impacts. The borrower/client will integrate the elements of the IPP into a project’s design. An indicative outline of an IPP is provided in Annex 1 of this ESS7.

16. The borrower/client will prepare an IPPF for projects or project sub-components which have not completed the final detailed design of project facilities and where the nature and magnitude of project risks to and impacts on Indigenous Peoples’ communities is still uncertain during project preparation. The IPPF will establish a project’s general principles, approach, and procedures for the assessment and mitigation of all potential risks to and impacts on Indigenous
Peoples and for preparation of the future IPP. The IPPF will clearly outline the procedures for conduct of FPIC and specific requirements as set out in this ESS7. An indicative outline of an IPPF is provided in Annex 2 of this ESS7.

17. When a project will potentially affect remote groups of Indigenous Peoples with limited external contact, also known as peoples “in voluntary isolation,” “isolated peoples”, or peoples “in initial contact,” the borrower/client will take appropriate measures to recognize, respect, and protect their land and territories, environment, health, and culture, and to avoid all undesired contact with them as a consequence of a project. The borrower/client will not process further the aspects of a project that would result in such undesired contact.

18. The borrower/client and project-affected Indigenous Peoples will jointly identify mitigation measures in alignment with the mitigation hierarchy described in ESS1 as well as opportunities for culturally appropriate and sustainable development benefits from a project. The scope of mitigation measures will include social and cultural as well as physical impacts. The borrower/client will ensure the timely delivery of agreed measures to project-affected Indigenous Peoples.

19. Factors such as the nature of a project, the project context, and the vulnerability of project-affected Indigenous Peoples will affect how they will benefit from a project. The borrower/client will identify opportunities that address the goals and preferences of the project-affected Indigenous Peoples, including improving their standard of living and Indigenous livelihoods in a culturally appropriate manner.

20. In determining, delivering, and distributing compensation and sharing benefits to project-affected Indigenous Peoples, the borrower/client will take account of the institutions, rules, and customs of the affected Indigenous Peoples as well as their level of interaction with the mainstream society. Eligibility for compensation may be collective or individual or a combination of both. Where compensation is on a collective basis, the borrower/client will, as far as practicable, define and implement mechanisms that promote the effective distribution of compensation to all eligible members of an Indigenous Peoples’ community, or collective use of compensation in a manner that benefits all members of the community. Compensation for lost assets including customary land-related losses will be paid in accordance with provisions under ESS5.

21. When Indigenous Peoples are the sole or the overwhelming majority of direct project beneficiaries, and when only positive impacts are identified, the borrower/client may include the elements of an IPP in the overall project design in lieu of preparing a separate IPP. In such cases, the borrower/client will proactively engage with the project-affected Indigenous Peoples to ensure their participation in the project design, implementation, and monitoring and evaluation. The borrower/client will also meaningfully consult with them as to the cultural appropriateness of proposed services or activities and will seek to identify and address any economic or social constraint that may limit opportunities to benefit from or participate in a project. The borrower/client will include in project documents a summary of how a project complies with this ESS7. In particular, project documents will explain how the borrower/client has complied with requirements for meaningful consultation or seeking FPIC from the affected Indigenous Peoples, if required, and how the borrower/client has integrated accrual of benefits in a culturally appropriate way into a project’s design.

22. When Indigenous Peoples are not the sole or overwhelming beneficiaries of a project, planning requirements will vary according to the nature and scale of a project’s potential risks and adverse or positive impacts. In such a project, the borrower/client will pay particular attention to
the Indigenous Peoples and design and implement a project in a manner that provides project-affected Indigenous Peoples’ communities with equitable access to project benefits. The concerns or preferences of project-affected Indigenous Peoples will be addressed through meaningful consultation and project design. The borrower/client will prepare a time-bound IPP setting out measures or actions proposed. An IPP will summarize the consultation outcomes and describe how Indigenous Peoples’ issues have been addressed in the project design. The borrower/client will also describe in a project’s stakeholder engagement plan the arrangements for ongoing meaningful consultation with and continued participation of project-affected Indigenous Peoples during project implementation. In some circumstances and with due justification, the borrower/client will prepare a broader community development plan addressing all beneficiaries of a project and incorporating necessary information on how the plan meets the requirements of this ESS7 relating to project-affected Indigenous Peoples’ communities.

23. The borrower/client will update the IPP following the completion of any detailed engineering design and detailed measurement surveys, as necessary. As part of the update, the borrower/client may adjust mitigation measures to avoid adverse impacts on Indigenous Peoples and any measures to enhance culturally appropriate development benefits, but the agreed outcomes as specified in the draft IPP will not be lessened or minimized. If new or additional groups of Indigenous Peoples are identified prior to submission of the final IPP to ADB and are determined to be project-affected, the borrower/client will undertake meaningful consultation with them or seek their FPIC if required, and update the IPP.

24. The borrower/client will engage internationally recognized experts, including an Indigenous Peoples expert who is not affiliated with a project, for High Risk and Substantial Risk projects that are contentious, involve serious and multidimensional issues, and generally have interrelated potential environmental and social (E&S) risks and impacts on Indigenous Peoples. These experts may be engaged individually or as an advisory panel during the preparation and implementation phases of a project cycle.

25. In cases where project activities or operations have already commenced, the borrower/client will provide all relevant information and documents to demonstrate that it has sought and acted upon the opinions of project-affected Indigenous Peoples. If, in such cases, the requirements of this ESS7 have not been satisfied, the borrower/client will carry out an impact assessment as specified in paras 10-12. In such assessment, the borrower/client will also: (i) review the effects to date on the lives and indigenous livelihoods of project-affected Indigenous Peoples; (ii) identify any gaps with the requirements of this ESS7; and (iii) identify the corrective actions that may be required to achieve the intended outcomes of this ESS7. The borrower/client will then agree to a time bound action plan with ADB. Where such existing activities were not undertaken in anticipation of a project, ESS1 requirements on existing facilities and activities will apply.

26. During project implementation, the borrower/client will ensure that necessary actions are taken and agreed benefits or improvements to services are delivered in accordance with the IPP. The borrower/client will also ensure that the actions or measures required in the IPP are sufficiently budgeted.

27. If there are significant changes to a project that result in additional risks to and impacts on Indigenous Peoples, the borrower/client will meaningfully consult with the project-affected Indigenous Peoples’ communities on how to mitigate these risks and impacts and will update the IPP, and the environmental and social commitment plan (ESCP)/environmental and social action plan (ESAP) accordingly, setting out any additional mitigation measures described in ESS1.
D. Grievance Mechanism

28. As early as feasible, the borrower/client will establish a grievance mechanism as described in ESS10 to receive and facilitate resolution of the project-affected Indigenous Peoples’ concerns, complaints, and grievances. The borrower/client will scale the grievance mechanism proportionately to the potential risks and impacts of a project. The borrower/client will address concerns and complaints promptly, using an understandable and transparent process that is culturally appropriate, gender responsive, and accessible to the project-affected Indigenous Peoples’ communities at no cost to them and without threat of reprisal. The borrower/client will ensure that the grievance mechanism will not impede access to the host country’s judicial or administrative remedies, and also takes into account the availability of customary dispute settlement mechanisms and customary laws, as appropriate. The borrower/client will appropriately inform project-affected Indigenous Peoples’ communities about the grievance mechanism. The borrower/client will ensure that the grievance mechanism provides Indigenous Peoples culturally appropriate options for submitting their grievances.

29. The borrower/client will design the grievance mechanism to: (i) keep complainants' identities confidential, especially in instances where the complainants fear reprisal; (ii) provide for interpretation/translation to overcome language barriers/limitations; (iii) publicly advertise procedures that identify the means for submitting grievances, setting out the length of time complainants can expect to wait for acknowledgment, response, and resolution of their grievances, descriptions of the transparency of the procedures, and the governing and decision-making structures; and (iv) establish measures to ensure anonymity and protect complainants from retaliation. The borrower/client will encourage and support the engagement of independent indigenous experts as part of the grievance mechanism.

E. Unanticipated Impacts

30. If unanticipated impacts on Indigenous Peoples, such as a change in a project’s footprint, become apparent during project implementation, the borrower/client will carry out an impact assessment as set out in paras 10-12 and in a timely and effective manner will update the IPP and/or or formulate a new IPP and/or IPPF, including conduct of meaningful consultation or seeking FPIC, if required.

V. SPECIAL REQUIREMENTS

A. Free, Prior, and Informed Consent of Affected Indigenous Peoples

31. Indigenous Peoples may be particularly vulnerable to the loss of, alienation from, or exploitation of their land and access to natural and cultural resources. Recognizing this vulnerability, in addition to the general requirements on meaningful consultation in paras 13-14 and those described in ESS10, the borrower/client will obtain FPIC of project-affected Indigenous Peoples, in accordance with the following paras, when a project will:

(i) have adverse impacts on land and natural resources subject to traditional ownership or under customary use or occupation;
(ii) cause relocation of Indigenous Peoples’ communities from land and natural resources subject to traditional ownership or under customary use or occupation;
(iii) have significant impacts on Indigenous Peoples’ cultural heritage that is material to their identity and culture, and/or to ceremonial and/or spiritual aspects of their
lives.

32. FPIC applies from a project’s concept design phase to the end of the implementation phase of a project cycle. FPIC builds on and expands the process of meaningful consultation described in ESS10 and paras 13-14 and will be established through good faith negotiation between the borrower/client and project-affected Indigenous Peoples’ communities. The borrower/client will engage external experts, including Indigenous Peoples’ organizations where possible, to assist in identification of a project’s risks and impacts and in conducting and documenting the FPIC process.

33. FPIC does not require unanimity and may be achieved even when individuals or groups within or among project-affected Indigenous Peoples’ communities explicitly disagree. For the purpose of this ESS7, consent refers to the collective support of project-affected Indigenous Peoples’ communities for project activities that affect them, reached through a culturally appropriate process. It may exist even if some individuals or groups object to such project activities.

34. The borrower/client will document: (i) the mutually accepted process to carry out good faith negotiations that has been agreed by the borrower/client and the Indigenous Peoples who are potentially project-affected; and (ii) the outcome of the good faith negotiations between the borrower/client and Indigenous Peoples, including all agreements reached as well as dissenting views. The borrower/client will submit the documentation of the FPIC process, as part of the IPP, to ADB for review. The borrower/client will ensure that the IPP describes agreements reached between the borrower/client and potentially project-affected Indigenous Peoples and includes the actions necessary to implement those agreements. During implementation, the borrower/client will ensure that necessary actions are taken and agreed benefits or improvements to services are delivered in a timely manner.

35. FPIC is required to be ascertained by the time of project appraisal. When the FPIC of potentially project-affected Indigenous Peoples cannot be ascertained, the aspects of a project relevant to those affected Indigenous Peoples for which the FPIC cannot be ascertained will not be processed further. Where ADB has made the decision to continue processing a project other than the aspects for which the FPIC of the project-affected Indigenous Peoples cannot be ascertained, the borrower/client will ensure that no adverse impacts result on such Indigenous Peoples during the implementation of the project.

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

36. Indigenous Peoples are closely connected with land, forests, water, wildlife, and other natural resources, and therefore special considerations apply if a project affects such ties. In this situation, when carrying out the assessment for Indigenous Peoples and preparing an IPP or IPPF, as appropriate, the borrower/client will pay particular attention to the following:

(i) the customary rights of the Indigenous Peoples, both individual and collective, pertaining to ancestral domains, lands, or territories that they traditionally own or customarily use or occupy, and where access to natural resources is vital to the sustainability of their cultures and livelihood systems;
(ii) the need to protect such ancestral domains, lands, and resources against illegal intrusion or encroachment;
(iii) the cultural and spiritual values that the Indigenous Peoples attribute to such
lands and resources;

(iv) the Indigenous Peoples’ natural resources management practices and the long-term sustainability of such practices; and

(v) the need to rehabilitate the livelihood systems and socio-cultural practices of Indigenous Peoples who have been evicted from their lands.

37. Indigenous Peoples’ land is often traditionally owned or under their customary use or occupation. While some Indigenous Peoples may not possess legal title to land as defined by the host country’s applicable laws, their use of the land, including seasonal or cyclical use, for their livelihoods, or for cultural, ceremonial, and spiritual purposes that define their identity and community, can often be substantiated and documented. Where a project involves (i) activities that are contingent on establishing legally recognized rights to lands and territories that Indigenous Peoples have traditionally owned or customarily used or occupied, or (ii) the acquisition of such lands, the borrower/client will prepare a plan for the legal recognition of such ownership, occupation, or usage, with due respect to the customs, traditions, and land tenure systems of the Indigenous Peoples. The objective of such a plan will be (i) full legal recognition of Indigenous Peoples’ existing customary land tenure systems; or (ii) conversion of customary use to communal and/or individual ownership rights. If neither option is possible under the host country’s applicable laws, the borrower/client will ensure that the plan includes measures for the legal recognition of Indigenous Peoples’ perpetual or long-term renewable custodial or use rights.

38. If a borrower/client proposes to locate a project or commercially develop natural resources on land traditionally owned by or under the customary use or occupation of Indigenous Peoples, the borrower/client will take the following steps, obtain their FPIC, and:

(i) document efforts to avoid and otherwise minimize the area of land proposed for a project;

(ii) document efforts to avoid and otherwise minimize impacts on natural resources and natural areas of importance to Indigenous Peoples;

(iii) identify and review all property interests, tenurial arrangements, and traditional resource uses prior to purchasing, leasing or, as a last resort, undertaking land acquisition;

(iv) assess and document the potentially project-affected Indigenous Peoples’ resource uses without prejudicing any Indigenous Peoples’ land claim. The borrower/client will ensure that assessment of land and natural resource use will be gender-inclusive and specifically consider women’s role in the management and use of these resources; and

(v) ensure that project-affected Indigenous Peoples’ communities are informed of their land rights under the host country’s applicable laws, including those laws recognizing customary use rights, the scope and nature of a project, and the potential impacts of a project.

39. Where a project promotes commercial development of Indigenous Peoples’ land or natural resources, the borrower/client will afford due process, and offer compensation together with culturally appropriate sustainable development opportunities to project-affected Indigenous Peoples, at least equivalent to that to which any landowner with full legal title to the land would be entitled, including:

1 Conversion of customary usage rights to individual ownership rights will only be an objective following consultation with the Indigenous Peoples concerned and assessment of the impacts of such conversion on the communities and their livelihood.
providing fair lease arrangements or, where land acquisition is necessary, providing land-based compensation or compensation in kind in lieu of cash compensation where possible. If circumstances prevent the borrower/client from offering suitable replacement land, the borrower/client must provide verification that such is the case. Under such circumstances, the borrower/client will provide non-land-based income-earning opportunities over and above cash compensation to Indigenous Peoples’ communities;

(ii) ensuring continued access to natural resources, identifying the equivalent replacement resources or, as a last option, providing compensation and identifying alternative livelihoods if project development results in the loss of access to and the loss of natural resources independent of project land acquisition;

(iii) enabling Indigenous Peoples to share equitably in the benefits to be derived from the commercial development of the land or natural resources where the borrower/client intends to utilize land or natural resources that are central to the identity and livelihood of project-affected Indigenous Peoples and their use exacerbates livelihood risks; and

(iv) providing project-affected Indigenous Peoples access to, use of, and transit on land the borrower/client is developing subject to overriding health, safety, and security considerations.

C. Relocation of Indigenous Peoples’ Communities

40. The borrower/client will explore to the maximum extent possible alternative project designs to avoid relocation of Indigenous Peoples’ communities from land that is communally held or occupied or land to which Indigenous Peoples have collective attachment and natural resources that are subject to traditional ownership or customary use or occupation. If such relocation is unavoidable, the borrower/client will not proceed with a project unless FPIC has been obtained as set out in paras 31-35. The borrower/client will not resort to forced eviction, and any relocation of Indigenous Peoples will meet the requirements of ESS5. Where possible, the borrower/client will ensure that relocated Indigenous Peoples’ communities will be able to return to their traditional or customary land, should the cause of their relocation cease to exist.

D. Cultural Heritage

41. Where a project may significantly impact cultural heritage, both tangible and intangible, that is material to the identity and/or cultural, ceremonial, or spiritual aspects of project-affected Indigenous Peoples’ lives, priority will be given to the avoidance of such impacts. Where significant project impacts are unavoidable, the borrower/client will obtain the FPIC of the project-affected Indigenous Peoples. Cultural heritage is defined in ESS8 and includes natural areas with cultural and/or spiritual value such as sacred groves, sacred bodies of water and waterway, sacred mountains, sacred trees, sacred rocks, burial grounds and sites.

42. When a borrower/client proposes to use the cultural heritage of Indigenous Peoples’ communities for commercial purposes, the borrower/client will inform the project-affected Indigenous Peoples’ communities of: (i) their rights under the host country’s applicable laws; (ii) the scope and nature of the proposed commercial development; and (iii) the potential consequences of such development; and (iv) obtain their FPIC. The borrower/client will also enable Indigenous Peoples’ communities to share equitably in the benefits to be derived from commercial development of such cultural heritage, consistent with the customs and traditions of
the Indigenous Peoples.

E. Private Sector Responsibilities Where Government is Responsible for Managing Indigenous Peoples Issues

43. Where the government has a defined role in the management of Indigenous Peoples issues in relation to a 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 ESS7. 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. The client will prepare a plan that together with the documents prepared by the responsible government agency will address the relevant requirements of this ESS7. The client may need to include (i) the plan, implementation, and documentation of the process of informed consultation and participation 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 ESS7; and (iv) the financial and implementation responsibilities of the government agency and/or the client.

F. Indigenous Peoples and Development

44. ADB’s developing member countries, borrowers/clients, and Indigenous Peoples’ organizations may ask ADB to support them in their development planning and poverty reduction strategies by providing financial assistance for initiatives, such as the following:

   (i) strengthen local legislation to establish legal recognition of the customary or traditional land tenure systems of Indigenous Peoples;
   (ii) enhance participation by Indigenous Peoples in the development process by incorporating their perspectives into the design of development programs and poverty reduction strategies and providing them with opportunities to benefit more fully from development programs through policy and legal reforms, capacity building, and meaningful consultation, participation, and empowerment;
   (iii) support the development priorities of Indigenous Peoples through programs developed by governments in cooperation with Indigenous Peoples;
   (iv) address the gender and intergenerational issues that exist among many Indigenous Peoples, including the special needs of indigenous women, youth, and children;
   (v) prepare participatory profiles of Indigenous Peoples to document their culture, demographic structure, gender and intergenerational relations, and social organization, institutions, production systems, religious beliefs, and resource use patterns;
   (vi) strengthen the capacity of Indigenous Peoples’ communities and Indigenous Peoples’ organizations to prepare, implement, monitor, and evaluate development programs;
   (vii) strengthen the capacity of government agencies responsible for providing development services to Indigenous Peoples;
   (viii) preserve and respect indigenous knowledge, including strengthening intellectual property rights; and
   (ix) facilitate partnerships among the government, Indigenous Peoples’ organizations, civil society organizations, and the private sector to promote Indigenous Peoples’ development programs.
VI. MONITORING AND DISCLOSURE

45. The borrower/client will monitor, measure, and assess the progress of implementation of the IPP and/or IPPF and whether the IPP’s/IPPF’s objectives and desired outcomes, including non-tangible impacts and outcomes, have been achieved. The scope of monitoring activities will be proportionate to a project’s risks and impacts. In addition to recording information to track performance, the borrower/client will use mechanisms such as inspections and audits to verify compliance with requirements and progress toward achieving the desired outcomes. For a project with potentially significant adverse impacts on Indigenous Peoples, the borrower/client will retain qualified, credible, and experienced external experts or qualified civil society organizations to verify monitoring information. The external experts engaged by the borrower/client will advise on compliance with the IPP and/or IPPF requirements, and identify any unanticipated Indigenous Peoples issues. If any noncompliance is found, the borrower/client will timely prepare a corrective action plan. The borrower/client will promptly implement the corrective actions and follow up on these actions to ensure their effectiveness. The borrower/client will prepare and submit semi-annual monitoring reports on the progress of IPP and/or IPPF implementation, highlighting compliance issues and corrective actions, if any. The frequency of monitoring reports will be determined by the complexity and risks associated with a project’s impacts. The borrower/client will reflect the costs of monitoring requirements in project budgets. Monitoring reports will be disclosed to the affected Indigenous Peoples’ communities.

46. The borrower/client will submit for disclosure on the ADB website a draft IPP and/or IPPF endorsed by the borrower/client before project appraisal or final credit approval. The final IPP, any new or updated IPP and/or IPPF, a corrective action plan prepared during implementation, if necessary, and the monitoring reports will also be submitted in a timely manner to ADB for disclosure on the ADB website.

47. The borrower/client will provide relevant information, including information from the IPP and/or IPPF and any action plan, in a timely manner, in an accessible place, and in a form and language(s) understandable to project-affected Indigenous Peoples and other project-affected persons. If the project-affected Indigenous Peoples have literacy barriers, the borrower/client will meaningfully consult with them to identify and use other appropriate communication methods.
Annex 1: OUTLINE OF AN INDIGENOUS PEOPLES PLAN (IPP)

This outline of an Indigenous Peoples plan (IPP) is for the requirements of this ESS 7 for projects with risks to and impacts on Indigenous Peoples. The level of detail and comprehensiveness of the IPP would be proportionate to the significance of potential impacts on Indigenous Peoples. The substantive aspects of this outline will guide the preparation of IPPs, although not necessarily in the order shown. A borrower/client, in lieu of IPP, could use an alternate title based on the national nomenclature for Indigenous Peoples of a developing member country (DMC) in consultation and in agreement with ADB.

A. Executive Summary
This section presents a concise summary of the IPP describing critical facts, significant findings, and recommended actions.

B. Description of the Project
This section provides a general description of the project; discusses project components and activities that may bring risks to and impacts on Indigenous Peoples; and identifies the project-affected area. Maps of the project area indicating Indigenous Peoples’ presence, if available, should be included.

C. Project Impact Assessment for Indigenous Peoples
This section provides a comprehensive characterization of the Indigenous Peoples’ communities and details of impact assessments undertaken for a project or project sub-components impacting Indigenous Peoples. It will clearly outline the quantitative and qualitative methodological tools used for impact assessment and will demonstrate how the impact assessment has used participatory tools to enhance Indigenous Peoples’ participation in the conduct of impact assessment. This section:

(i) Identifies all affected Indigenous Peoples’ communities within the project-affected area, who will be affected directly or indirectly by the project;

(ii) Provides baseline information on the demographic, social, cultural, and political characteristics of the affected Indigenous Peoples’ communities; the land and territories that they have traditionally owned or customarily used or occupied; land tenure systems and customary uses of land; the natural resources on which they depend; community and governance structures including decision making mechanisms; a description of Indigenous community’s world-view, way of life, gender and intergenerational relationships including inheritance and property rights; religious orientation such as animism, naturism, ancestor worship;

(iii) Reviews the DMC’s legal and institutional framework including commitments to international conventions and treaties applicable to Indigenous Peoples, identifies gaps with respect to the requirements under this ESS 7 and provides gap-filling measures;

(iv) Includes a gender-sensitive assessment of the affected Indigenous Peoples’ perceptions about the project and its impact on their social, economic, and cultural status;

(v) Identifies and recommends, based on meaningful consultation with the affected Indigenous Peoples’ communities, the measures necessary to avoid adverse effects or, if such measures are not possible, identifies measures to minimize, mitigate, and/or compensate for such effects and to ensure that the Indigenous Peoples receive culturally appropriate benefits under the project.
D. Information Disclosure, Consultation and Participation
This section:

(i) Identifies key project stakeholders and elaborates a culturally appropriate and vulnerability and gender-sensitive process for meaningful consultation with Indigenous Peoples at each stage of project preparation and implementation;

(ii) Assesses, based on meaningful consultation with the affected Indigenous Peoples' communities and utilizing participatory assessment tools, potential adverse and positive effects of the project. Critical to the determination of potential adverse impacts is a gender-sensitive analysis of the relative vulnerability of, and risks to, the affected Indigenous Peoples’ communities given their particular circumstances and close ties to land and natural resources, as well as their lack of access to opportunities relative to those available to other social groups in the communities, regions, or national societies in which they live;

(iii) Describes the information disclosure, consultation and participation process with the affected Indigenous Peoples' communities that was carried out during project preparation. Establishes that the consultation process is undertaken in a culturally appropriate manner and has followed the Indigenous Peoples’ communities’ own specific requirements and ensured that all potential barriers to consultation process were addressed;

(iv) Summarizes Indigenous Peoples’ communities’ responses and comments on the results of the impact assessment and identifies concerns raised during consultation and how these have been addressed in project design;

(v) In the case of project activities requiring FPIC, documents the processes and outcomes of consultations with affected Indigenous Peoples’ communities and any agreement resulting from such consultations for the project activities and measures addressing the risks and impacts of such activities. Provides ADB’s own assessment and verification that FPIC for the project has been established;

(vi) Describes consultation and participation mechanisms to be used during implementation to ensure Indigenous Peoples’ participation during implementation;

(vii) Confirms disclosure of the draft and final IPP to the affected Indigenous Peoples' communities.

E. Beneficial Measures
This section provides description of culturally appropriate beneficial measures for the Indigenous Peoples’ communities to ensure that they are equal project beneficiaries. It will demonstrate the participatory methods used for developing beneficial measures in a culturally appropriate and gender responsive manner.

F. Mitigative Measures
This section specifies the measures to avoid adverse impacts on Indigenous Peoples; and where avoidance is not possible, specifies the measures to minimize, mitigate, and compensate for identified unavoidable adverse impacts for each affected Indigenous Peoples’ community. Risks of particular importance includes those related to Indigenous Peoples’ physical and cultural survival, territorial integrity, social organization and customary laws and economy. Project risks should include climate change scenarios, when appropriate.

G. Capacity Building
This section provides measures to strengthen the social, legal, and technical capabilities of (a) government institutions to address Indigenous Peoples’ issues in a project area; and (b) Indigenous Peoples’ organizations in the project area to enable them to represent the affected
Indigenous Peoples more effectively.

H. Grievance Mechanism
This section describes the procedures to redress grievances by affected Indigenous Peoples’ communities. It establishes clear time-lines and processes to redress grievances. It explains how the procedures are accessible to Indigenous Peoples in a culturally appropriate and gender-sensitive manner and where feasible ensures inclusion of Indigenous Peoples’ communities’ own customary dispute settlement mechanisms. The mechanism clearly demonstrates the way it will deal with any acts of reprisal and retribution against the complainants.

I. Monitoring, Reporting and Evaluation
This section describes the mechanisms and benchmarks appropriate to the project for monitoring and evaluating the implementation of the IPP. It also specifies arrangements for participation of affected Indigenous Peoples in the preparation and validation of monitoring and evaluation reports.

J. Institutional Arrangement
This section describes institutional arrangement responsibilities and mechanisms for carrying out the various measures of the IPP. It also describes the process of including relevant local organizations and civil society organizations in carrying out the measures of the IPP.

K. Budget and Financing
This section provides an itemized budget for all activities described in the IPP and a borrower/client’s commitment to provide the required budget in a timely manner.
Annex 2: OUTLINE OF AN INDIGENOUS PEOPLES PLANNING FRAMEWORK (IPPF)

The Indigenous Peoples planning framework (IPPF) sets out the requirements of this ESS 7 to be applied to a project or project sub-components that are not yet defined and will be assessed and prepared after the loan approval or during project implementation. The key objectives of the IPPF are to outline the procedures for screening, impact assessment, participation, consultation and information disclosure, and development of mitigative and beneficial measures and other requirements under an IPP once the project components, subprojects, and/or activities have been fully defined and assessment can be undertaken. The IPPF is a tool that supports preparation of an IPP once a project or sub-project is fully defined and IPP preparation processes can commence. IPPF does not substitute for an IPP and it is critical that any project activities that have risks to and impacts on Indigenous Peoples will not commence until the IPP is developed with the meaningful participation of the affected Indigenous Peoples, and FPIC where required, and appropriate mitigation measures are in place.

A. Executive Summary
This section presents a concise summary of the key processes that will be required for preparation of an IPP.

B. Introduction
This section briefly describes the project and its subprojects and/or components or activities likely to be proposed for financing and explains why the IPP for the whole project or some subprojects cannot be prepared before project appraisal.

C. Objectives and Policy Framework
This section: (i) clarifies the principles and objectives governing the preparation and implementation of IPP, and demonstrates how they are consistent with ESS 7 requirements; (ii) compares the host country’s applicable laws and this ESS 7, identifies the gaps if any and describes measures to fill the gaps; and (iii) describes the criteria for screening and selecting components, projects, and/or subprojects.

D. Identification of Affected Indigenous Peoples
This section: (i) describes how the ESS7 criteria for identifying groups that are considered Indigenous Peoples will be applied in the project; (ii) provides details related to the demographic, socio-cultural, economic, political, way of life, religious and spiritual aspects of the Indigenous Peoples who are most likely to be affected by the project or subprojects, and how such information will be collected; and (iii) delineates the potential positive and adverse effects of the project or subprojects on Indigenous Peoples.

E. Impact Assessment and IPP for Subprojects and/or Components
This section sets out procedures for carrying out an impact assessment for the project or subprojects or components that will be assessed once these get defined following the engineering design and establishment of project-affected area. The section outlines quantitative and qualitative impact assessment methods including relevant participatory methods for impact assessment that demonstrate affected Indigenous Peoples’ communities’ active engagement in the impact assessment process.

F. Consultation and Participation
This section outlines the mechanisms and strategy that will be adopted for the conduct of meaningful consultation with the affected Indigenous Peoples at each stage of subproject preparation and implementation. Provides guidelines on ensuring cultural appropriateness of
consultative process; provides for a gender-responsive consultative process and ensuring inclusion of vulnerable groups within the Indigenous Peoples’ communities; provides measures to deal with participation barriers such as language. For project activities requiring FPIC, this section outlines the mechanisms and procedures for documentation of the consultation process that establishes FPIC from affected Indigenous Peoples’ communities.

G. Information Disclosure
The section outlines disclosure arrangements, such as the information to be disseminated and the method and form of dissemination, to both affected Indigenous Peoples and the public.

H. Grievance Mechanism
This section discusses processes to establish culturally appropriate and gender-sensitive grievance redress mechanisms for affected Indigenous Peoples.

I. Institutional and Implementation Arrangements
This section describes institutional arrangements, including capacity building where necessary for screening and categorization, social impact assessment and preparation of IPPs, and monitoring.

J. Monitoring and Reporting Arrangements
This section identifies the steps taken to establish mechanisms and benchmarks appropriate for monitoring and reporting. It explains the way monitoring indicators will be formulated following impact assessment and a baseline will be established for monitoring and reporting.

K. Budget and Financing
This section provides an indicative budget, and identifies funding sources and responsibilities for allocating, approving, and delivering funds, including contingency arrangement.
ESS 8: CULTURAL HERITAGE

I. INTRODUCTION

1. This Environmental and Social Standard (ESS) 8 recognizes that cultural heritage, in its tangible and intangible forms, is a valuable and irreplaceable community connection between past, present, and future.

2. Tangible and intangible cultural heritage are important assets for economic and social development, a source of valuable scientific and historical information, and an integral part of people’s cultural identity and practice.

3. This ESS8 seeks to protect cultural heritage and to encourage its broader use as an enabler of sustainable development.

II. OBJECTIVES

a. Protect cultural heritage from adverse impacts of project activities, and support its conservation;

b. Address cultural heritage protection as an integral aspect of sustainable development;

c. Apply the mitigation hierarchy to avoid and minimize adverse impacts on cultural heritage;

d. Promote meaningful consultation with stakeholders regarding cultural heritage;

e. Promote the equitable sharing of benefits from the use of cultural heritage.

III. SCOPE OF APPLICATION

4. The applicability of this ESS8 is established during the environmental and social (E&S) assessment process described in ESS1. The term cultural heritage encompasses tangible and intangible cultural elements or artifacts, which may be recognized and valued at a local, regional, national, or global level and that merit conservation or protection, as follows:

(i) Tangible cultural heritage includes movable or immovable objects, sites, built heritage, and natural features and landscapes that have archaeological, paleontological, scientific, historical, architectural, religious, or other cultural significance. Tangible cultural heritage may be found in urban or rural settings and may be above or below ground or underwater and may be previously known or studied, or not. Human remains, whether part of an archaeological or landscape feature, graveyard, simple isolated gravesite, or if only a physical memorial of human life, constitute tangible cultural heritage.

(ii) Intangible cultural heritage includes practices, representations, expressions, knowledge, skills, and language as well as the associated instruments, objects, and artifacts, that communities and groups recognize as part of their cultural heritage, and which is transmitted from generation to generation, and which may be constantly recreated by those groups and communities as part of their interaction with nature and their history, and with other human groups.

5. The requirements of this ESS8 apply to intangible cultural heritage only if a physical component of a project will have an impact on such cultural heritage, or if a project intends to use intangible cultural heritage, such as traditional knowledge, innovations, or practices, for commercial or non-commercial purposes.
6. The requirements of this ESS8 will apply to all projects likely to have risks for or impacts on cultural heritage. This will include any project that:
   (i) Involves excavations, demolition, earth moving, flooding, inundation, or other changes in the physical environment;
   (ii) Is located within a legally protected heritage area or its buffer zone;
   (iii) Is located in, or in the vicinity of, a recognized cultural heritage site, whether legally protected or not; or
   (iv) Is specifically designed to support the conservation, management, or other use of cultural heritage, including commercial use.

7. Badly damaged, out of context, or inherently minor cultural remains, as determined by a subject-specific cultural heritage expert and in meaningful consultation with project-affected persons, do not constitute cultural heritage.

IV. GENERAL REQUIREMENTS

A. Assessing Impacts on Cultural Heritage

8. The borrower/client will site and design a project to avoid damage to cultural heritage. At an early stage of the E&S assessment process described in ESS1, the borrower/client will use good international practice (GIP) to be agreed with ADB to identify the likelihood of adverse project impacts on cultural heritage, the level of significance of each instance of cultural heritage, and the magnitude of its loss through adverse impacts.

9. The borrower/client will ensure that the assessment of cultural heritage is conducted by qualified and experienced cultural heritage experts, as part of the E&S assessment process under ESS1, and in a manner proportionate to the potential E&S risks and impacts of a project.

10. During the assessment process, the borrower/client will consider direct and cumulative project-specific risks and impacts on cultural heritage. The borrower/client will also identify and mitigate indirect impacts that may include visual effects, noise, vibration, and other changes to the setting or surrounding landscape. The borrower/client will ensure that the assessment identifies and considers the significance of each instance of cultural heritage to its primary users, those entrusted with its protection, and project-affected persons. Where expert advice or stakeholder feedback after meaningful consultation indicates the likelihood of cultural heritage, the borrower/client will conduct desk-based research and field surveys to document, map, and investigate such resources. Based on the results of field surveys, expert assessment of the significance of cultural heritage, requirements of national legislation, applicable international conventions, and results of meaningful consultations with stakeholders, the borrower/client may be required to conduct additional studies.

11. The borrower/client will document the location and characteristics of sites and materials discovered or identified during the concept design, preparation, and implementation phases of a project cycle in consultation with international, national, or sub-national cultural heritage authorities. The borrower/client will coordinate with such authorities to either take custody or determine the ownership or custodial responsibility of materials and records in relation to cultural heritage discovered or identified, in accordance with the host country’s applicable laws. Where a project may have unavoidable significant adverse impacts on cultural heritage, both tangible and intangible, that are material to the identity and/or cultural, ceremonial, or spiritual aspects of project-affected Indigenous Peoples, the borrower/client will obtain free, prior and informed consent (FPIC) of project-affected Indigenous Peoples in accordance with ESS7.
locations of heritage sites, the borrower/client will ensure that the project design process avoids or minimizes risks to and impacts on discovered or identified sites and materials that remain in place.

12. For legally protected cultural heritage, the borrower/client will follow the applicable protection measures specified in associated management documents associated with such cultural heritage. Where absent, the borrower/client will consult those entrusted to protect the cultural heritage and may apply measures recommended through the meaningful consultation process. For cultural heritage assessment based on community values, the level of significance will be determined, and corresponding protection measures will be adopted, in meaningful consultation with the community.

13. In addition to assessing and mitigating direct physical impacts on cultural heritage, considerations of setting may be particularly important to users’ experience in relation to built heritage, landscape features with cultural significance, burial sites, and archeological sites with above-ground features.

14. The borrower/client will evaluate cultural heritage using a methodology that includes local, community-determined values, established levels of legal protection, and the value of the cultural heritage as a resource for future study. The borrower/client will evaluate all cultural heritage in a manner that allows comparison with other resources addressed by the E&S assessment process set out in ESS1.

15. As a part of the E&S assessment process, the borrower/client will carry out meaningful consultation with stakeholders, in accordance with ESS10, to: (i) identify cultural heritage that may be affected by a project; (ii) consider the level of significance of the cultural heritage affected by a project; (iii) assess the potential risks and impacts to that cultural heritage; and (iv) explore avoidance, mitigation, and monitoring and reporting options. The borrower/client will provide information to stakeholders using transparent and appropriate language on the scope, location, and duration of project activities that could cause risks to and impacts on cultural heritage.

16. At any time during the concept design, preparation and implementation phases of a project cycle, the borrower/client may be required to engage additional subject-specific cultural heritage experts to assist in the identification, evaluation, and protection of potentially significant cultural heritage.

17. If there are significant changes to a project, or discoveries that indicate additional risks to and impacts on cultural heritage, particularly where these will impact project-affected persons, the borrower/client will meaningfully consult with relevant stakeholders and appropriate cultural heritage experts on how to mitigate these risks and impacts and determine if any additional mitigation measures would be required.

B. Mitigating Unavoidable Impacts

18. Where avoidance of adverse impacts is not possible, the borrower/client will identify and implement measures to address impacts on cultural heritage in accordance with the mitigation hierarchy described in ESS1. The mitigation hierarchy will be applied, and offsets will only be considered as a last resort.

19. The borrower/client will not remove any cultural heritage unless the following conditions are met:
(i) No alternatives to removal are available;
(ii) The overall benefits of a project substantially outweigh the significance of the cultural heritage to be lost;
(iii) Any removal or excavation is conducted after meaningful consultation and in accordance with the host country’s applicable laws, including those laws implementing host country obligations under international laws, and protected area management plans, and GIP may be considered as necessary.

20. The borrower/client will adopt GIP for desk and field-based assessment, documentation, and protection of cultural heritage throughout the concept design, preparation, and implementation phases of a project cycle. The borrower/client will ensure that contractors and other third parties engaged in a project adhere to this same requirement.

21. To address unavoidable impacts, the borrower/client will, in consultation with ADB, develop a cultural heritage management plan (CHMP). The CHMP will include an implementation timeline and an estimate of resource needs for the management measures that are anticipated. The borrower/client will ensure that the CHMP is developed by an appropriate cultural heritage expert, either as a standalone document or as a part of another document prepared in accordance with ESS1. The borrower/client will implement the CHMP and will ensure that contractors and other third parties engaged in a project comply with the requirements set out in the CHMP.

C. Confidentiality

22. The borrower/client, in consultation with ADB, cultural heritage experts, and project-affected persons, will determine whether disclosure of information regarding cultural heritage could compromise or jeopardize the safety or integrity of the cultural heritage either through unwanted public visiting or the risk of looting or clandestine excavation. If project-affected persons hold the location, characteristics, or traditional or indigenous use of the cultural heritage as confidential or otherwise sensitive, the borrower/client will put in place measures to maintain such confidentiality and, in consultation with ADB, omit the sensitive information from public disclosure.

D. User Access to Cultural Heritage

23. Where a project may temporarily or permanently prevent user access to previously accessible cultural heritage sites, including for activities such as pilgrimages, festivals, or religious events, the borrower/client will, based on meaningful consultations with project-affected persons, provide for continued access to the cultural heritage site, or will provide an alternative means of access, subject to overriding health, safety, and security considerations. The borrower/client will recognize that user access may be seasonal, intermittent, or undertaken by only a subset of the local population and therefore not be evident to a project team without targeted meaningful consultation on this issue.

E. Chance Find Procedure

24. The borrower/client will ensure that a procedure is in place for managing chance finds or any unanticipated discovery or recognition of tangible cultural heritage during project implementation. Such a procedure will include notification of relevant communities and legal authorities and the identification, documentation, and management of chance finds in accordance with the host country’s applicable laws and the requirements of this ESS8.
25. The borrower/client will include the requirement for a chance finds procedure in relevant physical works contracts and procurement documents, the applicable management tool determined under ESS1, and the CHMP, and will ensure that contractors and third parties engaged in a project comply with these requirements.

26. The borrower/client will not use the chance finds procedure as a substitute for assessment and management of cultural heritage impacts as part of the E&S assessment process described in ESS1 and this ESS8.

F. Legal Protection Status

27. As part of the E&S assessment process, the borrower/client will determine the presence of all recognized, designated, and protected cultural heritage or cultural heritage that is proposed for recognition, designation, or protection. If a project will be located within any such recognized, designated, or protected area or related buffer zone, the borrower/client will:

   (i) Comply with the host country’s applicable laws related to cultural heritage, and applicable international, national, and subnational cultural heritage requirements, and any management plans for such areas. The applicability of regional or international cultural heritage requirements to a project will be determined through the E&S assessment process described in ESS1;

   (ii) Consult with stakeholders, including the managers of such areas; and

   (iii) Implement measures for cultural heritage conservation in accordance with the measures set out in the area’s management plan. This may include additional programs, as appropriate, to promote and enhance the area’s cultural heritage objectives.

V. SPECIAL REQUIREMENTS FOR DIFFERENT TYPES OF CULTURAL HERITAGE

G. Archaeological Sites and Material

28. Archaeological sites comprise any combination of structural remains, artifacts, human remains, paleontological or ecological features and may be located partially or entirely beneath the ground or underwater. Human remains and fossils beds of all types are also considered archaeological material.

29. The borrower/client will determine, in meaningful consultation with archaeological experts and project-affected persons whether archaeological sites and material discovered during the concept design, preparation or implementation phases of a project cycle require: (i) preservation in place; (ii) excavation, study and documentation to standards indicated by the host country’s applicable laws or, if relevant, a GIP; or (iii) targeted and GIP-guided measures to offset unavoidable damage. The borrower/client will determine ownership and custodial responsibility for archaeological sites and material in accordance with the host country’s applicable laws and, until such time as custody has been transferred, will arrange for identification, labeling, secure storage, conservation, and accessibility to enable future study and public appreciation.
H. **Underwater Cultural Heritage**

30. Underwater *cultural heritage* includes (i) shipwrecks and associated materials; (ii) former terrestrial cultural heritage now inundated by water including lakes, rivers, or oceans; and (iii) modern conflict-related sunken ships or downed aircraft, which may also contain human remains.

31. If the borrower/client identifies actual or potential underwater *cultural heritage*, typically accomplished through the review of remote sensing data, the *mitigation hierarchy* should be applied in prioritizing avoidance by design. When the E&S assessment process indicates the potential existence of underwater cultural heritage, the borrower/client will engage a qualified archaeologist to identify potential underwater archaeological features.

I. **Burials / Human Remains**

32. The borrower/client will prioritize preservation in place of all human remains and their burial sites or monuments.

33. In *meaningful consultation* with *project-affected persons*, including descendant individuals and communities, the borrower/client will develop temporary or permanent marking of sites, if none are present and, where applicable, will use protective measures preferred by project-affected persons to avoid and protect remains that are located on or beneath the ground.

34. In cases where it is deemed necessary to identify, remove, and relocate human remains or related monuments from their original *setting*, the borrower/client will consult *project-affected persons*, including the descendant communities and individuals as well as, where specific conditions require, experts such as forensic archaeologists and remote sensing practitioners to establish locally appropriate identification and preservation measures.

J. **Built Heritage**

35. Built heritage refers to individual structures or groups of architectural works and their urban or rural *settings* that are viewed as representative of a particular historical period, a significant historic development, or a significant event. Built heritage thus includes groups of buildings, other structures, and open spaces constituting past or contemporary human settlements that are recognized as valuable from an architectural, historic, spiritual, or cultural perspective.

36. The borrower/client will determine, in *meaningful consultation* with built heritage experts and *project-affected persons*, whether built heritage will be subject to (i) identification and documentation according to the *host country’s applicable laws* or, if relevant, a GIP; (ii) avoidance; or (iii) targeted and GIP-guided measures to *offset* unavoidable impacts.

37. During any rehabilitation or restoration of built heritage, the borrower/client will maintain the authenticity of form, construction materials, and techniques of the structures in compliance with the *host country’s applicable laws*, and where there are no such requirements, in accordance with GIP to be agreed with ADB.

K. **Natural Features with Cultural Significance**

38. Natural features and landscapes may possess *cultural heritage* significance including the provision of cultural *ecosystem services*. Examples of such features include sacred hills,
mountains, streams, rivers, waterfalls, caves, and rocks; sacred trees or plants, groves, and forests; carvings or paintings on exposed rock faces or in caves; and other landscape features. The significance of such heritage may often be localized in small community groups or minority populations.

39. During the E&S assessment process described in ESS1, the borrower/client will document and report the measures taken to identify and protect such features in meaningful consultation with cultural heritage experts and project-affected persons. The borrower/client will coordinate these measures with the application of ESS6 and ESS7, where applicable.

L. Movable Cultural Heritage

40. Movable cultural heritage includes such objects as: historic or rare books and manuscripts; paintings, drawings, sculptures, figurines, and carvings; modern or historic religious items; historic costumes, jewelry, and textiles; fragments of monuments or historic buildings; archaeological material; and natural history collections such as fossils, shells, flora, or minerals. Public knowledge of and access to moveable cultural heritage resulting from a project may increase the vulnerability of cultural objects to theft, trafficking, inappropriate commercialization, or other abuse. The borrower/client will take measures to guard against theft and illegal trafficking, or other misuse of movable cultural heritage items affected by a project and will consult with project-affected persons and experts regarding any such activities.

M. Project Use of Cultural Heritage

41. Where a project proposes to use cultural heritage including traditional knowledge and techniques, or where a project proposes to enhance or develop a cultural heritage site that has long-standing association with a traditional or indigenous community, the borrower/client will:

   (i) Inform project-affected persons, including the traditional or indigenous users of a site or the holders of intangible cultural heritage, of their rights under the host country’s applicable laws, the scope and nature of the proposed commercial or non-commercial use or development, and the potential consequences of such use or development; and

   (ii) Enter into a documented good-faith negotiation process with project-affected persons, including the traditional or indigenous users of a site or the holders of intangible cultural heritage, to reach agreement on an arrangement that provides for fair and equitable sharing of benefits from the proposed use or development of such cultural heritage, consistent with their customs and tradition.

42. The borrower/client will not proceed with project use or development of cultural heritage unless project-affected persons, including the traditional or indigenous users of a site or the holders of the intangible cultural heritage, have agreed to an arrangement as described in para 41(ii).

VI. MONITORING AND DISCLOSURE

43. Depending on the level of risks and impacts with regards to cultural heritage in a project, the borrower/client may, in consultation with ADB, prepare additional studies and management tools that are required through this ESS8 and as relevant to the project and its risks and impacts.
As specified in ESS1, these will support the analysis of impacts and identification of mitigation measures and will be part of or may be annexed to the E&S assessment undertaken for a project.

44. The management tools as required by this ESS8 may include a cultural heritage plan, which may be prepared and disclosed as a standalone plan or as part of the project environmental and social management plan (ESMP).

45. The borrower/client will monitor the implementation of the E&S management tools prepared under this ESS8 in accordance with the requirements in the environmental and social commitment plan (ESCP)/environmental and social action plan (ESAP), ESS1, and ESS10.
ESS9: CLIMATE CHANGE

I. INTRODUCTION

1. This Environmental and Social Standard (ESS) 9 recognizes the urgency and importance of tackling climate change, which poses a global threat and reverses development gains. Effects of greenhouse gases (GHG) emissions, compounded by reduction of the planet’s carbon sinks, are altering the physical and biological environment and severely impacting economies, livelihoods, food security, health conditions, and quality of life of communities and individuals, disproportionately affecting disadvantaged or vulnerable communities.

2. In recognition of the increasing vulnerability of developing member countries (DMCs) to climate change risks and impacts, there is a need for promoting climate change mitigation and building climate resilience, in accordance with the host country’s commitments under international agreements.

II. OBJECTIVES

a. minimize absolute and relative GHG emissions attributable to a project by considering alternatives, and monitor and report project-related GHG emissions, where applicable;

b. Manage project-related climate risks and contribute to enhancing climate resilience.

III. SCOPE OF APPLICATION

3. The applicability of this ESS9 is established during the assessment process described in ESS1. This ESS9 sets out borrower/client requirements for assessing, managing, monitoring and reporting (i) a project’s absolute and relative GHG emissions and (ii) project-related climate risks.

A. General Requirements

4. Where a project emits GHG, the borrower/client will promote the reduction of such project-related GHG emissions, in a manner proportionate to the nature and scale of the project operations and impacts.

5. Where ADB has determined that a project has risk of climate change impacts and/or risk of increasing climate exposure or vulnerability of project-affected persons, the borrower/client will undertake a climate risk assessment as further described in para 12.

6. The borrower/client will provide adequate arrangements for implementation of project-related GHG reduction and climate change adaptation and resilience measures, as described in paras 8 and 13, respectively, with capacity enhancement where necessary, to ensure allocation of human and financial resources proportionate to the scope of identified climate risks, to the satisfaction of ADB.

7. The borrower/client will undertake meaningful consultation with project-affected persons, including disadvantaged or vulnerable groups and communities, on project-related GHG reduction measures, if any, and climate risk assessment including climate change adaptation and resilience measures, and any subsequent changes or updates to such measures and assessments.
B. Assessment, Monitoring, Reporting and Minimizing Project related GHG Emissions

8. To minimize the absolute and relative GHG emissions attributable to a project, the borrower/client will consider alternatives including adoption of energy efficiency, lower-carbon energy sources, renewable energy, alternative project locations, reduction of fugitive emissions, or other GHG management practices. The borrower/client will implement such measures where technically and financially feasible during the project preparation and design phase. Where such measures are adopted for implementation during a project, the borrower/client will include them in the environmental and social commitment plan (ESCP)/environmental and social action (ESAP).

9. The borrower/client will undertake an ex-ante estimation of absolute and relative GHG emissions of a project. Except for projects with absolute and relative GHG emissions between -20,000 tons of carbon dioxide equivalent and +20,000 tons of carbon dioxide equivalent per year, a borrower/client will disclose the ex-ante estimation to the stakeholders and submit the same to ADB for ADB’s disclosure in relevant project documents.

10. Where projects have an ex-ante estimation for absolute GHG emissions that is more than 20,000 tons of carbon dioxide equivalent per year, the borrower/client will monitor absolute GHG emissions annually and report the same to ADB. The GHG quantification assessment will be conducted in accordance with methodologies and practices advised by ADB.

11. If there are changes to a project that result in a significant increase in the relative GHG emissions, the borrower/client will update the assessment of absolute and relative GHG emissions of the project.

C. Assessment and Management of Climate Risks

12. A borrower/client will undertake climate risk assessment to: (i) establish the climate risk context of a project; (ii) assess climate risks to the project and the potential for the project to generate increased climate change vulnerability and/or exposure of project-affected persons; and (iii) identify and develop climate change adaptation and resilience measures to address identified climate risks of a project. The scope of the assessment will include, as applicable, climate change vulnerability of project-affected persons, physical assets, communities, institutions, and ecosystems associated with all stages of a project. The level of detail of the climate risk assessment is proportionate to the nature and scale of the potential risks and based on the data, information, and models available at the time of ADB’s project appraisal or final credit approval.

13. The borrower/client will integrate climate change adaptation and resilience measures into project design and implementation, where technically and financially feasible and proportionate to the nature and scale of a project, and monitor throughout a project cycle. Where such measures are adopted for implementation during a project, the borrower/client will include them in the project ESCP/ESAP.

14. If there are significant changes to a project or climate risk context that result in additional climate risk to the project and/or project-affected persons, the borrower/client will update the climate risk assessment and ESCP/ESAP accordingly, setting out additional risk management measures, as necessary.
ESS 10: STAKEHOLDER ENGAGEMENT AND INFORMATION DISCLOSURE

I. Introduction

1. This Environmental and Social Standard (ESS) 10 recognizes the importance of open, transparent, and safe engagement between the borrower/client and the persons affected by a project including local communities, host communities, project workers and worker representatives, and other project stakeholders. Effective stakeholder engagement and information disclosure proportionate to the nature and scale of a project can improve the environmental and social sustainability of projects, enhance project acceptance, and lead to improved social, environmental, and financial outcomes. Stakeholder engagement is consistent with the policy objectives of timely disclosure of project information, effective public participation in assessing a project's environmental and social (E&S) risks and impacts, and in decision-making processes, and reception and management of grievances and concerns.

2. Stakeholder engagement is an inclusive process initiated as early as possible in the project concept design phase, and conducted throughout the preparation and implementation phases of a project cycle. Stakeholder engagement sets up strong, constructive, and responsive relationships that are fundamental for successful assessment, management, and monitoring of a project's E&S risks and impacts and forms an integral part of informed decision making.

II. OBJECTIVES

a. Establish a systematic approach to stakeholder engagement that will help borrowers/clients develop and maintain a constructive and responsive relationship with their stakeholders;

b. Assess levels of stakeholder interest and support for a project through meaningful consultation, and enable stakeholders' views to be taken into account in the project development process, and in the implementation and monitoring of E&S performance;

c. Promote and provide the means for effective and inclusive engagement with stakeholders on issues that could potentially affect them throughout the preparation, and implementation phases of a project cycle;

d. Ensure appropriate project information on E&S risks and impacts is disclosed to stakeholders in a timely, understandable, and accessible manner and format;

e. Ensure the needs and concerns of disadvantaged or vulnerable project-affected persons are recognized and accounted for in the stakeholder engagement and information disclosure process;

f. Provide stakeholders with safe, accessible, and inclusive means to raise questions, proposals, concerns, and grievances, without threat of reprisal, and ensure that the borrower/client responds and manages them effectively.

III. SCOPE OF APPLICATION

3. The applicability of this ESS 10 is established during the E&S assessment process described in ESS1. The requirements of this ESS 10 apply to stakeholder engagement and information disclosure related to E&S risks and impacts as set out in ESSs1-9.
IV. GENERAL REQUIREMENTS

4. The borrower/client will engage with stakeholders throughout the concept design, preparation, and implementation phases of a project cycle. The borrower/client will commence stakeholder engagement as early as possible in the project concept design phase and in a timeframe that enables meaningful consultations with stakeholders on project design and will continue throughout the preparation and implementation phases of a project cycle as set out in a stakeholder engagement plan (SEP) as described in paras 11-14. The nature, scope, and frequency of stakeholder engagement will be proportionate to the nature and scale of a project, as well as to its potential E&S risks and impacts. Stakeholder engagement will be undertaken in a manner that is safe and accessible for stakeholders, without threats or actual coercion, intimidation, manipulation, force, or any form of reprisal.

5. Stakeholder engagement requires: (i) stakeholder identification and analysis; (ii) stakeholder engagement planning and implementation; (iii) information disclosure; (iv) meaningful consultation; (v) monitoring and reporting; and (vi) addressing and responding to grievances.

6. The borrower/client will maintain and disclose, as part of the E&S assessment process as described in ESS1, a documented record of stakeholder engagement. Such record will include a description of the stakeholders consulted, a summary of the feedback received, and a brief explanation of how the feedback was taken into account, or the reasons why it was not.

7. The term "stakeholder" refers to individuals, communities, or groups who: (i) are affected or likely to be affected by a project, and are referred to as “project-affected persons”; and (ii) may have an interest in a project, and are referred to as “other interested parties”.

8. All disclosure requirements set out in this ESS10 and other ESSs are guided by ADB’s Access to Information Policy (2018), including the exceptions to disclosure. The borrower/client will agree with ADB on the management of confidential information or personal information especially for project-affected persons, including the timing and content of the disclosure of such information.

V. SPECIFIC REQUIREMENTS

A. Stakeholder Engagement during Project Development Process

a). Stakeholder Identification and Analysis

9. The borrower/client will identify and document the different stakeholders, how they may be affected by a project, and what interests and concerns they might have at the time of project preparation.

10. The borrower/client will undertake a stakeholder analysis that will provide sufficient levels of information and disaggregation to enable the borrower/client to determine the nature, scope, and methods of the engagement process that are appropriate for a project. During stakeholder identification and analysis, the borrower/client will pay particular attention to, and prioritize, identifying and analyzing those project-affected persons with emphasis on those deemed disadvantaged or vulnerable, or who may face systemic barriers to stakeholder engagement based on discrimination or social exclusion, and who may need different or separate forms of engagement.
When stakeholder engagement with local individuals and communities depends substantially on community representation, the borrower/client will make reasonable efforts to verify that such persons represent the views of those individuals and communities and that they are facilitating the communication process in an appropriate manner.

**b). Stakeholder Engagement Plan**

11. A borrower/client will undertake stakeholder engagement planning, in consultation with ADB, and develop an SEP proportionate to the nature and scale of a project and to its potential **E&S risks and impacts**, and implement the SEP. The SEP may be a standalone document or may be a part of another document prepared in accordance with ESS1. The borrower/client will endorse and disclose the SEP and will also submit the SEP to ADB for disclosure as early as possible in project preparation but no later than ADB’s project appraisal or final credit approval. If significant changes are made to the SEP, the borrower/client will disclose the updated SEP in a timely manner and will submit to ADB for disclosure.

12. The SEP will outline stakeholder engagement undertaken and to be undertaken, clarify roles and responsibilities, identify necessary resources and timelines, and serve as a guiding document for stakeholder engagement and adaptive management, and specify the phases of a **project cycle** where stakeholder engagement will be needed. The borrower/client will ensure that the SEP includes stakeholder analysis and identification and describes the stakeholder consultation and participation mechanisms for different types of stakeholders at different phases of a project cycle to address **E&S risks and impacts**. The SEP will describe the type of information sought from **project-affected persons** and **other interested parties**, and how outputs from **meaningful consultation** and participation will be documented. The SEP will also describe planned information disclosure measures, including the type of information to be disclosed, the method of dissemination, and how continuing stakeholder participation will be facilitated during project implementation. It will include provision for additional stakeholder engagement in the event of any unanticipated E&S risks and impacts.

13. The SEP will reflect how concerns, recommendations, and managing risks will be addressed in project design and mitigation measures. The borrower/client will ensure that the SEP takes into account the interests of all relevant **stakeholders**, summarizing comments, needs, and concerns received from **project-affected persons** and **other interested parties**, with special attention to the views of **disadvantaged or vulnerable** persons and groups, women, and different age groups, and how they will be addressed. The SEP will also describe data privacy procedures, including how sensitive or confidential information collected through ESSs will be managed and protected.

14. Where specific sub-projects or investments using ADB financing are not known, or where specific locations or alignments of major infrastructure or project facilities are uncertain at the time of ADB’s project appraisal or final credit approval, the borrower/client will ensure that the SEP will take a framework approach and establish: (i) general principles; (ii) a strategy to identify stakeholders; and (iii) a strategy for meaningful engagement in accordance with this ESS10 that will be implemented once the location is known.
c). **Information Disclosure**

15. The borrower/client will provide stakeholders with access to the following information as early as possible in a project cycle and in a timeframe that enables meaningful consultations with stakeholders on project design:

(i) The purpose, nature, and scale of a project;
(ii) The expected duration of proposed project activities;
(iii) Potential E&S risks and impacts of the project on local communities, and the proposals for avoiding, minimizing, or mitigating these, including the differentiated measures taken for disadvantaged or vulnerable groups;
(iv) The proposed stakeholder engagement process highlighting the different ways in which stakeholders can participate and have their views considered in the process;
(v) The time and venue of any proposed public consultation meetings, and the process by which meetings will be notified, summarized, and reported; and
(vi) The process and means by which concerns and grievances can be raised and will be addressed.

16. The borrower/client will disclose the information set out in para 15 and any other relevant information as determined by ADB, to project-affected persons in a manner that is understandable, accessible, and culturally appropriate, taking into account any specific needs of groups that may be differentially or disproportionately affected by a project or groups of the population with specific information needs such as due to ethnicity, disability, literacy, gender, age, mobility, differences in language, or accessibility.

17. For High Risk, Substantial Risk, and Moderate Risk projects, prior to ADB’s project appraisal or final credit approval, the borrower/client will provide to ADB for disclosure draft, or final if available, documents and information prepared by the borrower/client in accordance with ESS1 including assessment tools and management tools, and environmental and social commitment plan (ESCP)/environmental and social action (ESAP), unless such documents and information will be prepared post-ADB approval of a project, as reflected in an ESCP/ESAP. The borrower/client will ensure that assessment tools and management tools address, in an adequate manner, the key E&S risks and impacts of a project and provide sufficient detail to inform stakeholder engagement and ADB decision making.

18. The borrower/client will submit to ADB for disclosure E&S performance monitoring reports prepared under the ESSs applicable for a project, as required by the ESCP/ESAP.

19. If there are changes to a project that result in additional E&S risks and impacts, particularly where these will impact project-affected persons, the borrower/client will provide information on such risks and impacts and meaningfully consult with project-affected persons on how to mitigate these risks and impacts. The borrower/client will also update the relevant documents and information, including the ESCP/ESAP accordingly, setting out any additional measures and actions. Updated documents and information will be submitted to ADB for disclosure.

d). **Meaningful Consultation**

20. The borrower/client will undertake a process of meaningful consultation in order to provide project-affected persons and other interested parties with the opportunity to express
their views on project risks, impacts, and mitigation measures, and to allow the borrower/client to consider and respond. The extent and degree of engagement required by the meaningful consultation process will be proportionate to the nature and scale of the potential E&S risks and impacts of a project and with the concerns raised by project-affected persons and other interested parties.

21. **Meaningful consultation** is a two-way process, that:

   (i) Begins early in the project planning process to gather initial views on a project proposal and inform project design;
   
   (ii) Is conducted in a transparent and accessible manner;
   
   (iii) Encourages stakeholder feedback, particularly as a way of informing project design, identification and mitigation of E&S risks and impacts, and other project implementation issues;
   
   (iv) Is undertaken in an atmosphere free of external manipulation, discrimination, coercion, intimidation, and threat of reprisal and appropriately designed to address these concerns;
   
   (v) Is continuous throughout the design, preparation, and implementation phases of a project cycle, as E&S risks and impacts arise and project benefits are recognized;
   
   (vi) Is based on early disclosure and dissemination of information in a form, language, and manner that is culturally appropriate, gender-responsive, understandable, and readily accessible to project-affected persons;
   
   (vii) Supports active and inclusive engagement with project-affected persons and is tailored to different stakeholder needs;
   
   (viii) May involve separate discussions for different project-affected persons and take into account the local languages of project-affected persons and educational differences as well as potential social bias;
   
   (ix) Considers and responds to feedback from stakeholders; and
   
   (x) Will include new or updated information relevant to a project.

22. The borrower/client will inform project-affected persons, in a timely manner of the final decision on a project, associated E&S mitigation measures, and the reasons and considerations on which the decision is based.

23. Where a borrower/client has conducted consultations and information disclosure in connection with a project’s E&S risks and impacts prior to ADB’s involvement in a project, the borrower/client will conduct an E&S audit to determine whether such consultations and information disclosure meet the requirements of this ESS10. Based on the findings of the E&S audit, the borrower/client may be required to undertake additional consultation and information disclosure.

B. **Stakeholder Engagement During Project Implementation, Monitoring, and Reporting**

24. The borrower/client will continue to meaningfully consult with, and provide relevant information to, project-affected persons and other interested parties during project implementation in the same manner as required by this ESS10 for project preparation. Additional information disclosure and/or meaningful consultation may be needed at key phases in a project cycle and/or on any specific issues that the disclosure and consultation process or grievance mechanism has identified as of concern to the stakeholders.
25. The borrower/client will continue to conduct, monitor, and report stakeholder engagement in accordance with the SEP, including submission of monitoring reports for ADB disclosure, and as a means of providing necessary information for ongoing decision making and will build upon the channels of communication and engagement already established with stakeholders.

26. Depending on the potential significance of E&S risks and impacts, the borrower/client may be required to retain qualified experts, to monitor and report on the progress of stakeholder engagement and on implementation of the SEP and provide recommendations to the borrower/client to resolve identified risks and concerns, as part of the external monitoring described in ESS1. The borrower/client will share the findings and recommendations of such external monitoring with ADB for disclosure.

C. Grievance Mechanism

27. The borrower/client will respond to and manage concerns and grievances of project-affected persons concerning a project's E&S performance in a timely manner. For this purpose, the borrower/client will establish at the earliest opportunity and implement a grievance mechanism to receive and facilitate resolution of concerns and grievances. Where a grievance mechanism is prescribed under other ESSs, the mechanism provided under this ESS10 may be utilized. However, for grievances involving project workers or where there may be a risk of sexual exploitation, abuse, or harassment, the borrower/client will establish a separate grievance mechanism or alternative platform under ESS2 and ESS4 in addition to the one required under this ESS10.

28. The grievance mechanism will respond to concerns promptly, effectively, and in a manner that is transparent, discreet, objective, culturally appropriate, and readily accessible to all project-affected persons. The grievance mechanism will:

   (i) be proportionate to the potential E&S risks and impacts of a project;
   (ii) be accessible and inclusive;
   (iii) be accessible at no cost to the complainant;
   (iv) allow for anonymous complaints to be raised and addressed;
   (v) utilize existing traditional dispute resolution methods, to the extent preferred and acceptable to project-affected persons and where feasible and suitable for a project;
   (vi) enable full and fair access by additional means for disadvantaged or vulnerable persons; and
   (vii) not preclude access to the national judicial or administrative remedies, or mediation.

29. The borrower/client will inform stakeholders about the grievance process in the course of its engagement activities.

30. The grievance mechanism will be conducted without external manipulation, discrimination, coercion, intimidation, and threat of reprisal. The borrower/client will address allegations of reprisal, abuse, intimidation, or discrimination, and take appropriate remedial measures.

31. The borrower/client will regularly monitor implementation of the grievance mechanism and update it when needed. The borrower/client will maintain an up-to-date record of grievances and resolution timetables, which will also be included in monitoring reports. The borrower/client will
redact any confidential information in consultation with ADB, before making records of grievances and resolution timetables available.

32. The borrower/client will include information about the ADB’s Accountability Mechanism as part of its meaningful consultation with project-affected persons and other relevant stakeholders.

VI. ORGANIZATIONAL CAPACITY

33. For implementation of stakeholder engagement activities as set out in the SEP, including the grievance mechanism and monitoring, in compliance with this ESS10, the borrower/client will:

   (i) ensure sufficient financial and qualified human resources proportionate to the anticipated E&S risks and impacts of a project are available; and
   (ii) designate specific personnel to be responsible for stakeholder engagement and clearly define their roles and authority.
ADB PROHIBITED INVESTMENT ACTIVITIES LIST

The following do not qualify for Asian Development Bank financing:

(i) production or activities involving harmful or exploitative forms of forced labor\(^1\) or child labor;\(^2\)

(ii) production of or trade in any product or activity deemed illegal under host country laws or regulations or international conventions and agreements or subject to international phaseouts or bans, such as (a) pharmaceuticals,\(^3\) pesticides, and herbicides,\(^4\) (b) ozone-depleting substances,\(^5\) (c) polychlorinated biphenyls\(^6\) and other hazardous chemicals,\(^7\) (d) wildlife or wildlife products regulated under the Convention on International Trade in Endangered Species of Wild Fauna and Flora,\(^8\) and (e) transboundary trade in waste or waste products;\(^9\)

(iii) production of or trade in weapons and munitions, including paramilitary materials\(^10\);

(iv) production of or trade in alcoholic beverages, excluding beer and wine;\(^10\)

(v) production of or trade in tobacco;\(^10\)

(vi) gambling, casinos, and equivalent enterprises;\(^10\)

(vii) production of or trade in radioactive materials,\(^11\) including investment in nuclear reactors;

(viii) production of, or trade in, or use of asbestos fibers;\(^12\)

(ix) commercial logging operations or the purchase of logging equipment for use in primary tropical moist forests or old-growth forests;

(x) marine, inland and coastal fishing practices, such as large-scale pelagic drift net fishing and fine mesh net fishing, harmful to vulnerable and protected species in large numbers and damaging to marine or freshwater biodiversity and habitats;

(xi) coal-fired power generation and coal-fired heating plants;\(^13\)

(xii) coal mining, processing, storage or transportation;\(^14\)

(xiii) upstream or midstream oil projects;\(^14\) and

(xiv) natural gas exploration or drilling.\(^14\)

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1 Forced labor means all work or service which is exacted from any person under the threat of a penalty and for which the person has not offered themself voluntarily.

2 This means child labor in contravention of the requirements as set out in ESS2.

3 A list of pharmaceutical products subject to phaseouts or bans is available at [http://www.who.int](http://www.who.int).

4 A list of pesticides and herbicides subject to phaseouts or bans is available at [http://www.pic.int](http://www.pic.int).

5 A list of the chemical compounds that react with and deplete stratospheric ozone resulting in the widely publicized ozone holes is listed in the Montreal Protocol, together with target reduction and phaseout dates. Information is available at [https://ozone.unep.org/treaties/montreal-protocol](https://ozone.unep.org/treaties/montreal-protocol).

6 A group of highly toxic chemicals, polychlorinated biphenyls are likely to be found in oil-filled electrical transformers, capacitors, and switchgear dating from 1950 to 1985.

7 A list of hazardous chemicals is available at [http://www.pic.int](http://www.pic.int).

8 A list is available at [http://www.cites.org](http://www.cites.org).

9 As defined by the Basel Convention; see [http://www.basel.int](http://www.basel.int).

10 This does not apply where ADB financing is provided as general working capital, equity or other support that are not earmarked for specific activities, to an entity, who are not substantially involved in these activities. Not substantially involved means that the activity concerned is ancillary to such entity’s primary operations.

11 This does not apply to the purchase of medical equipment, quality control (measurement) equipment, and any equipment for which ADB considers the radioactive source to be trivial and adequately shielded.

12 This does not apply to projects involving disposal of asbestos, provided a suitable asbestos management plan is adopted for such disposal.

13 This does not include early retirement of coal-based power plants and the enhancement of power generation dispatch regimes to discourage the use of high-emitting, inefficient coal-fired power plants. See Energy Policy (2021).

### DEFINITIONS

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| **Absolute greenhouse gas (GHG) emissions.** GHG emissions and removals resulting from a project, including all scope 1 and scope 2 emissions attributable to projects, and scope 3 emissions, where relevant. Absolute emissions can be positive or negative, where removals result in negative absolute GHG emissions. For purposes of this definition, the following apply:  
- **Scope 1 emissions:** These are direct GHG emissions that occur from sources that are owned or controlled by the entity implementing a project, such as fossil-fuel combustion in industrial processes.  
- **Scope 2 emissions:** These are indirect GHG emissions that occur from sources that are not owned or controlled by the entity implementing a project, and include GHG emissions from the generation of electricity, steam, and heating/cooling that are purchased or acquired for use within a project.  
- **Scope 3 emissions:** These are other indirect emissions that are a direct consequence of a project’s operations and activities but arise from GHG sources that are not owned or controlled by the entity implementing the project, such as transport of raw materials or finished products. | 9 |
<p>| <strong>Affected persons.</strong> A subset of project-affected persons, specifically in the context of ESS5, who are legal or natural persons experiencing economic or physical displacement or both as a result of project-related LA/LUR. | 5 |
| <strong>Artifact.</strong> A portable object that is a product or byproduct of past human activity and may be part of an archaeological site or an isolated find. Artifacts lose substantial cultural and scientific value when removed, without expert notation, from their original location or context in or on the ground. | 8 |
| <strong>Assessment tools.</strong> Tools and/or methods used to assess environmental and social risks and impacts of a project and which include; environmental and social impact assessment, environmental and social audit, cumulative impact assessment, environmental and social management plan, environmental and social management framework, strategic environmental and social assessment, and environmental and social management systems. | E&amp;S Policy, 1, 7, 10, Financing Modalities |
| <strong>Asset class.</strong> A class of financing or investment activities of a financial intermediary, including prospective business activities, relating to a specific line of business, sector, industry, practice, region, client, or other distinctive characteristic. | Financing Modalities |
| <strong>Assimilative capacity.</strong> 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. | 3 |
| <strong>Associated facilities.</strong> New facilities or activities that are not funded as part of a project and, in the judgment of ADB, are: (i) directly and significantly related to a project; and (ii) developed, or contemporaneously planned to be developed, with a project; and (iii) necessary for a project to be viable and would not have been developed if the project did not exist. | E&amp;S Policy, 1 |
| <strong>Baseline GHG emissions.</strong> GHG emissions or removals from sources that would occur in the absence of a project or the baseline scenario. The baseline scenario is the most feasible, conservative, and realistic alternative to a project that would provide the same level of service. | 9 |
| <strong>Biodiversity.</strong> The variability among living organisms from all sources including, inter alia, terrestrial, marine and other aquatic ecosystems and the ecological complexes of which they are part; this includes diversity within species, between species and of ecosystems. | E&amp;S Policy, 1, 3, 4, 6 |</p>
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<tr>
<td><strong>Biodiversity offsets.</strong> 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.</td>
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<tr>
<td><strong>Borrower/Client.</strong> Borrower refers to borrower, recipients, guarantors, or other beneficiaries of ADB-financed and administered loans, grants, and other funds and also refers to the executing agencies, as applicable for a project, in each case in the context of ADB's sovereign operations. Client refers to borrowers, sponsors, or other recipients or beneficiaries of ADB-financed and administered loans, equity investments, guarantees, grants and other funds, as applicable for a project, in each case in the context of ADB's private sector operations.</td>
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<td><strong>Chance find.</strong> Any type of tangible cultural heritage that is discovered during post-assessment project activities such as site preparation, grading, or construction, that is not found as a result of expert field reconnaissance or archaeological excavation.</td>
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<tr>
<td><strong>Circular economy.</strong> A programmatic systems approach to support economic development that decouples economic activity from the consumption of finite resources, eliminates waste and pollution, circulates products and materials at their highest value, regenerates nature, and is underpinned by a transition to renewable energy.</td>
<td>E&amp;S Policy, 3</td>
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<td><strong>Climate change.</strong> A change in the state of the climate that can be identified, for example, by using statistical tests, by changes in the mean and/or the variability of its properties, and that persists for an extended period, typically decades or longer. Climate change may be due to natural internal processes or external forcings, or to persistent anthropogenic changes in the composition of the atmosphere or in land use.</td>
<td>E&amp;S Policy, 1, 3, 4, 6, 7, 9</td>
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<td><strong>Climate change adaptation.</strong> In human systems, the process of adjustment to actual or expected climate and its effects, to moderate harm, or to exploit beneficial opportunities. In natural systems, the process of adjustment to actual climate and its effects; human intervention may facilitate adjustment to expected climate.</td>
<td>E&amp;S Policy, 4, 9</td>
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<td><strong>Climate change mitigation.</strong> A human intervention to reduce the sources or enhance the sinks of greenhouse gases.</td>
<td>E&amp;S Policy, 9</td>
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<td><strong>Climate change vulnerability.</strong> The degree to which a system is susceptible to, or unable to cope with, adverse effects of climate change, including climate variability and extremes. Vulnerability is a function of the character, magnitude, and rate of climate variation to which a system is exposed, its sensitivity, and its adaptive capacity.</td>
<td>E&amp;S Policy, 9</td>
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<td><strong>Cofinancing.</strong> This includes all types of cofinancing arrangements provided by ADB under its cofinancing policies.</td>
<td>E&amp;S Policy, 1</td>
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<td><strong>Collective attachment.</strong> For generations there has been a physical presence in and economic ties to lands and territories traditionally owned, or customarily used or occupied, by the group concerned, including areas that hold special significance for it, such as sacred sites. Collective attachment also refers to the attachment of transhumant/nomadic groups to the territory they use on a seasonal or cyclical basis.</td>
<td>E&amp;S Policy, 7</td>
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<td><strong>Collective dismissal.</strong> An employment termination of several workers on the grounds of economic, technological, structural, or similar reasons.</td>
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<td><strong>Community workers.</strong> Workers engaged or employed by a borrower/client from a community or communities in a project’s affected area who contribute their labor to a project and are compensated in kind.</td>
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<td><strong>Connectivity.</strong> The unimpeded movement of species and the flow of natural processes on land, in the air, and in freshwater and marine habitats.</td>
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<td><strong>Contracted workers.</strong> Workers engaged by third party contractors, subcontractors, brokers, agents, or intermediaries to perform work related to a project, regardless of location.</td>
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<td><strong>Critical habitat.</strong> A subset of natural and modified habitats, comprising areas of highest biodiversity value of significant importance to one or more types of priority biodiversity features. This includes areas of very high biodiversity conservation value and of significant importance to one or more types of priority biodiversity features, including: (i) threatened ecosystems; (ii) geographically-restricted ecosystems; (iii) threatened species; (iv) endemic/geographically-restricted species; (v) geographically-restricted assemblages; (vi) aggregations of migratory or congregatory species; (vii) areas associated with key evolutionary processes; or (viii) ecological functions that are vital to maintaining the viability of priority biodiversity features.</td>
<td>E&amp;S Policy, 1, 6</td>
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| **Cultural heritage.** Tangible and intangible cultural elements or artifacts, which may be recognized and valued at a local, regional, national, or global level and that merit conservation or protection, as follows:  
  a. Tangible cultural heritage includes moveable or immovable objects, sites, built heritage, and natural features and landscapes that have archaeological, paleontological, scientific, historical, architectural, religious, or other cultural significance. Tangible cultural heritage may be found in urban or rural settings and may be above or below ground or underwater and may be previously known or studied, or not. Human remains, whether part of an archaeological or landscape feature, graveyard, simple isolated gravesite, or if only a physical memorial of human life, constitute tangible cultural heritage.  
  b. Intangible cultural heritage includes practices, representations, expressions, knowledge, skills, and language as well as the associated instruments, objects, and artifacts, that communities and groups recognize as part of their cultural heritage, and which is transmitted from generation to generation, and which may be constantly recreated by those groups and communities as part of their interaction with nature and their history, and with other human groups. | E&S Policy, 1, 7, 8 |
<p>| <strong>Culturally appropriate.</strong> For purposes of ESS7, providing project benefits and services in a way that takes into account indigenous knowledge, language characteristics, institutions, and Indigenous Peoples' perspective on the nature and delivery of these benefits. It is a participatory practice and requires meaningful consultation with project-affected Indigenous Peoples to seek their responses and perspective on the nature and delivery of potential benefits. | 7 |
| <strong>Cumulative impacts.</strong> The incremental impact of a project when added to impacts from other relevant past, present, and reasonably foreseeable developments as well as unplanned but predictable activities enabled by a project that may occur later or at a different location. Cumulative impacts can result from individually minor but collectively significant activities taking place over a period of time. Cumulative impacts include impacts generally recognized as important on the basis of scientific concerns and/or reflect the concerns of project-affected persons. | E&amp;S Policy, 1, 3, 6, 8 |
| <strong>Dam.</strong> This includes a water storage dam for a hydropower, water supply, irrigation, flood control, or multipurpose project, a tailings or slimes dam, or an ash impoundment dam. | 4 |
| <strong>Direct impact.</strong> An impact which is caused by a project and occurs contemporaneously in the location of a project. | 1, 4, 6, 7, 8 |
| <strong>Direct workers.</strong> Workers employed directly by a borrower/client to work on a project. | 2 |
| <strong>Disadvantaged or vulnerable.</strong> Those individuals or groups who, by virtue of, for example, their age, gender, ethnicity, religion, disability, social, civic or health status, sexual orientation, gender identity, economic disadvantages or indigenous status, and/or dependence on | E&amp;S Policy, 1, 2, 4, 5, 7, 9, 10 |</p>
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<td>unique natural resources, may be more likely to be at risk of being adversely affected by project impacts, and/or more limited than others in their ability to take advantage of a project’s benefits, excluded from/unable to participate fully in consultation processes and benefit sharing.</td>
<td>E&amp;S Policy, 6</td>
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<td><strong>Ecological function.</strong> Intrinsic ecosystem characteristics which ensure integrity is maintained. Ecological functions include decomposition, production, water and nutrient cycling, fluxes of nutrients and energy, and connectivity between ecosystems and populations that maintain ecosystem integrity. Ecological function is also known as ecological/ecosystem processes/functions.</td>
<td>E&amp;S Policy, 6</td>
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<tr>
<td><strong>Economic displacement.</strong> Occurs when there is a loss of land, assets, access to land assets, and resources, and/or loss of income sources and means of livelihood.</td>
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<td><strong>Ecosystem.</strong> The dynamic complex of plant, animal and micro-organism communities and their non-living environment interacting as a functional unit.</td>
<td>E&amp;S Policy, 3, 6, 9</td>
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<tr>
<td><strong>Ecosystem services.</strong> The benefits that people, including businesses, derive from ecosystems. Ecosystem services are generally 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 non-material benefits people obtain from ecosystems; and (iv) supporting services, which are the natural processes that maintain other ecosystem services.</td>
<td>E&amp;S Policy, 1, 3, 4, 6, 8</td>
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<td><strong>Emergency.</strong> A threatening or realized condition that requires urgent action to avoid or address disruption and loss. This includes situations related to food, health, biological, industrial, and technological events.</td>
<td>4, Financing Modalities</td>
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<td><strong>Environmental and social (E&amp;S) risks and impacts.</strong> Risks or impacts of a project on environmental and social receptors. A risk arises when a project activity serves as a source of impact, to be created on a receptor through a pathway. A risk is dependent on the likelihood of harm, sensitivity of the receptors, and severity of the impact.</td>
<td>E&amp;S Policy, 1, 3, 5, 8, 10, Financing Modalities</td>
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<td><strong>Environmental flow.</strong> The quantity, timing, and quality of water flows required to sustain freshwater and estuarine ecosystems and the human livelihoods and well-being that depend on these ecosystems.</td>
<td>E&amp;S Policy, 6</td>
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<td><strong>Environmental, Health, and Safety Guidelines (EHSGs).</strong> Technical reference documents issued by the World Bank Group with general and industry-specific statements of good international industry practice. The EHSGs contain the performance levels and measures that are generally considered to be achievable in new facilities by existing technology at reasonable cost. These guidelines may be amended from time to time.</td>
<td>E&amp;S Policy, 1, 3, 4</td>
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<tr>
<td><strong>Financial feasibility.</strong> Based on financial considerations, including relative magnitude of the incremental cost of adopting such measures and actions compared to a project’s investment, operating, and maintenance costs, and on whether this incremental cost could make a project nonviable for a borrower/client.</td>
<td>1, 2, 3, 4, 9</td>
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<td><strong>Financial intermediary (FI)</strong> A variety of financial institutions such as universal banks, investment banks, private equity funds, venture capital funds, microfinance institutions, and leasing and insurance companies.</td>
<td>E&amp;S Policy, 1, Financing Modalities</td>
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<td><strong>Forced eviction.</strong> Permanent or temporary removal against the will of individuals, families, and/or communities from the homes and/or land which they occupy without the provision of, and access to, appropriate forms of legal and other protection.</td>
<td>5, 7</td>
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<td><strong>Forced labor.</strong> All work or service which is exacted from any person under the threat of a penalty and for which the person has not offered themself voluntarily.</td>
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<td><strong>Forced severance.</strong> A loss of collective attachment to geographically distinct habitats or ancestral territories occurring within the concerned group members’ lifetime because of conflict, government resettlement programs, dispossession from their lands, natural calamities, or incorporation of such territories into an urban area. For purposes of this policy, “urban area” normally means a city or a large town, and takes into account all of the following characteristics, no single one of which is definitive: (i) the legal designation of the area as urban under domestic law; (ii) high population density; and (iii) high proportion of nonagricultural economic activities relative to agricultural activities.</td>
<td>7</td>
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<td><strong>Genetic resources.</strong> Any material of plant, animal, microbial, or other origin containing functional units of heredity and which is of actual or potential value.</td>
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<td><strong>Good international practice (GIP).</strong> 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. World Bank Group Environmental Health and Safety Guidelines (EHSGs) will be the primary GIP, unless the specific guidelines and standards required are not covered in the EHSG or a borrower/client and ADB agree on another GIP.</td>
<td>E&amp;S Policy, 1, 2, 3, 4, 6, 8</td>
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<td><strong>Greenhouse gases (GHG).</strong> The atmospheric gases responsible for causing global warming and climate change. These include carbon dioxide (CO2), methane (CH4), nitrous oxide (N2O), hydrofluorocarbons (HFCs), perfluorocarbons (PFCs), sulfur hexafluoride (SF6), and nitrogen trifluoride (NF3).</td>
<td>E&amp;S Policy, 9</td>
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<td><strong>Habitat.</strong> A terrestrial, freshwater, or marine geographical unit or airway that supports assemblages of living organisms and their interactions with the non-living environment.</td>
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<td><strong>Hazardous chemicals, substances, and materials.</strong> Chemicals, substances, or materials which have one or more inherent hazardous physical or chemical properties such as flammable, corrosive, toxic, radioactive, sharp, and others which can result in a significant adverse effect on the environment, human health, and property.</td>
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<td><strong>Hazardous child labor.</strong> Work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety, or morals of children.</td>
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<td><strong>Hazardous waste.</strong> Waste that shares the properties of a hazardous material, for example ignitability, corrosivity, reactivity, or toxicity, or other physical, chemical, or biological characteristics that may pose a potential risk to human health or the environment if improperly managed.</td>
<td>3, 4</td>
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<td><strong>Higher risk transactions.</strong> Activities and transactions financed by FIs that present high to substantial E&amp;S risks (part or all of FI-1 and FI-2 portfolio).</td>
<td>E&amp;S Policy, 1, Financing Modalities</td>
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<td><strong>Historical pollution.</strong> Pollution from past activities affecting land and water resources for which no party has assumed or been assigned responsibility to address and carry out the required remediation.</td>
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<td><strong>Host country.</strong> Country in which a project is physically located or carried out.</td>
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<td><strong>Host country’s applicable laws.</strong> This refers collectively to laws, regulations, procedures, rules, standards, codes, and/or other legal and regulatory requirements of a host country, including those that implement the host country’s obligations under international laws, that regulate, govern, or are otherwise relevant to the environmental and social system of a host country.</td>
<td>E&amp;S Policy, 1, 2, 3, 4, 5, 6, 7, 8,</td>
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<td>Indigenous Peoples. A distinct social and cultural group possessing the following characteristics in varying degrees: (i) self-identification as members of a distinct indigenous social and cultural group and recognition of this identity by others; (ii) collective attachment to geographically distinct areas or ancestral territories or areas of seasonal use or occupation, including nomadic and transhumance routes in a project-affected area and to the natural resources in these areas and territories; (iii) customary cultural, economic, social, or political institutions, laws, or regulations that are separate from those of the dominant society and culture; and (iv) a distinct language or dialect, often different from the official language of the country or region.</td>
<td>Financing Modalities, E&amp;S Policy, 1, 6, 7, 8, Financing Modalities</td>
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<td>Indigenous livelihoods. Specialized and sustainable livelihood strategies which are adapted to the specific ecosystems where indigenous communities live and occupations which include hunting, fishing, trapping, shifting cultivation or gathering food and forest products, handicrafts such as weaving, basketry, and woodcarving, among others, and rural and community-based industries. These livelihood systems are usually outside of the modern market system. Traditional occupations of Indigenous Peoples such as shifting cultivation are often not recognized by governments who regard these sustainable practices as outdated.</td>
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<tr>
<td>Indirect impact. An impact which is caused by a project and is later in time or farther removed in distance than a direct impact but is still reasonably foreseeable.</td>
<td>1, 6, 7, 8, Financing Modalities</td>
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<td>Integrated pest management (IPM). A mix of farmer-driven, ecologically-based pest control practices that seeks to reduce reliance on synthetic chemical pesticides. It involves: (i) managing pests by keeping them below economically damaging levels rather than seeking to eradicate them; (ii) integrating multiple methods by relying, to the extent possible, on nonchemical measures to keep pest populations low; and (iii) selecting and applying pesticides, when they have to be used, in a way that minimizes adverse effects on beneficial organisms, humans, and the environment.</td>
<td>3</td>
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<tr>
<td>Integrated vector management (IVM). A rational decision-making process for the optimal use of resources for vector control. The approach seeks to improve the efficacy, cost-effectiveness, ecological soundness, and sustainability of disease-vector control and the intended users.</td>
<td>3</td>
</tr>
<tr>
<td>Internationally recognized area. UNESCO Natural World Heritage Sites, Biosphere Reserves, Ramsar Wetlands of International Importance, Key Biodiversity Areas, Important Bird Areas, Alliance for Zero Extinction Sites, and other areas that may be recognized under international agreements or international initiatives.</td>
<td>6</td>
</tr>
<tr>
<td>Invasive alien species. Non-native species that may become invasive or spread rapidly by outcompeting native plants and animals when they are introduced into a new habitat that lacks their controlling factors as determined by natural evolution.</td>
<td>6</td>
</tr>
<tr>
<td>Involuntary land acquisition. Involves acquisition of formal legal and recognizable legal land rights and/or land use rights through expropriation or other compulsory procedures within the purview of compulsory acquisition, as well as through negotiated settlement, where expropriation or other compulsory procedures under compulsory acquisition can be initiated in case negotiation fails. Involuntary land acquisition may include outright transfer, expropriation of property, and acquisition of access rights, such as easements or rights of way. It may also include acquisition of unoccupied or unutilized land whether or not the landholder relies upon such land for income or livelihood purposes.</td>
<td>5</td>
</tr>
<tr>
<td>Involuntary land use restriction. Refers to limitations and/or prohibitions on the use of agricultural, residential, commercial, or other land, that are directly introduced and put into effect as part of a project. This may include repossession of public land that is used or occupied by individuals or households, project impacts that result in land being submerged or otherwise rendered unusable or</td>
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<tr>
<td>inaccessible, restrictions on access to natural resources and legally designated parks and protected areas, including those established as part of a project, restrictions on access to other common property resources, communal property and natural resources including waterbodies, such as freshwater and marine environments, and restrictions on land use within utility easements or safety zones.</td>
<td></td>
</tr>
<tr>
<td><strong>Land.</strong> For purposes of ESS5, includes anything growing on or permanently affixed to land, such as crops, buildings, and other improvements, including those located above and below the land, and appurtenant water bodies, including freshwater and marine environments.</td>
<td></td>
</tr>
<tr>
<td><strong>Land acquisition.</strong> All modes of obtaining land for project purposes through the legal transfer of formal and recognizable ownership rights or use rights to land and other assets attached to the land acquired, such as crops, trees, buildings and other improvements, and appurtenant water bodies, by voluntary or involuntary means.</td>
<td>E&amp;S Policy, 1, 5, 7, Financing Modalities</td>
</tr>
<tr>
<td><strong>Land acquisition and land use restriction (LA/LUR).</strong> Refers to all methods of obtaining land or restricting land use in connection with a project. Project-related LA/LUR may cause physical displacement, economic displacement, or both to affected persons.</td>
<td>E&amp;S Policy, 1, 5, Financing Modalities</td>
</tr>
<tr>
<td><strong>Livelihood.</strong> Refers to the full range of ways and means that affected persons and communities utilize to make a living such as wages from employment; cash income earned through an enterprise or through sale of produce, goods, handicrafts or services; rental income from land or premises; income from a harvest or animal husbandry, share of a harvest, such as various sharecropping arrangements, or livestock production; self-produced goods or produce used for self-consumption, exchange or barter; self-consumed goods or produce; food, materials, fuel and goods for personal or household use or trade derived from natural or common resources; pensions and various types of government allowances.</td>
<td>E&amp;S Policy, 1, 5, 6, 7, 9</td>
</tr>
<tr>
<td><strong>Living natural resources.</strong> Living organisms including but not limited to plants, animals, and fungi, whether in the wild or cultivated for human or animal consumption and use.</td>
<td>E&amp;S Policy, 1, 3, 6</td>
</tr>
<tr>
<td><strong>Management tools.</strong> Tools and/or plans including the overall environmental and social management plan, environmental and social management framework, environmental and social management system such as land acquisition plan, land acquisition framework, Indigenous Peoples plan, Indigenous Peoples planning framework, biodiversity action plan, biodiversity management plan, biodiversity offset management plan, biodiversity monitoring and evaluation plan, cultural heritage management plan, labor management plan, health and safety management plan, emergency response plan, pest management plan, cultural heritage management plan, stakeholder engagement plan, climate risk assessment, noise assessment and management plan, and other plans as agreed with ADB.</td>
<td>E&amp;S Policy, 1, 2, 3, 4, 5, 6, 7, 8, 10, Financing Modalities</td>
</tr>
<tr>
<td><strong>Meaningful consultation.</strong> A two-way process, that:</td>
<td>E&amp;S Policy, 2, 4, 5, 7, 8, 9, 10, Financing Modalities</td>
</tr>
<tr>
<td>(i) Begins early in the project planning process to gather initial views on a project proposal and inform project design;</td>
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<td>(ii) Is conducted in a transparent and accessible manner;</td>
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<td>(iii) Encourages stakeholder feedback, particularly as a way of informing project design, identification and mitigation of E&amp;S risks and impacts, and other project implementation issues;</td>
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<td>(iv) Is undertaken in an atmosphere free of external manipulation, discrimination, coercion, intimidation, and threat of reprisal and appropriately designed to address these concerns;</td>
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<tr>
<td>(v) Is continuous throughout the design, preparation, and implementation phases of a project cycle, as E&amp;S risks and impacts arise and project benefits are recognized;</td>
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<tr>
<td>(vi) Is based on early disclosure and dissemination of information in</td>
<td>E&amp;S Policy, 1, 3, 4, 5, 6, 7, 8</td>
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<td>a form, language, and manner that is culturally appropriate, gender-</td>
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<tr>
<td>responsive, understandable, and readily accessible to project-affected</td>
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<tr>
<td>persons;</td>
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<td>(vii) Supports active and inclusive engagement with project-affected</td>
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<td>persons and is tailored to different stakeholder needs;</td>
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<tr>
<td>(viii) May involve separate discussions for different project-affected</td>
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<tr>
<td>persons and take into account the local languages of project-affected</td>
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<td>persons and educational differences as well as potential social bias;</td>
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<td>(ix) Considers and responds to feedback from stakeholders; and</td>
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<tr>
<td>(x) Will include new or updated information relevant to a project.</td>
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<tr>
<td><strong>Migrant project worker.</strong> Worker who has migrated from one country</td>
<td>2</td>
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<td>to another or from one part of a country to another for purposes of</td>
<td></td>
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<td>employment.</td>
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<td><strong>Mitigation hierarchy.</strong> Measures taken to (i) anticipate and avoid</td>
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<td>risks and impacts as a first priority; (ii) where avoidance is not</td>
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<td>possible, minimize or reduce risks and impacts to acceptable levels;</td>
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<tr>
<td>and (iii) once risks and impacts have been minimized or reduced,</td>
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<tr>
<td>mitigate and/or compensate for adverse impacts on the environment and</td>
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<tr>
<td>project-affected persons. Where any residual impacts are identified</td>
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<td>that cannot be addressed, the borrower/client will compensate for or</td>
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<tr>
<td>offset them, where technically and financially feasible.</td>
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<td><strong>Modified habitats.</strong> Areas that contain a large proportion of plant</td>
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<td>and/or animal species of non-native origin, and/or where human activity</td>
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<td>has substantially modified an area’s primary ecological functions or</td>
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<tr>
<td>species composition.</td>
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<tr>
<td><strong>Natural capital.</strong> The world’s stocks of natural assets, which</td>
<td>6</td>
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<td>include geological resources, soil, air, water, and all living things.</td>
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<tr>
<td><strong>Natural habitats.</strong> Areas composed of assemblages of plant and</td>
<td>1, 6</td>
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<tr>
<td>animal species of largely native origin, where human activity has not</td>
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<tr>
<td>essentially modified an area’s primary ecological functions and</td>
<td></td>
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<tr>
<td>species composition.</td>
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<td><strong>Net gain.</strong> Goes beyond no net loss. Net gain may be achieved</td>
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<td>through the development of a biodiversity offset or other</td>
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<td>compensatory program and should demonstrate a benefit to that</td>
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<td>biodiversity nationally and/or regionally, beyond the project level</td>
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<td>and a project-affected area.</td>
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<tr>
<td><strong>Net impact.</strong> A singular or cumulative impact on a species’ or</td>
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<tr>
<td>ecosystem’s ability to persist at the global, regional, and/or</td>
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<td>national scale for many generations or over a long period of time.</td>
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<tr>
<td>The scale, whether global, regional, or national, of the potential</td>
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<td>net impact should be ecologically appropriate, for example,</td>
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<td>determined based on a species’ listing on either the global</td>
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<td>International Union for Conservation of Nature Red List of Threatened</td>
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<td>Species™ and/or on regional/national lists.</td>
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<td><strong>No net loss.</strong> The point at which project-related impacts on</td>
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<td>priority biodiversity features are reduced by avoidance, minimization,</td>
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<td>and/or reinstatement measures, and offsetting compensates fully for</td>
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<tr>
<td>all significant residual impacts such that no significant net impacts</td>
<td></td>
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<td>on biodiversity remain.</td>
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<td><strong>Non-hazardous waste.</strong> Any garbage or refuse, including domestic</td>
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<tr>
<td>trash and garbage, inert construction/demolition materials, metal</td>
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<tr>
<td>scrap, and empty containers, except those previously used to contain</td>
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<tr>
<td>hazardous materials, which should be managed as hazardous waste.</td>
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<td><strong>Offset.</strong> Appropriate compensatory measure that aims to ensure that</td>
<td>1, 3, 6, 8</td>
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<td>a project’s residual impacts that are likely to remain significant</td>
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<td>after mitigation do not cause significant net environmental</td>
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<td>degradation.</td>
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<td><strong>Offsetability.</strong> Determined by examination of the inherent</td>
<td>6</td>
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<tr>
<td>vulnerability or irreplaceability of affected biodiversity, the</td>
<td></td>
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<td>magnitude of project residual impacts, availability of funding,</td>
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<td>capacity of the offset implementing agency, time available, and</td>
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<td>available offset opportunity.</td>
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<tr>
<td><strong>Other interested parties.</strong> Individuals, communities, or groups which may be natural or legal entities, who may have an interest in a project but may not necessarily be project-affected persons.</td>
<td>1, 10</td>
</tr>
<tr>
<td><strong>Physical displacement.</strong> Occurs when there is a loss of residential or business premises, residential and/or homestead land, loss of shelter, and/or the loss of essential public facilities, amenities and utilities, resulting in relocation and resettlement.</td>
<td>E&amp;S Policy, 5</td>
</tr>
<tr>
<td><strong>Pollution.</strong> May be physical, biological, and/or chemical. The presence of substances and energy, including heat, light, noise, vibration and electromagnetic energy, in environmental media, including air, water, and soil, whose nature, location, or quantity produces undesirable environmental effects.</td>
<td>E&amp;S Policy, 3, 6</td>
</tr>
<tr>
<td><strong>Pollution to air.</strong> The release of air pollutants, which are often associated with the combustion of fossil fuels, such as nitrogen oxides (NOx), sulfur dioxide (SO2), carbon monoxide (CO), particulate matter (PM) including the finer fractions PM10 and PM2.5, as well as other contaminants including greenhouse gases.</td>
<td>E&amp;S Policy, 1, 3</td>
</tr>
<tr>
<td><strong>Pollution prevention.</strong> The actions required to avoid polluting activities if possible and then effectively control the risk of pollution to people, ecosystem services, and environmental resources, including air, water and soil.</td>
<td>1, 3</td>
</tr>
<tr>
<td><strong>Precautionary approach.</strong> In order to protect the environment, where there are threats of serious or irreversible damage, lack of full scientific certainty will not be used as a reason for postponing cost-effective measures to prevent environmental degradation.</td>
<td>3, 6</td>
</tr>
<tr>
<td><strong>Primary suppliers.</strong> Suppliers who provide directly to a project goods or materials essential for production and/or service processes that are necessary for a specific project activity and without which a project cannot continue.</td>
<td>1, 2, 6</td>
</tr>
<tr>
<td><strong>Primary supply workers.</strong> Workers engaged by a borrower’s/client’s primary suppliers.</td>
<td>2</td>
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<tr>
<td><strong>Priority biodiversity features.</strong> A sub-set of biodiversity that is irreplaceable or vulnerable, but at a lower priority level than critical habitats.</td>
<td>6</td>
</tr>
<tr>
<td><strong>Project.</strong> This includes all ADB-financed and/or ADB-administered sovereign and private sector projects, and their components regardless of the source of financing or financing modality, including investment projects funded by a loan, and/or a grant, and/or other means, such as debt securities, guarantees, risk participations, and/or equity investments. A project is defined in the project’s legal agreement between the borrower/client and ADB.</td>
<td>All</td>
</tr>
<tr>
<td><strong>Project-affected persons.</strong> Individuals, communities, or groups, which may be natural or legal entities, who are affected or likely to be affected by a project.</td>
<td>E&amp;S Policy, 1, 4, 5, 6, 8, 9, 10,</td>
</tr>
<tr>
<td><strong>Project completion.</strong> The time when ADB prepares a project completion report/extended annual review report, or at the time of early divestiture or prepayment.</td>
<td>E&amp;S Policy, 1, 5</td>
</tr>
<tr>
<td><strong>Project cycle.</strong> ADB’s phases of a project starting from concept design, preparation, appraisal, approval, and implementation, to completion/evaluation.</td>
<td>E&amp;S Policy, 1, 2, 3, 4, 5, 7, 8, 9, 10</td>
</tr>
<tr>
<td><strong>Project workers.</strong> Direct workers, contracted workers, primary supply workers, and community workers. Project workers also include government civil servants in specific circumstances described in ESS2 and ESS4.</td>
<td>E&amp;S Policy, 1, 2, 4, 10</td>
</tr>
<tr>
<td><strong>Protected area.</strong> 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.</td>
<td>5, 6, 8</td>
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<tr>
<td><strong>Regenerative farming.</strong> Farming and grazing practices that, among other benefits, reverse climate change by rebuilding soil organic matter and restoring degraded soil biodiversity, resulting in both carbon drawdown and improving the water cycle.</td>
<td>3</td>
</tr>
<tr>
<td><strong>Relative greenhouse gas (GHG) emissions.</strong> Relative GHG emissions means the change in GHG emissions resulting from a project compared to the baseline scenario, calculated as the difference between project GHG emissions (i.e., the sum of absolute GHG emissions and other consequential emissions) and baseline GHG emissions. A negative value of relative GHG emissions indicates that a project results in lower GHG emissions as compared to the baseline. A positive value indicates that a project results in higher GHG emissions compared to the baseline.</td>
<td>9</td>
</tr>
<tr>
<td><strong>Replacement cost.</strong> Valuation of lost assets at current actual market prices, or the nearest equivalent, plus any transaction costs, including administrative charges, taxes, legal, land survey and title registration fees, transition costs, and any other applicable payments associated with asset replacement.</td>
<td>5</td>
</tr>
<tr>
<td><strong>Reprisal.</strong> Retribution, intimidation, threats, harassment, punishment, judicial proceedings, or any other retaliatory acts against those who voice their opinion or opposition to a project, to a third party related to a project, or to a borrower/client.</td>
<td>E&amp;S Policy, 2, 7, 10</td>
</tr>
<tr>
<td><strong>Resilience.</strong> The ability of a system, including human social systems, and its component parts to anticipate, absorb, accommodate, or recover from the effects of a hazardous event in a timely and efficient manner, including through ensuring the preservation, restoration, or improvement of its essential basic structures and functions.</td>
<td>E&amp;S Policy, 4, 9</td>
</tr>
<tr>
<td><strong>Security of tenure.</strong> Resettled individuals or communities are resettled to a site that they can legally occupy, where they are protected from the risk of eviction, and where the tenure rights provided to them are socially and culturally appropriate.</td>
<td>5</td>
</tr>
<tr>
<td><strong>Setting.</strong> Immediate and wider surrounding environment of a cultural heritage site that contributes to its distinctive character and ultimately to its level of significance. Aspects may include structures, land, water, sounds, or silence. This may also be applicable to the approach or route to a site, as well as the view of and from a site.</td>
<td>8</td>
</tr>
<tr>
<td><strong>Sexual exploitation, abuse, and harassment (SEAH).</strong> For purposes of SEAH: Sexual exploitation means any actual or attempted abuse of a position of vulnerability, differential power, or trust for sexual purposes, including profiting monetarily, socially, or politically from the sexual abuse of another. Sexual abuse means actual or threatened physical intrusion of a sexual nature, whether by force or unequal or coercive conditions. Sexual harassment means any unwelcome conduct of a sexual nature that might reasonably be expected or be perceived to cause offense or humiliation, when such conduct interferes with work, is made a condition of employment, or creates an intimidating, hostile, or offensive work environment. Sexual harassment can occur outside the workplace and outside working hours, including during official travel, social functions related to work, and online. Sexual harassment does not need to be between colleagues and can occur within society in general.</td>
<td>E&amp;S Policy, 1, 2, 4, 10</td>
</tr>
<tr>
<td><strong>Social security.</strong> The protection that a society provides to individuals and households to ensure access to health care and to guarantee income security, particularly in cases of old age, unemployment, sickness, invalidity, work injury, maternity, or loss of a breadwinner.</td>
<td>2</td>
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<tr>
<td><strong>Soil.</strong> The upper layer of earth with a complex combination of physical structures, chemical constituents, and biological activity. Soil, especially the upper layer, topsoil, is the foundation of life and healthy soil is vital to the wellbeing of ecosystems and communities on a local, regional, and global scale.</td>
<td>E&amp;S Policy, 1, 3</td>
</tr>
<tr>
<td><strong>Stakeholder.</strong> Individuals, communities, or groups who: (i) are affected or likely to be affected by a project, and are referred to as “project-affected persons”; and/or (ii) may have an interest in a project, and are referred to as “other interested parties”. Project-affected persons and other interested parties may be natural or legal entities.</td>
<td>E&amp;S Policy, 1, 4, 5, 6, 7, 8, 9, 10, Financing Modalities</td>
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<tr>
<td><strong>Technical feasibility.</strong> 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.</td>
<td>1, 2, 3, 4, 9</td>
</tr>
<tr>
<td><strong>Threatened species.</strong> All those listed as Critically Endangered (CR), Endangered (EN), or Vulnerable (VU) on the International Union for Conservation of Nature Red List of Threatened Species™.</td>
<td>6</td>
</tr>
<tr>
<td><strong>Trafficking in persons.</strong> 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 purposes of exploitation.</td>
<td>2</td>
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<tr>
<td><strong>Voluntary land acquisition and voluntary land use restriction.</strong> Refers to methods of obtaining land or land use that are not compulsory and involve: (i) the land rights or claims to land or resources relinquished by individuals or communities without provision of full compensation, voluntary donation of land for project purposes by willing donors, or land pooling and land readjustment among consenting members of local communities; (ii) the voluntary transfer of use rights to legally owned land and resources through the lease of land and other assets or an agreement to grant use rights through an easement; and (iii) voluntary land use restriction for persons and communities consenting to relinquish or limit their right to the use of land and access to resources, such as under a community-based natural resource management project. Where voluntary transactions result in economic or physical displacement of persons, rather than the right holder, who occupy, use, or claim rights to the land in question, such as customary allotees, sharecroppers, renters, lessees or persons without recognizable claims to land, such displacement is considered involuntary.</td>
<td>5</td>
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</tbody>
</table>