

An underwater photograph of a coral reef. The scene is dominated by large, green sea fans (gorgonians) growing from a rocky substrate. In the foreground, there is a prominent yellow sponge. The water is clear and blue, with sunlight filtering through from the surface, creating a dappled light effect. The overall composition is vertical, with the coral structures extending upwards.

ENVIRONMENTAL AND SOCIAL MANAGEMENT SYSTEM

March 22, 2022
Version: Final
Circulation: Open

MAR FUND

ENVIRONMENTAL AND SOCIAL MANAGEMENT SYSTEM

MAR FUND's ESMS

Date March 22, 2022

Version: Final

Circulation: Open

Elaborated by: Sergio Rodriguez

COCO CONSULTING

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Revisión CRO 26-05-2022

• GLOSSARY

AFD	Agence Française de Développement ¹
BMZ	Bundesministerium für Wirtschaftliche Zusammenarbeit und Entwicklung ²
EbA	Ecosystem-based Adaptation
CAPEX	Capital Expenditure
CSO	Civil Society Organization
CTF	Conservation Trust Fund
Due Diligence	Environmental and Social Due Diligence
EIA	Environmental Impact Assessment
ERP	Emergency Response Plans
ESAP	Environmental and Social Action Plan
ES COP	Environmental and Social Commitment Plan
Escazú Agreement	Regional Agreement on Access to Information, Public Participation, and Justice in Environmental Matters in Latin America and the Caribbean
ES	Environmental and Social
ESDD	Environmental and Social Due Diligence
ESIA	Environmental and Social Impact Assessment
ESMF	Environmental and Social Management Framework
ESMP	Environmental and Social Management Plan
ESMS	Environmental and Social Management System
ESPF	Environmental and Social Performance Framework
ESSQ	Environmental and Social (ES) Screening Questionnaire
ESS	Environmental and Social Safeguards
FB	Fundación Biosfera
FCG	Fundación para la Conservación de los Recursos Naturales y Ambiente en Guatemala

¹ French Development Agency

² Federal Ministry for Economic Cooperation and Development of the Federal Republic of Germany.

FC-Measures	Financial Cooperation Measures
FFEM	Fonds français pour l’environnement Mondial ³
FI	Financial Intermediary
FMCN	Fondo Mexicano para la Conservación de la Naturaleza
FPIC	Free, Prior, and Informed Consent
GCF	Green Climate Fund
GEF	Global Environment Facility
GHG	Greenhouse gas
GMO	Genetically Modified Organism
H&S	Health & Safety
IDB	Inter-American Development Bank
IFC	International Financial Corporation
ILO	International Labour Organisation
ISPM	International Standard for Phytosanitary Measures
IUCN	International Union for Conservation of Nature
JMP	WHO/UNICEF Joint Monitoring Programme for Water Supply, Sanitation and Hygiene
KfW	Kreditanstalt für Wiederaufbau ⁴
LGBTQ+	Lesbian, gay, bisexual, transgender, queer (or sometimes questioning) and others. + represents other sexual identities including pansexual and Two-Spirit.
MAR	Mesoamerican Reef
MAR Fund	Mesoamerican Reef Fund
NAP	National Adaptation Plans
NDC	National Determined Contributions
NGO	Non-Governmental Organization
OH&S	Occupational Health & Safety

³ French Facility for Global Environment.

⁴ Reconstruction and Credit Corporation of the Federal Republic of Germany.

MAR Fund – ESMS

PACT	Protected Areas Conservation Trust
PPE	Personal Protective Equipment
PS	Performance Standards
RfP	Request for Proposals
SEA	Sexual Exploitation and Abuse
SECF	Stakeholder Engagement and Communication Framework
SECP	Stakeholder Engagement and Communication Plan
SGBV	Sexual and Gender-Based Violence
SIA	Social Impact Assessment
The Policy	MAR Fund's Environmental and Social Policy
ToR	Terms of Reference
UN	United Nations
UNDP	United Nations Development Programme
UNEP	United Nations Environmental Programme
UNFCCC	United Nations Framework Convention on Climate Change
UN Protocol	United Nations Protocol on Allegations of Sexual Exploitation and Abuse Involving Implementing Partners
WASH	Water, Sanitation, and Hygiene



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• INTRODUCTION

1. This document presents the Environmental and Social Management System (ESMS) of MAR Fund. The purpose of the ESMS is to ensure that projects approved by MAR Fund and MAR Fund projects and activities have a considerable net benefit for the environment and communities of the MAR Region, and avoid, minimize, and mitigate environmental and social risks and impacts.
2. The ESMS is composed of the Environmental and Social Policy, the Exclusion List, ten Environmental and Social Safeguards (ESSs), the Environmental and Social Screening Questionnaire, and other key user-friendly tools and formats.
3. This document is primarily addressed to the MAR Fund Staff who will be implementing the ESMS or otherwise impacted by the system, the organizations presenting proposals, and executing projects and projects approved by MAR Fund (the grantees) who will also implement the ESMS.
4. This document may also be useful for funders and donors, including Multilateral Development Banks and Agencies who require the recipients of their funding to have functional environmental and social management systems in place. In fact, the ESMS was designed to ensure that MAR Fund meets these requirements: the ESMS is consistent with the KfW Sustainability Guideline, the World Bank Environmental and Social Framework and its Environmental and Social Standards, the International Financial Corporation (IFC) Policy on Environmental and Social Sustainability, the AFD Group Environmental and Social Policy, and the GCF Environmental and Social Policy and ESMS. MAR Fund's ESMS also reflects various elements of the Environmental and Social Frameworks of the IDB, and the IUCN's ESMS. The ESMS is indebted to these references (to some more than to others).
5. This document is composed of 12 chapters. The first chapter presents MAR Fund and its programs as well as MAR Fund's Environmental and Social Policy and Exclusion List. The second chapter provides an overview of the environmental and social assessment and management procedures of MAR Fund. The ten Environmental and Social Safeguards are presented in the subsequent chapters.

6. The Environmental and Social Policy and the Exclusion List, and each of the ten Environmental and Social Safeguards are also available as stand-alone documents as they may be required independently for specific purposes.

1 MAR FUND

1. MAR Fund is a private Conservation Trust Fund that drives regional funding and partnerships for the conservation, restoration, and sustainable use of the Mesoamerican Reef.
2. MAR Fund was created by conservation funds in each country of the MAR region (Mexico, Belize, Guatemala, and Honduras) to respond to the need for regional funding and coordination. The “founding” funds (also known as “country-member funds”) are Fondo Mexicano para la Conservación de la Naturaleza (FMCN) from Mexico, Protected Areas Conservation Trust (PACT) from Belize, Fundación para la Conservación de los Recursos Naturales y Ambiente from Guatemala (FCG) and Fundación Biosfera (FB) from Honduras. Two of the four funding funds have an Environmental and Social Management System (ESMS) in place⁵. A third founding fund will develop its own system in the immediate future.
3. MAR Fund receives and channels funding from different sources including private foundations, bilateral cooperation agencies and development banks, international conservation organizations, United Nations Organizations, and private donors. MAR Fund coordinates and articulates strategic actions with national and local governments, partners at different levels and local communities and indigenous peoples, as well as global, regional, national, and local networks and platforms.

1.1 PROGRAMS

4. MAR Fund has the following programs currently in operation:
 - Saving Our Protected Areas
 - Fishing for the Future
 - Climate Change
 - Belize Marine Fund
 - Clean Water for the Reef

⁵ FMCN has a functioning ESMS. The Green Climate Fund (GCF) Board has accredited FMCN to carry out funded activities under the ES risk category C/Intermediation 3: activities with minimal to no risk. PACT has its own ESMS. The GCF Board has accredited PACT to carry out funded activities under the “ES risk category C / Intermediation 3: activities with minimal to no risk”.

5. MAR Fund programs are implemented on the ground by a diverse group of grantees, including community organisations, governmental organisations, academia, and non-governmental organisations (NGOs). MAR Fund irrigates funding for conservation in the MAR Region through the mechanisms of Small Grants, Special Grants, and Specific Projects.

1.1.1 SAVING OUR PROTECTED AREAS

6. Saving Our Protected Areas focuses on creating and strengthening a functional network of coastal and marine protected areas to promote climate change adaptation, natural resources, and ecological processes, as well as the continuity of connectivity function and ecosystem services and the sustainable use of coastal and marine protected areas.
7. One of the projects of the Saving Our Protected Areas Program is the “Protection of Maritime Resources in Central America III” project (Phase III). It is a Financial Cooperation measure (FC-measure) co-financed by KfW/BMZ, MAR Fund, and the participating protected areas whose objective is to secure conservation and sustainable use of natural resources in the MAR Region’s marine protected areas (and in between them)⁶.
8. Phase III will finance projects in the range of US\$ 350000 to US\$ 750000, with an implementation period of 2.5 to 3 years. There will be two RFPs. The first RFP will be addressed to administrators and co-administrators of the 14 priority protected areas selected in the second priority-setting exercise in the MAR Region. The second RFP will be addressed to all the protected areas in the MAR Region, except those whose proposals were selected in the first RFP.
9. The procedure for Phase III will be based on that of the Small Grants mechanism and adapted as required. It will incorporate the presentation of a Concept Note before the full proposal stage. After approval, KfW will provide no-objection and then grantees will sign a grant agreement which will include the environmental and social measures derived from the environmental and social due diligence performed to the approved proposal.

⁶ Phase III is categorized as FI B+ by KfW. FC-Measures are classified into one of the following 4 risk-based categories: |A| High Risk; |B+| Substantial Risk; |B| Moderate Risk; or |C| Low Risk.

10. MAR Fund is expected to have in place an Implementation Unit of four people and focal points in each of the four MAR countries who will be in charge of monitoring project advances and the environmental and social measures.

1.1.2 FISHING FOR THE FUTURE

11. The Program Fishing for the Future includes the project “MAR Fish”⁷ co-financed by the FFEM and the Endowment for Cayman Crown. MAR Fish is implemented by MAR Fund and eight partners: Healthy Reefs Initiative (HRI), Comunidad y Biodiversidad (COBI), Toledo Institute for Development and Environment (TIDE), Southern Environmental Association of Belize (SEA), Environmental Defense Fund (EDF), Foundation for Eco-development and Conservation (FUNDAECO) and Coral Reef Alliance (CORAL).
12. These partners prepare proposals to develop one or more of the activities included in the project work plan. MAR Fund approves the proposals with a non-objection from FFEM. Then, MAR Fund signs grant agreements with the partners and provides funding annually based on advances and results of the previous year. Grant agreements for amounts of US\$ 25000 or more will require the ex-ante no objection of FFEM. MAR Fund also raises funding from other donors for this regional initiative (The Summit Foundation, Marisla Foundation, Oceans 5).

1.1.3 CLIMATE CHANGE

13. The Climate Change program supports adaptation to climate change and mitigation of its impacts on the coral reef.
14. It comprises the Reef Rescue Initiative and mangrove protection and restoration. The first one focuses on strengthening the resilience of coral reefs and of the environmental and cultural services it provides through different mechanisms, including reef restoration and parametric insurance to cover the risk of hurricanes. Regarding mangroves, MAR Fund has supported the evaluation of blue carbon, community restoration and, together with other regional actors supported the development of a regional strategy for mangrove conservation and restoration and the development of a mangrove restoration manual.

⁷ The MAR Fish Project: “Knowledge, monitoring and protection of Mesoamerican Reef spawning areas” is co-financed by the FFEM. The 3-year project seeks to promote the recovery of fisheries in the MAR Region by strengthening the network of protected spawning aggregation sites.

1.1.4 CLEAN WATER FOR THE REEF

15. The Clean Water for the Reef program (known as *Agua Limpia para el Arrecife*) is intended to improve wastewater treatment and solid waste management in the MAR Region to reduce the negative impact on the reef. It fully uses the Small Grants mechanism described in *point 1.1.7 The Small Grants Mechanism*. MAR Fund works in alliance with relevant partners in the MAR region to support the implementation of the Regional Protocol for the Harmonization of Solid and Liquid Discharges and Wastes with a "watershed to reef" approach. MAR Fund accompanies the efforts of HRI, PROCARIBE+ and other organizations to minimize negative environmental and social impacts. MAR Fund also works with partners in conservation, restoration and management and monitoring of mangroves, coral reefs, endangered species, invasive species, as well as sustainable fisheries.

1.1.5 BELIZE MARINE FUND

16. The Belize Marine Fund (BMF) is the only country-focused program. The BMF has its own Steering Committee and Grants Evaluation Committee. Both committees have been adapted from the Small Grants mechanism.
17. The BMF works with a scheme based upon the Small Grants mechanism, with grants of up to US\$ 30000, to be implemented in a period of 12 to 18 months. It also has a mechanism of targeted projects in the sense that some organisations are invited to submit concepts and then some of these concepts are approved and the organisations are invited to submit full proposals.

1.1.6 MAR FUND AND THE BLUE ECONOMY

18. MAR Fund actively participates in some initiatives in the MAR Region to move towards a blue economy based on the sustainable use of the oceans. MAR Fund applies the "from the basin to the reef" approach of the Regional Blue Economy Protocol, developed by SICA Blue through OSPESCA for the MAR2R project of the SICA countries and CCAD. MAR Fund applies this approach in its institutional work and reflects it in the MAR+Invest initiative.

1.1.7 THE SMALL GRANTS MECHANISM

19. The Small Grants mechanism is the most used mechanism and has been adapted to serve most of the projects and activities of MAR Fund. It functions with an annual Request for Proposals (RfP). The processes of the Small Grants mechanism are

detailed in the Small Grants Project Cycle, which is an operation manual available for the staff. The Small Grants mechanism has three windows for processing proposals and projects: The Traditional Window that supports conservation and management in 18 priority eligible protected areas; the Reef Rescue Initiative Window, that processes projects for coral restoration with budgets of up to US \$ 35000 and implementation periods of 12 to 24 months; and the Belize Marine Fund Window, that processes projects for marine resources management and conservation only in Belize.

20. For the RfP a Terms of Reference (ToR) document is approved by the MAR Fund Board of Directors, published in the MAR Fund website, and disseminated through social media. It is also sent by email to marine protected areas, member funds, local stakeholders, and regional networks.
21. There is a period for proposal preparation and submission (usually two months). Support for preparing proposals is available upon request. Proponents use the online system to complete the proposal format in MAR Fund's website. Alternatively, if they cannot use the online system, they can present their proposal to the project officer of the corresponding country-member⁸.
22. Proposals are reviewed for compliance with the RfP requirements and evaluated either by the Small Grants Evaluation Committee of the Traditional and Reef Rescue Initiative windows, or by the Grants and Evaluation Committee of the Belize Marine Fund Window. The Small Grants Evaluation Committee of the Traditional and Reef Rescue Initiative windows recommends proposals to the Board for approval. The Grants and Evaluation Committee of the Belize Marine Fund Window makes the same type of recommendations to the Belize Marine Fund Steering Committee
23. The cycle for the non-accepted proposals ends here with a non-acceptance letter. The cycle for the accepted proposals continues with an acceptance or notification letter explaining the conditions under which the proposal was accepted⁹, and a grant

⁸ The proposal is received by the project officers in the country-member fund at FB, PACT and the FMCN, while in Guatemala it is received by the Small Grants Program Officer of MAR Fund. If the proposal is presented at least two weeks prior the deadline, the project officer can contact the proponent to improve the proposal.

⁹ The accepted proposals of the Traditional Window require FFEM's non-objection.

agreement between the proponent and MAR Fund and/or the country-member fund¹⁰.

24. After signing the grant agreement, the proponent becomes a grantee, and the disbursements start from MAR Fund to the country-member fund and from them to the grantees. A second disbursement is given upon the approval of the interim report and the third and last disbursement (which is a reimbursement of 5%-10% of the project budget) is given upon the approval of the final report¹¹.

1.1.8 OTHER FUNDING MECHANISMS

25. There are two other mechanisms used by MAR Fund to irrigate conservation funding in the MAR Region: Special Grants and Specific Projects. The ESMS applies to these two mechanisms as well.

¹⁰ The accepted proposals that involve funds from the FFEM require verification of a Financial Sanctions list before signing the agreement.

¹¹ There is a reporting structure in place that includes a follow up call during the 3rd month and the 9th month, and technical and financial reports to be submitted at midterm and at the end of the project. Projects are monitored *in situ*, usually at mid-term.

1.2 MAR FUND ENVIRONMENTAL AND SOCIAL POLICY

1. The Environmental and Social Policy (the Policy) contributes to the achievement of MAR Fund's vision, shared with donors, founders and implementing partners, of a thriving Mesoamerican Reef system that sustains, and is supported by, society within a regenerative economy.
2. The purpose of the Policy is to ensure that grants and projects approved by MAR Fund and MAR Fund projects and activities have a considerable net benefit for the environment and communities of the MAR. The Policy provides the MAR Fund Board of Directors, staff members, consultants and grantees with principles, safeguards, and procedures to avoid (or minimize, when avoidance is not possible) adverse environmental and social impacts, and to enhance positive impacts to the maximum extent possible in the MAR region
3. The following principles inform MAR Fund's Policy:
4. Mitigation Hierarchy: First, it is required to anticipate and avoid environmental, social, and Climate Change-related risks and potential adverse impacts; second, it is required to minimise the remaining risks and impacts; third, it is required to mitigate any residual risks and impacts; and, finally, when total avoidance is not possible and residual impacts remain, as a last resort measure it is required to compensate or offset these residual adverse impacts.
5. Alignment with National Conservation Priorities: MAR Fund's activities are aligned with the conservation priorities of the Governments of Mexico, Belize, Guatemala and Honduras and observe their national legal frameworks.
6. Most Stringent ES Policy provision: When MAR Fund's environmental and social provisions are to be considered in parallel with the provisions of any of the Governments of Mexico, Belize, Guatemala and Honduras, the most stringent environmental and social Policy provision should apply.
7. Respect for Human Rights: MAR Fund ensures full respect for Human Rights in all its activities and takes special care to protect the rights of vulnerable individuals and local communities, and Indigenous Peoples. In the spirit of the Escazú Agreement, MAR Fund supports a safe and enabling environment for persons, groups, and organizations that promote and defend human rights in environmental matters, so that they can act free from threat, restriction, and insecurity.

8. Proportionality: The environmental and social actions and procedures required by MAR Fund are proportional and commensurate to the environmental and social risks and potential adverse impacts of the proposed activities.
9. Precautionary Principle: When in doubt about a project's environmental and social risk classification (see § 15 below), the higher risk classification should be assigned.
10. Comprehensiveness – The ES Policy applies to all of MAR Fund activities, including the activities of MAR Fund grantees that are fully or partially funded by MAR Fund, regardless of other financial sources.
11. Efficiency and Effectiveness – MAR Fund implements its ES Policy with optimal use of resources as an integral part of MAR Fund's decision-making, management, and quality systems. In doing so, MAR Fund avoids duplication of information, activities, and processes.
12. Cooperation – The ES Policy is implemented with partners and communities with the technical support of, and in cooperation with, MAR Fund.
13. MAR Fund mainstreams the application of the following Environmental and Social Safeguards (ESS) in its project cycle:
 - ESS 1: Assessment and Management of Environmental and Social Risks and Impacts.
 - ESS 2: Labour and Working Conditions.
 - ESS 3: Resource Efficiency and Pollution Prevention
 - ESS 4: Community Health, Safety, and Security.
 - ESS 5: Access Restrictions to Natural Resources, Livelihood Lost, and Limited Involuntary Resettlement.
 - ESS 6: Biodiversity and Conservation and Sustainable Management of Living Natural Resources.
 - ESS 7: Indigenous Peoples and Traditional Local Communities.
 - ESS 8: Cultural Heritage.
 - ESS 9: Gender
 - ESS 10: Stakeholder Engagement, Information Disclosure, and Participation.

14. The Policy, the ESSs, and the procedures, processes, and tools necessary for its implementation constitute the Environmental and Social Management System (ESMS) of MAR Fund.
15. As per the MAR Fund's ESS 1: Assessment and Management of ES Risks and Impacts, MAR Fund's activities must be classified in terms of their ES risks and potential adverse impacts, in one of the following categories:
 - Category A (High Risk)
Activities with significantly adverse risks to, and potential impacts on, the environment and/or communities. Environmental and social risks and potential impacts are diverse, extended, irreversible, or unprecedented. (Activities that are on the MAR Fund exclusion list and have a high risk of introducing invasive species).
 - Category B+ (Substantial Risk)
Activities otherwise categorized as Category B, except that there is a single environmental and social risk or potential impact that is significant, irreversible, extended, or unprecedented¹². (Although a case-by-case analysis is required, this may include construction, renovation or decommissioning of major, large-scale or medium-scale infrastructure, medium- and large-scale restoration and/or rehabilitation activities, activities that result in restricted access to resources, employment of children under the age of 14-17, moderate risk of introduction of invasive alien species, establishment of protected areas with measures to enforce restrictions on access to natural resources, and significant, irreversible, widespread or unprecedented risks to the health and safety of people and communities).
 - Category B (Moderate Risk)
Activities with environmental and social risks and potential impacts that are limited, largely reversible, generally site-specific, and readily addressed through mitigation measures. (Although a case-by-case analysis is required, this may include the construction, renovation or decommissioning of small-scale infrastructure, small-scale restoration and/or rehabilitation activities, and the establishment of protected areas without measures to enforce restrictions on access to natural resources).
 - Category C (Low Risk)

¹² If there is more than one ES risk or potential impact of these characteristics, the activity is classified as Category A.

Activities with minimal or no adverse environmental and social risks and/or impacts. (These are usually non-area-based projects).

16. *Conformity with other policies and systems:* Although clearly distinct, MAR Fund’s ES Policy and its ESSs are consistent with the KfW Sustainability Guideline, the International Financial Corporation (IFC) Policy on Environmental and Social Sustainability, and the World Bank Environmental and Social Policy for Investment in Project Financing.
17. The application of the environmental and social Policy and the implementation of the ESMS is the responsibility of MAR Fund’s Board of Directors, staff members, and grantees, mirroring the project cycle. Their roles and responsibilities with regards to the Policy and the implementation of the ESMS are established in MAR Fund’s ESMS Operation Manual.

1.3 MAR FUND EXCLUSION LIST

MAR Fund does not finance activities that:

1. Are illegal under the laws, regulations or ratified international conventions and agreements of Mexico, Belize, Guatemala, or Honduras, or subject to national or international phase-out or prohibition regulations, or to an international ban¹³⁻¹⁴.
2. Projects classified by MAR Fund as Category A (High Risk)¹⁵ regardless of the potential ES risk mitigation measures¹⁶
3. Involve the purchase or use of destructive fishing practices¹⁷, or drift net fishing in the marine environment, or stationary fishing gear that passively obstructs the natural passage of fish and other species along the coast or between epicontinental bodies of water and the sea while not physically being supervised by fishers.
4. Involve deforestation of primary forests, high conservation value forests, mangroves or any other critical habitat for the establishment of new industrial agricultural activities.
5. Are related to commercial logging operations in primary tropical moist forest and production or trade in wood or other forestry products other than from sustainably managed forests.

¹³ MAR Fund can finance an activity that is considered illegal in one or more than one of the four MAR countries but not in the country where the activity is to be carried out. If an activity is to be carried out in two countries of the MAR Region, MAR Fund could not finance it when the activity is considered illegal in just one of these two countries, although it may be considered legal in the other country.

¹⁴ This includes: i) certain pharmaceuticals, pesticides, herbicides and other toxic substances (under the Rotterdam Convention, Stockholm Convention and WHO "Pharmaceuticals: Restrictions in Use and Availability"); ii) ozone depleting substances (under the Montreal Protocol); iii) protected wildlife or wildlife products (under CITES / Washington Convention); iv) prohibited transboundary trade in waste (under the Basel Convention).

¹⁵ Category A (High Risk): Activities with significantly adverse risks to, and potential impacts on, the environmental and, or communities. ES risks and potential impacts are diverse, extended, irreversible, or unprecedented. (*Supra* § 104)

¹⁶ A concept or proposal initially classified as Category A can be reclassified if the implementer omits the activities that triggered such an initial classification.

¹⁷ As defined by the FAO/UNEP Expert Meeting on impacts of destructive fishing practices, unsustainable fishing, and illegal, unreported, and unregulated (IUU) fishing on marine biodiversity and habitats (Rome, 23–25 September 2009). The term Destructive fishing practices refers to "the use of fishing gears in ways or in places such that one or more key components of an ecosystem are obliterated, devastated or ceases to be able to provide essential ecosystem functions. From an ecosystem and precautionary approach perspective, destructive fishing refers to the use of gears and/or practices that present a high risk of local or global damage to a population of target, associated or dependent species or their habitat, to the point of eliminating their capacity to continue producing the expected goods and services for present and future generations, particularly if recovery is not possible within an acceptable time frame.

6. Involve harmful labor, forced labor¹⁸, or harmful child labor¹⁹.
7. Involve restrictions of access to natural and cultural resources to communities, except when these activities are carried out following ESS 5 *Impacts from Access Restrictions to Natural Resources, Livelihood Lost (LL), & Limited Involuntary Resettlement (LIR)*.
8. Require Large Involuntary Resettlement²⁰
9. Impinge on the lands owned, or claimed, by Indigenous Peoples, impact territory under traditional use by indigenous Peoples; affect indigenous Peoples' access to resources; commercialise indigenous knowledge, except when these activities are carried out following MAR Fund's ESS 7 *Indigenous Peoples and Local Communities*.
10. Involve production or trade related to alcoholic beverages other than beer, wine, and traditional fermented beverages.
11. Involve production, trade or any other activity related to tobacco; pornography, or prostitution; gambling, casinos, and equivalent enterprises.
12. Are related to production or trade of any kind of weapons and ammunition.
13. Involve production or trade in asbestos and asbestos-containing materials for construction.
14. Involve production, trade, storage, or transport of hazardous chemicals, or commercial scale usage of hazardous chemicals, including gasoline, kerosene, and other petroleum products²¹.
15. Are related to mining or to oil and gas prospection, exploration, and production activities of any type.
16. Involve the purchase of radioactive material, except the procurement of medical equipment, quality control equipment or other equipment for which the radioactive source is insignificant and/or adequately shielded.

** ** END OF ES POLICY AND EXCLUSION LIST ** **

¹⁸ Forced labor means all work or service, not voluntarily performed, that is extracted from an individual under threat of force or penalty (From IFC Exclusion List).

¹⁹ Harmful child labor means the employment of children that is economically exploitive, or is likely to be hazardous to, 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 (From IFC Exclusion List – IFC PS2).

²⁰ Projects involving more than 500 persons or 100 households will be assessed as Large Resettlement.

²¹ This does not include purchase, storage, and transport of gasoline and other petroleum products that are necessary for the regular activities of organisations financed by, or receiving grants from, MAR Fund.



** ** END OF CHAPTER 1 MAR FUND ** **



2 MAR FUND ENVIRONMENTAL AND SOCIAL MANAGEMENT SYSTEM

1. MAR Fund’s Environmental and Social Management System (ESMS) consists of the following elements:
 - A. The Environmental and Social Management Policy²²
 - B. The Exclusion List²³
 - C. Ten Environmental and Social Safeguards²⁴
 - D. The National Legislation Overview²⁵
 - E. The Environmental and Social Screening Questionnaire²⁶
 - F. The Formats for several Environmental and Social plans and instruments²⁷.

2.1 PURPOSE OF THE ESMS

2. The purpose of the ESMS is to ensure that grants and projects approved by MAR Fund and MAR Fund projects and activities have a considerable net benefit for the environment and communities of the MAR Region, and avoid, minimize, and mitigate environmental and social risks and impacts.

2.2 CONFORMITY WITH THE NATIONAL LEGAL FRAMEWORK

3. MAR Fund’s ESMS is in conformity with the National Legal Frameworks of Mexico, Belize, Guatemala, and Honduras. The ESMS is grounded in the idea that the national legislation of the countries in the MAR region provide the fundamental framework for identifying and managing the risks and adverse environmental and social impacts that MAR Fund projects may have.
4. Organizations implementing MAR Fund projects must abide by relevant national legislation and comply with all legal requirements of the countries where their activities are carried out. MAR Fund’s ESMS includes a National Legal Overview that

²² Presented in Chapter 2 of this document.

²³ Presented in Chapter 2 of this document.

²⁴ Presented in Chapters 4 to 13, of this document.

²⁵ Available in MAR Fund’s website.

²⁶ Available in MAR Fund’s website.

²⁷ Presented in Annex 1 to this document and available in MAR Fund’s website.

discusses the General Laws of each of the MAR countries and some other essential legislation that define and govern environmental and social sustainability. MAR Fund grantees are encouraged to refer to and apply this National Legislation Overview when establishing the pertinent framework of their proposals and projects and to consult any other legal or normative instrument that may be required, on a case-by-case basis.²⁸

5. MAR Fund is also respectful of the regional strategies supported by the Central American Integration System (SICA) and its regional secretariats. In this sense, MAR Fund's grantees shall also abide by these regional strategies and international frameworks with national linkages.

2.3 CONFORMITY WITH OTHER STANDARDS

2.3.1 CONFORMITY WITH THE KfW'S SUSTAINABILITY GUIDELINE

6. MAR Fund's ESMS is aligned with the KfW's Sustainability Guideline and its overall objective of promoting sustainability and avoiding adverse environmental, social and climate impacts and risks. It includes a comprehensive and systematic assessment of environmental and social aspects as well as other relevant development aspects of all grants and projects and incorporates an environmental and social framework into the planning, appraisal, implementation, and monitoring of the projects.
7. As part of the alignment with the KfW's Sustainability Guide, MAR Fund's ESMS meets the requirements of the IFC Performance Standards (PS) 1 and 2 and the World Bank Environmental and Social Standards (ESS) 1, 2, and 9.

2.3.2 CONFORMITY WITH THE PERFORMANCE STANDARDS OF THE IFC AND OTHER STANDARDS

8. MAR Fund's ESMS is also fully aligned with the IFC Policy on Environmental and Social Sustainability and its eight Performance Standards.
9. The ESMS of MAR Fund is also in partial alignment with other Multilateral Development Banks (MDB) policies, frameworks, and systems, including the Green Climate Fund (GCF) and the GEF. It also reflects strategic elements of the International

²⁸ It is a reference document, far from exhaustive: important norms that may be of obligatory reference for some projects and proposals may not be covered.

Union for Conservation of Nature (IUCN) ESMS system, to which it is indebted in some sections.

2.3.3 CONFORMITY WITH THE WORLD BANK ENVIRONMENTAL AND SOCIAL STANDARDS

10. MAR Fund's ESMS is fully aligned with the World Bank Environmental and Social Framework. MAR Fund's Environmental and Social Safeguards reflect the Environmental and Social Standards of the World Bank except for the World Bank's ninth ESS that in the World Bank is for Financial Intermediaries and In MAR Fund's ESMS is the Gender Safeguard.

2.3.4 ALIGNMENT OF MAR FUND'S ESSS WITH WORLD BANK'S ESSS, IFC'S PS AND OTHER STANDARDS

Table 1: Alignment of MAR Fund's ESSs with World Bank's ESSs, IFC's PSs and others

MAR Fund Environmental and Social Safeguards	World Bank ESS Safeguards	IFC Performance Standards	Other MDB and Donors
ESS 1: Assessment & Management of Environmental and Social Risks & Impacts	ESS 1: Assessment & Management of Environmental and Social Risks & Impacts	PS 1: Assessment and Management of Environmental and Social Risks and Impacts	Required by AFD, GFC, IDB, GEF MS1, IUCN
ESS 2: Labor and Working Conditions	ESS 2: Labor and Working Conditions.	PS 2: Labor and Working Conditions	Required by AFD, GFC, IDB, GEF MS8, IUCN
ESS 3: Resource Efficiency and Pollution Prevention and Management	ESS 3: Resource Efficiency and Pollution Prevention and Management	PS 3: Resource Efficiency and Pollution Prevention	Required by AFD, GFC, IDB, GEF ESS, IUCN
ESS 4: Community Health, Safety, and Security	ESS 4: Community Health and Safety	PS 4: Community Health, Safety, and Security	Required by AFD, GFC, IDB ESMF, GEF MS9, IUCN
ESS 5: Impacts from Access Restrictions to Natural Resources, Livelihood Lost & Limited Involuntary Resettlement	ESS 5: Land Acquisition, Restrictions on Land Use and Involuntary Resettlement	PS 5: Land Acquisition and Involuntary Resettlement	Required by AFD, GFC, IDB ESMF, GEF MS4, IUCN
ESS 6: Biodiversity Conservation and Sustainable Management of Living Natural Resources	ESS 6: Biodiversity Conservation and Sustainable Management of Living Natural Resources	PS 6: Biodiversity Conservation and Sustainable Management of Living Natural Resources	Required by AFD, GFC, IDB ESMF, GEF MS3, IUCN

MAR Fund Environmental and Social Safeguards	World Bank ESS Safeguards	IFC Performance Standards	Other MDB and Donors
ESS7: Indigenous Peoples and Local Traditional Communities	ESS 7: Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities.	PS 7: Indigenous Peoples	Required by AFD, GFC, IDB ESMF, GEF MS5, IUCN
ESS 8: Cultural Heritage	ESS 8: Cultural Heritage	PS 8: Cultural Heritage	Required by AFD, GFC, IDB ESMF, GEF MS6, IUCN
ESS 9: Gender	ESS 9: Financial Intermediaries	-----	Required by IDB ESMF
ESS 10: Stakeholder Engagement and Information Disclosure	ESS 10: Stakeholder Engagement and Information Disclosure	-----	Required by IDB ESMF ²⁹ Partially by GEF MSS2

2.4 ENVIRONMENTAL AND SOCIAL SAFEGUARDS OF MAR FUND

11. MAR Fund has the following ten Environmental and Social Safeguards (ESSs):

- ESS 1: Assessment and Management of Environmental and Social Risks and Impacts.
- ESS 2: Labour and Working Conditions.
- ESS 3: Resource Efficiency and Pollution Prevention
- ESS 4: Community Health, Safety, and Security.
- ESS 5: Access Restrictions to Natural Resources, Livelihood Lost, and Limited Involuntary Resettlement.
- ESS 6: Biodiversity and Conservation and Sustainable Management of Living Natural Resources.
- ESS 7: Indigenous Peoples and Traditional Local Communities.
- ESS 8: Cultural Heritage.
- ESS 9: Gender

²⁹ As a separate standard or safeguard.

- ESS 10: Stakeholder Engagement, Information Disclosure, and Participation.
12. The ESSs, their applicability and their triggers are discussed in detail in different parts of this document.

2.5 ASSESSMENT AND MANAGEMENT OF ENVIRONMENTAL AND SOCIAL RISKS AND IMPACTS IN MAR FUND

13. All the proposals presented to MAR Fund shall undergo an initial environmental and social screening process to determine their risk-based category, their risks and potential impacts, the required environmental and social assessment, and to consider the likely safeguard instruments that would be developed.
14. The assessment and management of environmental and social risks and impacts of projects approved by MAR Fund is a collaborative process carried out throughout the project-cycle by the grantees³⁰ and MAR Fund.

MAR Fund and the grantees have a shared responsibility to systematically assess and manage the environmental and social aspects of the projects financed either partially or totally by MAR Fund to enhance sustainability and avoid, reduce, and mitigate adverse environmental and social risks and impacts. MAR Fund and its grantees must ensure adequate technical and management capacity to carry out the environmental and social assessment and management. It includes human resources, training, and budgets necessary to this end. See more information on *ESMS's Roles and Responsibilities* in point 2.6.

15. The environmental and social assessment and management requirements and procedures of MAR Fund are described in the “ESS 1: Assessment and Management of Environmental and Social Risks and Impacts” (*Chapter 4* of this document). Additional requirements are described in the other nine ESSs (*Chapters 5 to 13* of this document).
16. All project proposals will follow the process illustrated in *Figure 1: Assessment and Management of risks and impacts throughout the project cycle*. This applies to the project proposals made through the Small Grants mechanism, the Special Grants mechanism, and the Specific Projects and includes all the *windows* described above.

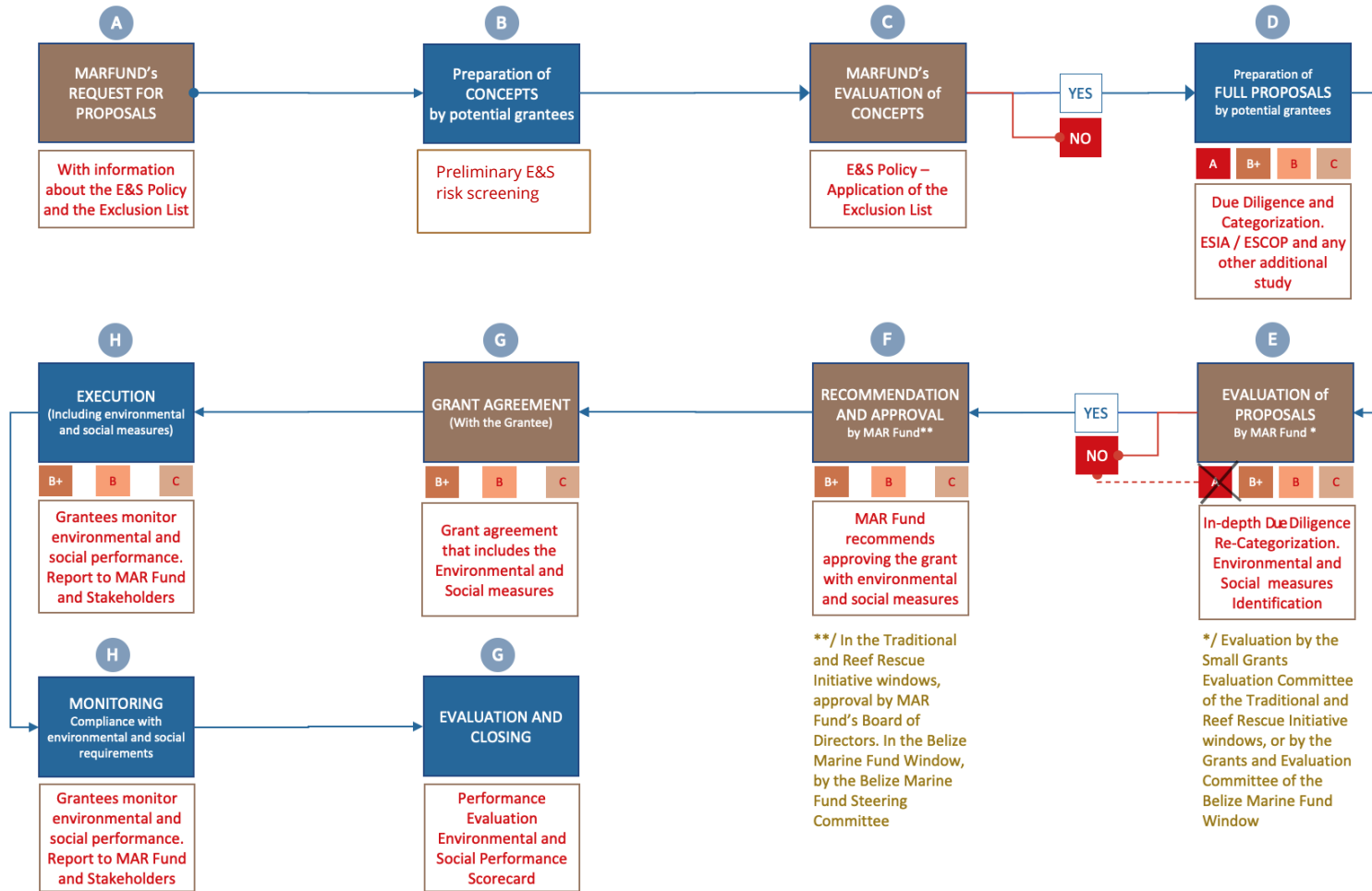
³⁰ Here, the term ‘grantee’ includes the organizations making project proposals to MAR Fund, who technically have not yet become *grantees*, and the organizations whose project proposals are approved and thus become *grantees* as such.



17. The same process will apply to all MAR Fund funding channeled through any other future mechanism or window.



Figure 1: Assessment and Management of risks and impacts throughout the project cycle



- A. Request for Proposals:** MAR Fund should do the following:
- i. Prepare a Request for Proposals (RfP) with clear information on the MAR Fund's Environmental and Social Policy, Exclusion List and environmental and social requirements.
 - ii. Disseminate the RfP through social media and other media, send it to marine protected areas, other potential grantees, member funds, local stakeholders, and regional networks by email.
 - iii. In the case of the mechanism of Special Grants, where instead of an RfP the projects may be donor-driven, the information about environmental and social requirements shall be disseminated among the organizations invited to present proposals for Special Grants.
- B. Preparation of Concepts** (when so required): the potential grantees shall do the following:
- i. Prepare a Concept of their future proposal.
 - ii. Verify that their Concept Notes does not refer to activities in the MAR Fund's Exclusion List.
 - iii. Carry out a Preliminary Risk Screening on their proposed activities to make sure that they are in accordance with the MAR Fund's environmental and social framework (Policy and Safeguards).
 - iv. Submit their Concepts using the MAR Fund's online system.
- C. Evaluation of Concepts:** MAR Fund shall do the following:
- i. Evaluate the concepts by the specific evaluation mechanism established for the funding instrument.
 - ii. Verify that the Concept Note does not refer to activities comprised in the the Exclusion List.
 - iii. Carry out an initial Due Diligence on the concept and assigns a preliminary risk-based category³¹.

³¹ If the concept is categorized as Category A: High Risk, the Evaluation Committee has two options: 1) requiring a modification to avoid the high-risk sub-activities that led to the High-Risk classification; 2) not approving the concept. See more information in point 4.2.1.

- iv. Retain or reject the Concept Note and inform the proponent of this decision, including the preliminary risk-based category.
- D. Formulation of Full Proposals:**³² The proponents or potential grantees (organizations with approved concepts; organizations responding to an RfP that does not require a concept; organizations preparing proposals to develop one or more of the activities included in a predefined project work plan) shall do the following:
 - i. Verify that their proposals comply with the national law.
 - ii. Verify that the proposals are not included in the Exclusion list of MAR Fund.
 - iii. Carry out a preliminary Due Diligence of their proposed projects. It includes the appraisal, identification and assessment of the environmental and social risks and impacts of the projects.
 - iv. Implement the stakeholder engagement actions required by the category of their proposed project³³.
 - v. For project proposals with significant environmental and social risks, carry out either directly or through a qualified third party (consultant) an Environmental and Social Impact Assessment (ESIA) or other appropriate studies.
 - vi. For project proposals with less significant environmental and social risks, make sure that a Site-Specific Assessment and a Social Code of Practice (ESCAP), and any other adequate environmental and social study are carried out.
 - vii. Identify the environmental and social measures necessary to satisfy the requirements of the Safeguards triggered by the project. It includes an Environmental and Social Impact Assessment (ESIA), or an Environmental and Social Code of Practice (ESCAP) or other adequate environmental and social documentation proportionate to the potential risks and impacts of the proposed projects. Some of these requirements (or studies) are necessary prior the approval and other may be satisfied/conducted after the approval. In these cases, these studies shall be listed with a proposed timeline for their execution.

³² MAR Fund may support the proposal-writing process depending on the conditions of the different funding programs.

³³ See detail information in point 13.2.

- E. Evaluation of Proposals**³⁴ MAR Fund shall do the following:
- i. Carry out an in-depth environmental and social due diligence of the proposals.
 - ii. Review the risk-based categorization of the proposal and assign a definitive category. If there is a sub-grant-making framework in the proposed project, the risk category of the sub-grant-making framework shall be the highest risk-level of the sub-grant that may be financed (i.e., if all the sub-grants are Category C, but one is expected to be Category B, the sub-grant-making framework shall be Category B).
 - iii. Exclude any proposed project that is classified as Category A: High Risk.³⁵
 - iv. Approve the ESIA/ESMP or the Site-Specific Assessment and a Social Code of Practice (ESCOP), as the case may be
 - v. Require additional environmental and social studies as necessary depending on the risk category and the characteristics of the project. The studies that constitute a condition for approval shall be conducted as part of the approval process. The studies that are not necessary before the approval will be included in the environmental and social requirements of the grantee to be conducted once the project is approved.
 - vi. Identify and outline the environmental and social measures required for the project to satisfy the ESSs based on the environmental and social Due Diligence. With this outline, the grantee prepares the Environmental and Social Action Plan (ESAP) of the project, to be approved by MAR Fund.
- F. Recommendation and Approval**³⁶ MAR Fund shall do the following:

³⁴ Proposals made in the Traditional window and the Reef Rescue Initiative window are evaluated by the Small Grants Evaluation Committee. Proposals made in the Belize Marine Fund Window are evaluated by the Grants and Evaluation Committee of the Belize Marine Fund. Special Grants and Specific Projects are evaluated by MAR Fund technical staff and/or specific evaluation committees, depending on the conditions and characteristics of different funding programs.

³⁵ The Evaluation Committee may ask the proponent, if feasible, to eliminate the activities that caused the categorization as Category A, and continue with the evaluation process.

³⁶ Proposals made to the Traditional window and the Reef Rescue Initiative window are recommended by the Small Grants Evaluation Committee and approved by MAR Fund's Board of Directors. Proposals made to the Belize Marine Fund Window are recommended by the Grants and Evaluation Committee of the Belize Marine Fund and approved by the Belize Marine Fund Steering Committee. Special Grants and Specific Projects are recommended by MAR Fund technical staff and/or specific evaluation committees, depending on the conditions and characteristics of different funding programs and approved by the technical staff, the President or the MAR Fund Board of Directors, depending on the project conditions for each initiative. In

- i. Recommend approval of the proposed project with specific environmental and social requirements to be satisfied by the grantee (or recommend not approving the proposed project).
 - ii. The competent organ of MAR Fund follows the recommendation to approve (or to not approve) the proposed project.
 - iii. Establish specific environmental and social measures or requirements to the grantee and outline the Environmental and Social Action Plan (ESAP) of the project to be satisfied by the grantee during implementation.
- G. Grant Agreement Signing:** MAR Fund and grantees shall do the following:
- i. MAR Fund prepares a grant agreement, which integrates the environmental and social requirements and measures to be satisfied by the grantee during implementation. These measures constitute the ESAP.
- H. Grant Execution:** The grantees shall do the following:
- i. Enhance their environmental and social capabilities to satisfy the ESMS requirements. (Grantees may benefit from MAR Fund’s guidance and training).
 - ii. Execute their projects in accordance with the environmental and social requirements set by MAR Fund in the grant agreement.
 - iii. Establish a Grievance Mechanism to manage complaints and grievances from communities, workers, and other stakeholders.
 - iv. Report to their stakeholders on environmental and social matters as per the reporting schedule established in their SECPs.
 - v. Report to MAR fund on environmental and social matters as per the reporting schedule agreed upon in the grant agreement.
- I. Grant Monitoring:** The grantees and MAR Fund shall do the following:
- i. Grantees carry out monitoring of their environmental and social performance as part of their regular monitoring activities.

this context, the Evaluation Committee refers to the Small Grants Evaluation Committee, the Grants and Evaluation Committee of the Belize Marine Fund, and, in the case of the Special Grants and Specific Projects, MAR Fund technical staff.

- ii. MAR Fund monitors the fulfillment of the environmental and social requirements and measures included in the ESAP and any other measure that becomes necessary.
 - iii. For projects that are part of the “Conservation of Marine Resources in Central America Phase III” project, the Focal Points in each of the four MAR countries will also monitor the environmental and social measures.
 - iv. The grantees, and the Focal Points in the case of the “Conservation of Marine Resources in Central America Phase III” project, shall promptly inform MAR Fund of any variation in the implementation of the environmental and social measures that is significant, continued or that may jeopardize the implementation of the project³⁷.
- J. Grant evaluation and closing:** The grantees and MAR Fund shall do the following:
- i. Jointly evaluate the environmental and social performance of the project when achieving 90% implementation and produce an environmental and social scorecard.

2.6 ESMS’S ROLES AND RESPONSIBILITIES

18. The application of the environmental and social Policy and the implementation of the ESMS is the responsibility of MAR Fund Board of Directors, staff members, and grantees, mirroring the project cycle, as it is presented in this section.

2.6.1 THE BOARD OF DIRECTORS OF MAR FUND

19. The Board of Directors of MAR Fund has the following roles and responsibilities with regards to the application of the environmental and social Policy and the implementation of the ESMS.
- i. Adopts the environmental and social Policy and adjusts it when necessary.
 - ii. Approves the ESMS.

³⁷ See *Monitoring and Reporting point*, § 42.

- iii. Commits to upholding the environmental and social Policy in their decision-making processes and specifically when approving MAR Fund activities, as part of their overall responsibility for the appropriate use of funds.
- iv. Designates a representative from senior management as a person responsible of the environmental and social safeguards.
- v. Reviews the environmental and social performance of MAR Fund and adopts corrective measures if necessary.
- vi. Abides by the Exclusion List

2.6.2 MAR FUND

20. MAR Fund has the following roles and responsibilities with regards to the application of the environmental and social Policy and the implementation of the ESMS.
- i. Upholds the environmental and social Policy.
 - ii. Ensures consistency across MAR Fund’s documentation with regards to the environmental and social Policy and the ESMS, makes the necessary adjustments and proposes amendments to official documents to the Board.
 - iii. Designates a member of its technical staff with experience in environmental and social risks management to be responsible for the implementation of the ESMS, including the environmental and social safeguards.³⁸
 - iv. Ensures that MAR Fund activities’ environmental and social risks and potential adverse impacts are identified, assessed, and managed, and that the appropriate environmental and social safeguards are applied²⁵.
 - v. Grants environmental and social clearance to the proposals recommended by the evaluation committees for approval by the Board.
 - vi. Provides technical support to applicants on ESMS related matters, as part of the technical support it provides to applicants during the various application processes.
 - vii. Provides technical support on ESMS related matters to the organizations executing MAR Fund projects.

³⁸ For the “Conservation of Marine Resources in Central America Phase III” project, MAR Fund designates Focal Points in each of the four MAR countries who will be in charge of monitoring environmental and social measures of the projects based on this ESMS.

- viii. Follows up on, and monitors compliance with, environmental and social requirements during the implementation of approved projects.
- ix. Manages an environmental and social performance scorecard per project, as part of the monitoring and evaluation process.
- x. Aggregates environmental and social performance information in the ESMS system, elaborates and updates an environmental and social performance overview, and prepares reports to the Board, donors, general public, others that may be required.

2.6.3 THE GRANTEES (AND ORGANIZATIONS MAKING PROJECT PROPOSALS)

21. The grantees of MAR Fund and organizations making project proposals to MAR Fund have the following roles and responsibilities with regards to the application of the environmental and social Policy and the implementation of the ESMS.
 - i. When requested by an RfP, produce a project concept aligned with the Environmental and Social Policy.
 - ii. Conduct an initial environmental and social due diligence on their initiative, identify environmental and social risks and potential adverse impacts, and design their project to avoid and minimise these risks and impacts.
 - iii. Include a set of environmental and social measures to manage and mitigate the remaining environmental and social risks and impacts in their proposals.
 - iv. Classify their proposals in terms of environmental and social risks and potential adverse impacts, as per the risk-based classification guidance of the ESS 1³⁹.
 - v. Satisfy the requirements of the environmental and social safeguards of MAR Fund triggered by the proposal.
 - vi. Sign a grant agreement with MAR Fund where the environmental and social requirements to manage the risks and impacts of the project are spelled out.
 - vii. Monitor environmental and social performance of their approved project activities and ensure compliance with the environmental and social requirements.

³⁹ Note that this classification is not definitive.

- viii. Satisfy the requirements of any environmental and social safeguard that become necessary during implementation (this is in addition to the safeguards mentioned in point v above).
- ix. Monitor and ensure compliance with the environmental and social requirements of their projects funded totally or partially by MAR Fund.

2.7 HARMONIZATION WITH OTHER ESMSS

- 22. MAR Fund's ESMS can be used in conjunction with the ESMS of other organizations when the proposed project will be co-financed by another funder⁴⁰ with a functional ESMS, or when the proponent (the potential grantee) has its own functional ESMS.
- 23. When the proposed project will be co-financed by another funder with a functional ESMS, MAR Fund will carry out a gap analysis between MAR Fund's ESMS and the ESMS of the co-financer that is intended to be used for the project. Under the basis of this analysis MAR Fund can agree to use the other funder's system, provided that any gap between the MAR Fund's and the other's systems is fulfilled. This will be reflected in the project's ESAP.
- 24. When the proponent has its own functional ESMS, MAR Fund will review the organization's ESMS to verify that it is fully compatible with MAR Fund's ESMS, complies with MAR Fund's Policy and satisfies its ESSs.
- 25. When the organization's ESMS is found to be fully compliant with MAR Fund's ESMS, the organization's ESMS can be used with the proposed project in lieu of MAR Fund's. In this case MAR Fund keeps record of the environmental and social performance of the project for monitoring, evaluation and learning purposes, and for information disclosure as well. These arrangements will be reflected in the project's ESAP.
- 26. When the organization's ESMS is found to be partially compliant with MAR Fund's ESMS, MAR Fund can, at its sole discretion, agree with the organization on a time-bound action plan to make the organization's ESMS fully compliant with MAR Fund's ESMS. When compliance is fully achieved, the procedure established in § 25 above will be followed.

⁴⁰ Other potential funders include Multilateral Development Banks, UN Agencies, Bilateral Agencies, International NGOs, other CTFs, Foundations, and the Private Sector.

27. When the organization's ESMS is found to be non-compliant with MAR Fund's ESMS, it is not possible to harmonize the systems and MAR Fund's ESMS will apply.

2.8 STAKEHOLDER ENGAGEMENT THROUGH THE PROJECT CYCLE

28. Stakeholder engagement, information disclosure and public participation are key elements of the environmental and social performance of projects approved by MAR Fund and constitute the basis for the compliance with MAR Fund's safeguards. In the spirit of the Escazú Agreement, MAR Fund requires that the projects it finances support the rights of access to environmental information and public participation in the environmental decision-making process with regards to environmental and social matters.
29. All projects approved by MAR Fund shall have a Stakeholder Engagement and Communication Plan (SECP) that includes information disclosure and public participation measures, commensurate to their environmental and social risks and potential adverse impacts. In addition, any project triggering the ESS 7 Indigenous Peoples and Traditional Local Communities, must include a process to obtain the Free, Prior, and Informed Consent (FPIC)⁴¹ of the affected communities. Detailed guidance with regards to stakeholder engagement and consultation is provided in the ESS 10 Stakeholder Engagement, Information Disclosure, and Participation, and with regards to FPIC, in ESS 7 Indigenous Peoples and Traditional Local Communities.

2.9 GRIEVANCE MECHANISM

30. MAR Fund has a functional Grievance Mechanism to receive grievances, address concerns, and facilitate resolution of grievances with regards to the projects funded by MAR Fund. The Grievance Mechanism is especially important because it allows MAR Fund to know in a timely manner when a community or an individual has complaints related to the environmental and social performance of a project. MAR Fund requires all its projects to have a functional similar mechanism. This requirement is included in ESS 1 and developed in ESS 10.
31. The Grievance Mechanism does not preclude any legal recourse (or other type of action) related to the execution of a project to which an aggrieved party may feel entitled to, or that MAR Fund may find appropriate. Equally, the reception and

⁴¹ See ESS 7 and ESS 10 with regards to FPIC.

processing of grievances by the grantees or by MAR Fund do not imply recognition of fault by any of them.

2.10 MONITORING AND REPORTING

32. Monitoring and reporting are essential elements of the ESMS to track, control, and communicate the implementation of the environmental and social requirements of every project supported by MAR Fund. The specific characteristics of the monitoring and reporting are to be integrated into the grant agreements signed between MAR Fund and the grantees.
33. The grantees will conduct monitoring of their environmental and social performance as part of their regular project monitoring activities. The grantees shall monitor compliance with the environmental and social requirements and measures included in the ESAP and any other necessary measures (see *point 3.5 Compliance With ESAP Commitments* in this document). They shall also document monitoring and maintain records for learning, continuous improvement, and possible revisions of compliance with environmental and social management clauses.
34. The grantees will report on environmental and social monitoring to their stakeholders as established in the Stakeholder Engagement and Communication Plan (SECP) Information Disclosure Matrix. They will also report to the MAR Fund in accordance with their contractual and other legal obligations. When the projects trigger some of the ESSs 3 to 8 and part of ESS 9, special monitoring requirements may apply and consequently they must be satisfied in due form and time.
35. MAR Fund shall monitor the correctness of the assessment of environmental and social risks and potential adverse impacts at the planning and proposal stages as well as the later environmental and social management performed by the grantees. This may include site visits by MAR Fund staff and, in extraordinary cases, independent third-party monitoring. For Category B+ Projects field visits by MAR Fund staff are mandatory.
36. When the project achieves 90% implementation, the grantee and MAR Fund jointly evaluate the environmental and social performance of the project and produce an environmental and social scorecard.
37. For projects that are part of the “Protection of Maritime Resources in Central America III” project, the focal points in each of the four MAR countries will oversee monitoring of the environmental and social measures.

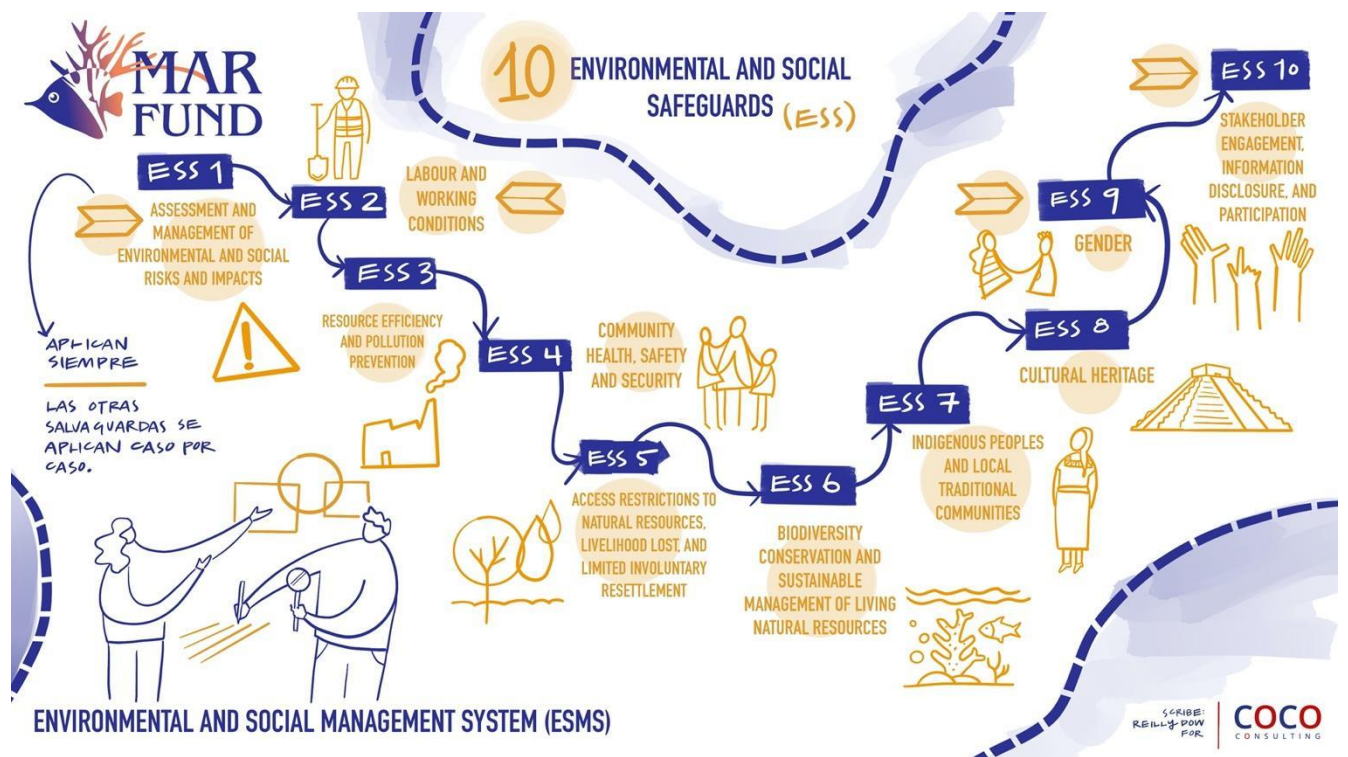
38. The grantees, and the Focal Points in the case of the “Protection of Maritime Resources in Central America III” project, shall promptly inform MAR Fund of any variation in the implementation of the environmental and social measures that is significant, continued or jeopardizes the implementation of the project. A significant variation causes, or may cause, an increase in the level or risk, either in the probability or in the severity of the impact. A continued variation means that it happens in more than one quarter (i.e., is maintained or repeated in two quarters), and jeopardizing the implementation means that the failure to perform the measure prevents key sub-activities of the project to be implemented (i.e., finalizing a Process Framework for Management of Access Restrictions, Livelihood Loss, and Limited Resettlement).

2.11 VALIDITY AND REVIEW OF THE ESMS

39. The ESMS will be rolled out with all new projects from April 1st, 2022. This version of the ESMS will be reviewed by MAR Fund in 2023.

** ** END OF CHAPTER 2 MAR FUND'S ESMS ** **

MAR FUND ENVIRONMENTAL AND SOCIAL SAFEGUARDS



3 ESS 1: ASSESSMENT AND MANAGEMENT OF ENVIRONMENTAL AND SOCIAL RISKS & IMPACTS

ASSESSMENT AND
MANAGEMENT OF
ENVIRONMENTAL
AND SOCIAL RISKS
AND IMPACTS



3.1 INTRODUCTION

1. The “ESS 1: Assessment and Management of Environmental and Social Risks and Impacts” (ESS 1) embodies the Environmental and Social Policy (the Policy) of MAR Fund and constitutes the backbone of MAR Fund’s Environmental and Social Management System (ESMS).
2. The ESMS includes other nine Safeguards whose applicability derives from this ESS and is decided upon during the Environmental and Social Due Diligence performed, primarily, by the proponent and, secondarily, by MAR Fund.
3. The application of the ESS 1 is supported by different tools, including the Environmental and Social Screening Questionnaire (ESSQ).

3.1.1 OBJECTIVES

4. The objectives of the ESS 1 are:
 - i.* To facilitate the identification of environmental and social risks and adverse impacts of projects funded by MAR Fund early in the process of proposal-making and approval, and throughout the project implementation cycle.
 - ii.* To implement a mitigation hierarchy to avoid, reduce, and minimize environmental and social risks and potential adverse impacts and, when avoidance is not possible, to mitigate and manage the risks and impacts of projects funded by MAR Fund.
 - iii.* To enhance environmental and social performance of projects funded by MAR Fund.

3.1.2 SCOPE OF APPLICATION

5. The ESS 1 applies to all projects funded by MAR Fund, regardless of the program or the instrument or “window” used for their delivery. It covers projects and activities both fully and partially financed by MAR Fund. MAR Fund Board of Directors, staff and consultants, grantees and partners executing projects funded by MAR Fund should apply this Safeguard.

3.1.3 DEFINITIONS

6. For MAR Fund’s ESMS, the terms presented in this section will have the following meaning. These definitions rely on the World Bank Environmental and Social Framework⁴² and other sources:
- Cumulative impacts are the incremental impacts of the project when added to the impacts of other relevant past, present and reasonably foreseeable developments, as well as unplanned but predictable actions made possible by the project that may occur later in time or at a different location.
 - Direct impact is an impact which is caused by the project and occurs contemporaneously in the location of the project.
 - Environmental and Social risk is a combination of the probability of certain hazard occurrences and the severity of impacts resulting from such an occurrence.
 - Environmental and Social impacts refer to any potential or actual change in (i) the physical, natural, or cultural environment, and (ii) the impact on the surrounding community, including people working on the project, resulting from the project.
 - Indirect impact is an impact which is caused by the activity and is later in time or farther removed in distance than a direct impact but is still reasonably foreseeably caused by the project.

3.1.4 ASSESSMENT AND MANAGEMENT TOOLS

7. The following are some of the standard Instruments and tools available to carry out the assessment and management of environmental and social risks and impacts. They should be used in accordance with the nature and scale of the proposed project.
- Community Health & Safety Plan (CH&S) is a plan to protect communities from hazards caused or exacerbated by the projects, such as pollution, flooding, spread of communicable diseases, employment of security personnel, etc.
 - Environmental and Social Action Plan (ESAP) is the articulation of all the environmental and social measures and requirements necessary for the project

⁴² These definitions rely on the World Bank Environmental and Social Framework and other sources that are specified in the text. (Most of the World Bank references are from 2016 World Bank Environmental and Social Framework. World Bank, Washington, DC. License: Creative Commons Attribution CC BY 3.0 IGO)

to comply with MAR Fund’s Environmental and Social Policy and Safeguards. It is produced as a result of the environmental and social due diligence. The ESAP is part of the grant agreement between MAR Fund and the grantee.

- Livelihood Restoration and Compensation Plan and the Resettlement Action Plan are instruments to use after the Process Framework is approved.
- Environmental and Social Audit is a procedure for establishing the nature and extent of all areas of environmental and social concern and risk by an existing project and assessing its status, specifically with respect to compliance with the requirements of the ESS. It also identifies appropriate mitigation measures and actions including their costing⁴³.
- Environmental and Social Assessment (ESA)⁴⁴ is the analysis and planning to ensure the environmental and social impacts and risks of a project are identified, avoided, minimized, reduced, or mitigated throughout the project life cycle.
- Environmental and Social Impact Assessment (ESIA) is an instrument to identify and assess the environmental and social impacts of a proposed project, evaluate alternatives and design appropriate mitigation, management, and monitoring measures. It shall include the development of suitable mitigation measures articulated in an ESMP. It could be a Full ESIA or a fit-for-purpose ESIA.
- The Environmental and Social Code of Practice (ESCOP) is a safeguard instrument that articulates procedures and actions to manage the environmental and social risks and impacts of Activities classified as Category B and Category C that do not require an ESIA by the national legislation. It is a concise instrument that covers labour and occupational health and safety aspects, specific to projects that include small infrastructure construction or refurbishment with minor environmental and social risks and impacts.
- Environmental and Social Management Framework (ESMF) is an instrument that establishes the framework for managing environmental and social risks and adverse impacts of a group of projects or of a project that is composed of various sub-grants or sub-projects that are unknown or not well defined at the time of

⁴³ The World Bank, ESMF.

⁴⁴ The World Bank - Guidance Note for Borrowers.

evaluating and approving the proposal. Any project with a sub-grant-making framework shall have an ESMF.

- Environmental and Social Management Plan (ESMP) is an instrument that articulates in detail the required measures and actions to manage environmental and social risks and adverse impacts of the project and to enhance its environmental and social performance. It is the result of an ESIA.
- Gender Action Plan (GAP) is a set of concerted and articulated actions to close the *gap* between women and men (and LGBTQ+ persons) with regards to roles, responsibilities, activities, and access to and control over resources and decision-making opportunities related to projects approved by MAR Fund. The GAP responds to the requirements set forth by MAR Fund's ESS 9 Gender. It could be a succinct Gender Statement that encompasses the above-mentioned actions or could be a stand-alone document if the risks posed by the project so requires.
- Hazardous Material Management Plan⁴⁵ is an articulate set of actions to use, store, or handle any quantity of hazardous materials, defined as materials that represent a risk to human health, property, or the environment due to their physical or chemical characteristics.
- Integrated Pest Management Plan is a set of articulated ecosystem-based actions for effective and environmentally sound pest management while minimising health and environmental risks (including risks to terrestrial and aquatic ecosystems, non-target species and other important ecological resources associated with the use of biocides and other pest management techniques). It comprehends a combination of techniques, including biological control, habitat manipulation, cultural practices and, as a last resort, reasonable and safe use of biocides.
- Occupational Health & Safety (OH&S) Plan is a plan of action to prevent incidents and occupational diseases derived directly or indirectly from a project. The OH&S shall be based on the likelihood and severity of the consequence of exposure to pre-identified hazards. The OH&S Plan shall comply with the national legislation

⁴⁵ General Environmental, Health, And Safety (EHS) Guidelines: Environmental Hazardous Materials Management. (EHS) Guidelines – IFC, The World Bank.

of the country where the project is implemented and with MAR Fund's ESS1 and ESS2 requirements.

- Risk Assessment of Living Modified Organisms (LMOs) is an instrument to inform decision-making regarding LMOs. It consists of a “structured process conducted in a scientifically sound and transparent manner, and on a case-by-case basis in the context of the risks posed by the non-modified recipients or parental organisms in the likely potential receiving environment” to identify and evaluate the potential adverse effects of LMOs⁴⁶.
- Safely Managed Drinking Water and Sanitation Plan is a set of articulated actions intended to ensure safe drinking-water, safe-sanitation, and hygiene services available in the facility that has been built or refurbished as part of a MAR Fund-financed activity. It includes actions to prevent faecal contamination of source waters, preserve water supply, treat the water to reduce or remove contamination, prevent re-contamination during storage, distribution, and handling of drinking water, safely managed sanitary facilities including periodical removal of sanitary sludge, if needed.
- Social Impact Assessment (SIA) is an inquiry focused on social issues, to analyse and understand both intended and unintended social consequences of activities⁴⁷. A SIA may be requested to evaluate risks and impacts related to demographics, economy and livelihoods, gender (including LBTBQ+), health, stakeholders' rights, cultural heritage, etc. It may include a Conflict Analysis if the project is deemed to exacerbate existing conflicts or generate new ones.
- Strategic Environmental and Social Assessment (SESA) consists of the systematic examination of environmental, social, and Climate Change-related risks and potential adverse impacts associated to a *policy*, a *plan*, or a *program*. It includes the eight ESSs. It would be applicable to a project only when the project consists of the development of a [national] policy, plan, or program.
- The Environmental and Social Screening Questionnaire (ESSQ): It is a questionnaire that inquires about the environmental and social risks and impacts of an activity through a series of questions related to the ESSs, with clear triggers for these ESSs.

⁴⁶ Road Map for Risk Assessment of Living Modified Organisms. UNEP/CBD/BS/COP-MOP/8/8/Add.1

⁴⁷ By default, an ESIA includes a SIA.

- Waste Management Plan is an articulate set of actions to safely manage waste from waste generation to waste disposal for any project that generates, stores or handles waste. It is commonly required for projects that involve construction, refurbishment, or decommissioning of infrastructure.

3.2 ENVIRONMENTAL AND SOCIAL DUE DILIGENCE

8. The Environmental and Social Due Diligence (the Due Diligence) consists of the continuous assessment of the environmental and social risks and adverse impacts of a proposed project. The Due Diligence allows for the identification and anticipation of these risks and impacts and for their avoidance, minimization, and/or mitigation in a structured manner.
9. Environmental and Social Due Diligence is performed firstly by the organizations submitting proposals to MAR Fund (which will become MAR Fund grantees) and secondly by MAR Fund. It is performed from the concept-of-a-project stage to the proposal, evaluation, and approval. The environmental and social measures derived from the due diligence are articulated in an Environmental and Social Action Plan (ESAP), which will be implemented throughout the execution of the project.
10. Initially, concepts and proposals are subject to an environmental and social screening (see § 18). Then, an in-depth Environmental and Social Due Diligence (ESDD) is carried out (see § 24 to 29). If the proposal becomes a project, environmental and social monitoring is performed.

3.2.1 RISK-BASED CLASSIFICATION

11. As part of the Due Diligence project proposals are classified in terms of their environmental and social risks and potential adverse impacts in one of the following four categories⁴⁸ always evaluated on a case-by-case basis:
 - *Category C (Low Risk)*
Projects with minimal or no adverse environmental and social risks and/or impacts. (These are usually non-area based projects).
 - *Category B (Moderate Risk)*

⁴⁸ Proposals and projects can be reclassified as established in § 12)

Projects with environmental and social risks and potential impacts that are limited, largely reversible, generally site-specific, and readily addressed through mitigation measures. (Although a case-by-case analysis is required, this may include the construction, renovation or decommissioning of small-scale infrastructure, small-scale restoration and/or rehabilitation activities, and the establishment of protected areas without measures to enforce restrictions on access to natural resources).

- *Category B+ (Substantial Risk)*

Projects that otherwise would be categorized as Category B, except that there is a single environmental and social risk or potential impact that is significant, irreversible, extended, or unprecedented⁴⁹. (Although a case-by-case analysis is required, this may include construction, renovation or decommissioning of major, large-scale or medium-scale infrastructure; medium- and large-scale restoration and/or rehabilitation activities; activities that result in restricted access to resources; employment of children under the age of 14-17; moderate risk of introduction of invasive alien species; establishment of protected areas with measures to enforce restrictions on access to natural resources; and significant, irreversible, widespread or unprecedented risks to the health and safety of people and communities).

- *Category A (High Risk)*

Projects with significantly adverse environmental and social risks to, and potential impacts on, the environment and/or communities. These risks and potential impacts are diverse, extended, irreversible, or unprecedented. (Activities that are on the MAR Fund exclusion list and have a high risk of introducing invasive species).

12. Project proposals and projects may be re-classified by MAR Fund if:

- A concept or a proposal is modified by the proponent and as result the proposal risk is reduced. The modifications can be done following the organization's initiative or following advice from MAR Fund. In this case, MAR Fund will review the initial classification, provided that the modification was done within the RfP's conditions.

⁴⁹ If there is more than one ES risk or potential impact of these characteristics, the project will be classified as Category A.

- Monitoring of the project’s environmental and social performance shows a) an increase of one or more risks beyond the provisions; or b) emerging risks and impacts that were not considered initially.
- If there is a credible grievance related to sexual and gender-based violence (SGBV), including sexual harassment, or sexual exploitation and abuse. MAR Fund will automatically increase the initial classification by a degree. If the project was classified as Category C, it becomes B; if it was B then it becomes B+; if it was already B+ it remains B+ under special watch. This re-classification is meant to be temporary, until the grievance is solved.

3.2.2 AREA-BASED AND NON-AREA-BASED PROJECTS

13. With regards to MAR Fund’s ESMS there are two types of projects: *Area-Based* projects and *Non-Area-Based* projects⁵⁰.
14. The Area-Based projects are projects that provide technical assistance, financial resources, physical infrastructure, equipment, and other resources to be applied totally or partially in a defined geographical location, on land, in the sea, or both). Area-Based projects are implemented *in the territory*.
15. Usually, Area-Based projects are classified as Category B or higher.
16. The Non-Area-Based projects are projects that do not provide technical assistance, financial resources, physical infrastructure, equipment, or any other resources to be applied in a defined geographical location. The Non-Area-Based projects do not involve actions on the ground, are not implemented in the territory and are not intended to produce direct changes on the land or the sea, even though their final purpose may be to bring about attitude, behavioural, or political changes that will have an eventual impact on the land and the sea.
17. Usually, Non-Area-Based projects are classified as Category C.

3.2.3 ENVIRONMENTAL AND SOCIAL ASSESSMENT BY THE GRANTEES

18. The grantees (organizations submitting project proposals to MAR Fund) should perform an environmental and social assessment (or initial environmental and social due diligence) to identify the main environmental and social risks and potential

⁵⁰ MAR Fund’s ESMS borrows the concepts of Area-Based Project and Non-Area-Based Project from the IUCN ESMS’ Guidance Note - Assessment, Management and Monitoring of Environmental and Social Risks. Version 1.0 released in October 2020.

adverse impacts of their proposed projects and the potential opportunities to enhance the environmental and social performance of the projects.

19. The initial assessment is performed with the support of a screening tool of the ESMS: the Environmental and Social Screening Questionnaire (ESSQ). Organizations making project proposals will apply the ESSQ to their concepts or proposals and obtain a preliminary risk category and indications on how to proceed with the due diligence process.
20. If the project is deemed to be a Non-Area-Based project, as defined in § 16 above, the screening process is abbreviated. If the project is deemed to be an Area-Based project, as defined in § 14 above, the screening process is not abbreviated and all sections of the ESSQ should be applied
21. The grantee should identify and describe the main stakeholders of the proposed project. It should include those who may oppose, those who support, and those affected by the activities. This stakeholder identification will establish whether Indigenous Peoples and Traditional Local Communities are participating in the proposed project, are present in the area, or are -or may be- affected otherwise by the proposed project's activities.
22. With this initial assessment the proposed project will be classified in one of the four Risk Categories presented in § 11. Projects classified in Category A: High Risk should not be presented for consideration to MAR Fund as they are in the MAR Fund's Exclusion List.
23. The assessment and the resulting categorization indicate the type of environmental and social measures and requirements needed. This is presented in detail in points 3.3.1, 3.3.2, and 3.3.3. When there is a concept-paper stage in the project approval process, these inquiries should be listed but no further action is expected from the organization making the proposal until MAR Fund approves the Concept. When **there is not a concept-paper stage** (just full proposals are requested), the organization making the proposal is expected to carry out the inquiries that are necessary to inform the approval process and to include an action plan to do the pending inquiries. The ESSQ will help grantees to determine whether an inquiry is required before or after the approval process.

3.2.4 ENVIRONMENTAL AND SOCIAL DUE DILIGENCE BY MAR FUND

24. MAR Fund will review the assessment conducted by the organization proposing the project and carries out an in-depth environmental and social due diligence to all proposed projects to identify, anticipate, avoid and/or minimize risks and adverse impacts. In cases where avoidance and mitigation are not possible, the in-depth due diligence indicates the measures to mitigate the risks and adverse impacts, and eventually to compensate for these remaining adverse impacts.
25. MAR Fund screens all the proposed projects against the Exclusion List. If a proposed project activity is included in the Exclusion List, MAR Fund ends the approval process. If just some non-essential activities of the project are included in the Exclusion List, MAR Fund at its sole discretion can do any of the following:
 - end the approval process, or
 - continue with the approval process excluding these activities from the project, or
 - return the proposal to the proponent organization for changes to the non-essential activities that are in the Exclusion List.
26. If the due diligence carried out by MAR Fund indicates that the probability and severity of the identified risks and potential adverse impacts are too high to approve the proposed project (Category A), MAR Fund ends the approval process and informs the proponent of the reasons for not approving it.
27. MAR Fund performs the Due Diligence by applying the ESSQ. The first step in doing so is to ascertain whether the project is an Area-Based project or a Non-Area-Based project, as it is established in § 13 to 17 above. The ESSQ may indicate that the proposed project triggers one or more of MAR Fund’s ESSs. In that case, MAR Fund verifies that requirements of the ESSs are satisfied. Usually, the ESSQ indicates which of the requirements should be satisfied before or after the approval of the project.
28. If during the Due Diligence process, a risk of sexual and gender-based violence (SGBV) and harassment, including sexual exploitation and abuse, or a risk of child sexual exploitation and abuse, or any other risk and adverse impact based on sexual orientation and gender identity is identified, both, grantees and MAR Fund, must follow the procedures established in ESS 9: Gender (11.2.1 *Sexual Exploitation and Abuse*).

3.2.5 MARKERS FOR RISK CLASSIFICATION

29. The following markers of environmental and social risks and potential adverse impacts that are integrated in the ESSQ, can guide the risk classification of proposed projects. This list is not exhaustive. Each proposed project should be assessed individually.
30. Proposals (or projects) involving any of the following characteristics cannot be classified as Category C (Low Risk) and should be classified at least as Category B (Moderate Risk). Some of them may indicate a Category B+ (Substantial Risk) project (see § 31).
- Establishment of a Protected Area without measures to enforce restrictions to access to natural and cultural resources.
 - Tourism development.
 - Projects involving risks of polluting the environment and/or the storage, transportation of hazardous goods, and/or activities producing degradation, sedimentation, erosion of soil.
 - Projects involving infrastructure construction, refurbishment, or decommissioning.
31. Proposed projects involving one of the following characteristics shall be classified as Category B+ (Substantial Risk)⁵¹. This is not an exhaustive list, and each case should be assessed individually. A proposed project classified as Category B+ could be re-classified following the procedure established in § 12. If a proposed project involves more than one of the following characteristics, it should be classified as Category A (High Risk):
- Limited Involuntary resettlement⁵².
 - Changes in the use of the territory that extensively affect Indigenous Peoples and Traditional Local Communities.
 - Establishment of a Protected Area, including measures to enforce restrictions to access to natural resources.
 - Significant, irreversible, extended, or unprecedented H&S or security risks of people and communities.

⁵¹ See the ESSQ for further guidance.

⁵² If it involves large involuntary resettlement the proposed project falls into the Exclusion List.

3.3 PROCEDURES FOR THE ASSESSMENT AND MANAGEMENT OF ENVIRONMENTAL AND SOCIAL RISKS AND IMPACTS

32. The procedures for the assessment and management of the environmental and social risks and impacts of proposed projects shall be commensurate to the identified risks and impacts and the characteristics and dimension of the project. These procedures vary from one risk category to another. When the risk category of a project increases, the procedures applicable to the new risk category shall be followed.

3.3.1 PROCEDURES FOR CATEGORY C-PROJECTS

33. When the proposed project is classified as Category C (Low Risk) because it has minimal or no adverse environmental and social risks and/or impacts, the Due Diligence is abbreviated, and MAR Fund can accord Environmental and Social Readiness Status to the proposed project – meaning that the proposed project is ready in environmental and social terms for approval – after the subsequent procedures are followed:

- A. The grantee satisfies the ESS 2: Labour and Working Conditions requirements.
- B. A Gender Action Statement or a Gender Action Plan (GAP) is prepared as needed⁵³ and put into practice, following MAR Fund’s **ESS 9: Gender**. The Gender Statement could be as simple as a brief document explaining the gender-related challenges and opportunities and the actions to manage these challenges and seize these opportunities in the execution of the project.
- C. A Stakeholder Engagement and Communication Plan (SECP), including an Information Disclosure Matrix and a Grievance Mechanism, is prepared in a manner satisfactory to MAR Fund’s **ESS 10: Stakeholder Engagement, Information Disclosure, and Participation**.
- D. Any specific action or measure derived from the application of the Screening Questionnaire (ESSQ) is integrated into the project.
- E. Environmental and Social Performance Monitoring is included as part of the required regular Monitoring and Evaluation Plan of the project.

⁵³ MAR Fund’s ESS 9: Gender will guide the grantee to decide whether to formulate a Gender Plan or just a Gender Statement.

34. The environmental and social measures and requirements of the project shall be articulated in an Environmental and Social Action Plan (ESAP) of the project by the grantee under the basis of the requirements set forth by MAR Fund. The ESAP will be included in the project agreement to be signed between MAR Fund and the grantee. MAR Fund will monitor the environmental and social performance of the project on a regular basis. If the project is re-classified as established in § 12, the new risk classification may dictate additional procedures to follow.

3.3.2 PROCEDURES FOR CATEGORY B-PROJECTS

35. When the proposed project is classified as Category B (Moderate Risk), the mitigation hierarchy should be applied to avoid as many risks and impacts as possible, to minimise the remaining risks and impacts, and finally to mitigate and manage the residual environmental and social potential adverse impacts. As these risks and impacts are limited, largely reversible, generally site-specific, and readily addressed through mitigation measures, in most cases the organization proposing the project will be able to use the environmental and social assessment instruments and tools directly without the participation of external parties. In some cases, MAR Fund may require the participation of external parties.
36. In most cases, Category B projects require an Environmental and Social Code of Practice (ES COP). Guidance related to the ESCOP is provided in point 3.3.6 *Procedures related to the ESCOP*. Usually, Category B-projects for which the national legislation does not require an ESIA would require an Environmental and Social Site Risk Assessment and an ESCOP. This applies specially to projects involving small infrastructure works and/or sustainable use of living resources.
37. In a few cases, some Category B-projects may require an ESIA either because the national legislation requests it or because the project triggers some of MAR Fund's ESSs that make an ESIA necessary. This is to be determined on a case-by-case basis.
38. When the assessment is complete -either with an Environmental and Social Site Risk Assessment and an ESCOP or with an ESIA and an ESMP-, MAR Fund can accord Environmental and Social Readiness Status to the proposed project – meaning that the proposed project is ready in environmental and social terms for approval – after the requirements established above in *point 33 A., B., and C., and in point 34* are

satisfied⁵⁴ and the grantee establishes an organizational structure that defines roles, responsibilities, authority, workplan, and budget to implement the ESCOP / ESMP.

3.3.3 PROCEDURES FOR PROJECTS CATEGORY B+

39. When a proposed project is classified as Category B+ (Substantial Risk), it is required to carry out an ESIA to analyse and appraise the environmental and social risks and adverse impacts of the project, especially the risk or impact that is diverse, extended, irreversible, or unprecedented.
40. The scope and depth of the ESIA are determined on a case-by-case evaluation. It could be a full ESIA or a fit-for-purpose ESIA (a study that focusses on specific predetermined environmental and social issues of the project). It shall be carried out by a recognised third party acceptable to MAR Fund. The ESIA study will inform the formulation of an Environmental and Social Management Plan (ESMP).
41. When the ESIA, the ESMP, and any other necessary study are completed and reviewed by MAR Fund, the proposed project will be ready for approval. Then, the grantee will satisfy the requirements established above in *points 33 A., B., and C., and 34* and establish an organizational structure that defines roles, responsibilities, authority, workplan, and budget to implement the ESMP.
42. In the case of Small Grants' proposals, if the proposal is eligible and the Grants and Evaluation Committee approves it, it will be possible to include the ESIA and other necessary studies as part of the project. Once the proposal is approved, the grantee will carry out the ESIA and other studies. MAR Fund will disburse the funds after approving the ESIA. The grantee must satisfy the requirements established above in *points 33 A., B., and C., and 34*.
43. The environmental and social measures and requirements of the project shall be articulated in an Environmental and Social Action Plan (ESAP) of the project. The ESAP will be included in the project agreement to be signed between MAR Fund and the grantee. For Category B+ Projects the monitoring field visits by MAR Fund staff are mandatory.

3.3.4 PROCEDURES FOR CATEGORY A-PROJECTS

⁵⁴ The requirements of MAR Fund's ESS 2 are satisfied, a Gender Action Statement or a Gender Action Plan (GAP) is prepared as needed and put in practice., and a Stakeholder Engagement and Communication Plan (SECP), including an Information Disclosure Matrix and a Grievance Mechanism, is prepared.

44. When the proposed project is classified as Category A (High Risk) the Due Diligence ends, as projects of this category are excluded from MAR Fund funding. The proposal may be re-classified by MAR Fund following the procedure established in § 12.

3.3.5 PROCEDURES RELATED TO THE ESIA

45. The ESIA is an instrument to identify and assess the environmental and social impacts of a proposed project, evaluate alternatives and design appropriate mitigation, management, and monitoring measures.
46. ESIA's shall be conducted in line with the requirements of the national legislation of the country or countries where they are implemented. Organizations proposing projects are encouraged to consult the National Legislation Overview⁵⁵ that is part of MAR Fund's ESMS to establish the legal framework applicable to their projects.
47. The scope and depth of the ESIA is determined on a case-by-case evaluation. It could be a full ESIA, or it could be a fit-for-purpose ESIA (a study that focusses on specific predetermined environmental and social issues of the project). The grantees are encouraged to use the ESIA format that is available in the Annex section of this document and in the MAR Fund website.
48. The ESIA shall include at least the following elements:
- Identification and assessment of the environmental and social risks and adverse impacts.
 - Baseline of the affected area and community.
 - Appropriate alternatives to avoid the risks and adverse impacts.
 - Appropriate alternatives to minimise the remaining risks and adverse impacts.
 - Identification of suitable actions to mitigate the residual impact, including actions to *compensate* for any loss in natural habits or biodiversity as well as in livelihoods or cultural heritage.
 - Identification of opportunities for the project to enhance positive environmentally and socially relevant impacts.

⁵⁵ Available at MAR Fund's website.

- Procedures for monitoring of environmental and social aspects (development, effectiveness of mitigation measures) during implementation and operation of the project, including compliance with relevant ESSs.
49. While conducting an ESIA the best available science and relevant traditional ecological knowledge shall be used, on a cost-effective basis. During the execution of the ESIA it is necessary to conduct community participatory consultations in a manner that is satisfactory to MAR Fund's ESS 10 Stakeholder Engagement and Information. It includes early disclosure of the Terms of Reference of the ESIA with potentially affected communities and other stakeholders; disclosure of the ESIA report; and disclosure of an executive summary of the ESIA that presents the main findings and recommendation of the study in a non-technical way, in a language that is easily understandable by affected communities and other stakeholders.
 50. During the ESIA, special attention should be paid to vulnerable or disadvantaged stakeholders, who are more likely to be affected by the project's impacts and have more limitations to take advantage of its benefits. These stakeholders are also at risk of being excluded from consultation processes. MAR Fund's EES 10 Stakeholder Engagement and Information provides guidance on this issue.
 51. The ESIA must be reviewed and approved by MAR Fund prior to the signature of the grant agreement with the grantee.

3.3.5.1 ENVIRONMENTAL AND SOCIAL MANAGEMENT PLAN (ESMP)

52. The Environmental and Social Management Plan (ESMP) integrates actions to avoid, minimize, mitigate and/or compensate for the environmental and social impacts of the project. It also includes activities to monitor compliance with the safeguard policies triggered by the project. It also includes measures to strengthen the institutional capacity of the grantees to implement the required actions. The ESMP articulates the required actions, responsibilities for implementation, training if needed, implementation schedule and cost estimates. Templates for ESMPs are available in the Annexes section of this document and on the MAR Fund website.
53. The ESMP shall respond to the specific needs of vulnerable and disadvantaged stakeholders. This may include the adoption of differentiated mitigation measures designed to avoid the impacts of the project falling on them disproportionately. It may also include the adoption of differentiated measures to avoid discrimination and

overcome additional barriers preventing these stakeholders from accessing the benefits derived from the project.

54. When the proposed project includes sub-grants that are unknown or not well defined when the project is analyzed and approved, instead of the ESMP the organization proposing the project should prepare an **Environmental and Social Management Framework (ESMF)** that will apply to all the sub-grants or sub-projects.
55. The ESMF includes the principles, the guidelines, and the procedures to follow with regards to the sub-grants or sub-projects. The ESMF contains measures and plans to avoid, minimise, mitigate, and at the last resort compensate for environmental and social adverse impacts, and enhance the project's environmental and social performance. It may include schedules and estimated budgets.
56. The ESMP (and the ESMF if there is one) must be reviewed and approved by MAR Fund prior to the signature of the project agreement with the grantee.

3.3.6 PROCEDURES RELATED TO THE ESCOP

57. The ESCOP articulates procedures and actions to manage the environmental and social risks and impacts of Activities classified as Category B and Category C that do not require an ESIA by the national legislation. It is a concise instrument that covers labour and occupational health and safety aspects.
58. The ESCOP is especially fitted for projects that include small infrastructure construction or refurbishment with minor environmental and social risks and impacts, and small harvesting of forests, horticulture, and aquaculture. ESCOP formats are available in the Annex section of this document and the MAR Fund website.
59. The ESCOP shall include at least the following elements:
 - Identification and assessment of the environmental and social risks and adverse impacts.
 - Identification of suitable alternatives to avoid, minimise, mitigate, and manage the residual risks and adverse impacts.
 - Identification of opportunities for the project to enhance positive environmentally and socially relevant impacts.

- Procedures for monitoring of environmental and social aspects during implementation and operation of the project.

3.3.7 PROCEDURES RELATED TO THE ESAP

60. The **Environmental and Social Action Plan (ESAP)** is an instrument that articulates in detail the required environmental and social measures and actions to manage environmental and social risks and adverse impacts of a project and to enhance its performance in full compliance with MAR Fund's ESSs. It is produced as a result of the environmental and social due diligence. The ESAP is part of the project agreement between MAR Fund and the grantee.
61. The ESAP fulfills the requirements of the Environmental and Social Commitment Plan requested by some funding organizations and Multilateral Development Banks.
62. The ESAP's minimum content is presented in Table 2: ESAP Content. An ESAP format is available in the Annex section of this document and the MAR Fund website.

Table 2: ESAP Content

ESAP CONTENT	CATEGORY		
	C	B	B+
Conditions of employment and other working conditions related to the project ⁵⁶	√	√	√
Gender Statement/Gender Action Plan (GS/GAP)	√	√	√
Stakeholder Engagement and Communication Plan (SECP)	√	√	√
Information Disclosure Matrix	√	√	√
Grievance Mechanism	√	√	√

⁵⁶ As established by MAR Fund's ESS 2: Labour and Working Conditions.

Environmental and Social Commitment Plan (ESCOMP)	√	√	-
Environmental and Social Management Plan (ESMP)	-	-	√
Procedures for monitoring of environmental and social aspects (development, effectiveness of mitigation measures)	-	√	√
Any specific Action Plan required to comply with relevant ESSs	-	√	√

3.4 STAKEHOLDER ENGAGEMENT AND COMMUNICATION PLAN

63. Projects approved by MAR Fund should have a Stakeholder Engagement and Communication Plan (SECP) and satisfy all the requirements set out in the **ESS 10: Stakeholder Engagement, Information Disclosure, and Participation**⁵⁷.
64. The SECP is formulated upon the prior stakeholder identification of the proposal and requires identification and analysis of stakeholders throughout the project cycle. For Category C (Low Risk) projects the SECP may be part of the ESAP and not a stand-alone document.
65. The SECP is intended to:
- a. Increase trust between grantees, communities, and other stakeholders.
 - b. Ensure that stakeholders' interests and concerns, are duly considered.
 - c. Facilitate meaningful consultation.
 - d. Facilitate information disclosure and compliance with national legislation⁵⁸.
 - e. Manage project-related grievances through the *Grievance Mechanism*.
 - f. Increase transparency in all activities related to projects approved by MAR Fund.
 - g. Increase community engagement, especially of vulnerable, disadvantaged groups.
66. MAR Fund requires equitable participation of people of all genders in the stakeholder engagement related to projects, both at the proposal stage and at the project-

⁵⁷ The ESS 10 provides further guidance about the SECP. MAR Fund's ESMS provides a format to elaborate the SECP.

⁵⁸ Refer to the MAR Fund's National Legislation Overview for information about applicable national regulations.

execution stage, and especially during consultations. The grantees will ensure that the consultation process reflects the concerns of people of all genders, gender identities, and sexual orientations without discrimination based on gender or sexual orientation. Especial attention shall be given to LGBTQ+ persons.

3.4.1 CONSULTATION

67. Consultation on proposals/projects funded by MAR Fund supports the implementation of the rights of access to environmental information, public participation in the environmental decision-making process, and access to justice in environmental matters, in the spirit of the Escazú Agreement. MAR Fund's **ESS 10: Stakeholder Engagement, Information Disclosure, and Participation** explains how consultation shall be carried out in projects funded by MAR Fund.
68. Consultation must be meaningful. It must provide opportunities for stakeholders to express their opinions about the proposed project in a manner that is free from fear of reprisals, negative consequences on their potential participation in the project activities, or any other retaliatory action. Stakeholder's views, opinions, and concerns shall be duly considered in the final design of the project.
69. The extent and intensity of consultation is commensurate to the environmental and social risks, potential adverse impacts, and opportunities of the proposed project. Minutes of the meetings, photos, videos, among others, constitute evidence of the consultations acceptable to MAR Fund.

3.4.2 INDIGENOUS PEOPLES AND LOCAL TRADITIONAL COMMUNITIES

70. To the effects of MAR Fund's ESMS, the term Indigenous Peoples and Local Traditional Communities mirrors the World Bank's definition of "*Indigenous Peoples/Saharan African Historically Underserved Traditional Local Communities*"⁵⁹. For further guidance refer to MAR Fund's **ESS7: Indigenous Peoples and Local Communities**.
71. Indigenous Peoples and Local Traditional Communities may be referred to in the MAR Region by such terms as original peoples (*pueblos originarios*), autochthonous peoples

⁵⁹ ESS 7 *Indigenous Peoples/Saharan African Historically Underserved Traditional Local Communities* [2016. "World Bank Environmental and Social Framework." World Bank, Washington, DC.] License: Creative Commons Attribution CC BY 3.0 IGO.

(*pueblos autóctonos*), residents of indigenous counties (*comarcas*) or reserves (*resguardos*), or any other formally recognized indigenous peoples in Latin America⁶⁰.

3.4.3 FREE, PRIOR, AND INFORMED CONSENT (FPIC)

72. In case Indigenous Peoples and Traditional Local Communities are participating and will or may be affected by the proposed project, the consultation process must seek their **Free, Prior and Informed Consent (FPIC)** in a manner that is consistent with MAR Fund's **ESS7: Indigenous Peoples and Local Communities**. The Environmental and Social Screening Questionnaire (ESSQ) and the ESS 7 help establishing when FPIC is required.
73. *Free* means that the consent is voluntary, independently decided upon, without coercion or intimidation or manipulation. *Prior* means that the consent is sought before the project is approved, following the pace of the Indigenous Peoples own decision-making process. *Informed* means that Indigenous Peoples and other Local Communities have clear, consistent, culturally appropriate, transparent information about the project, delivered in their languages, available in their locations.

3.4.4 INFORMATION DISCLOSURE

74. Accurate, timely, and culturally appropriate information is essential for adequate stakeholder engagement and informed participation. For this reason, MAR Fund's grantees and organizations submitting proposals to MAR Fund will actively disclose information related to their proposals and projects.
75. The grantees and organizations submitting proposals to MAR Fund will disclose information about their projects or proposals in a way that satisfies the minimum requirements of information disclosure set forth by the Information Disclosure Matrix presented in the ESS 10 (*point 12.2.5 Information Disclosure* of this document)

3.4.5 GRIEVANCE MECHANISM

76. MAR Fund has a Grievance Mechanism to receive and manage grievances, address concerns, and facilitate resolution of complaints with regards to the environmental and social performance of projects funded by MAR Fund and of any other activity

⁶⁰ IDB Environmental and Social Policy Framework (IDB ESPF), ESPS 7: Indigenous Peoples.

financed by MAR Fund. This mechanism is described in the ESS 10 (*point 12.2.7 Grievance Mechanism at MAR Fund* of this document.)

77. MAR Fund requires all its projects to have a functional similar mechanism. This type of mechanism is especially important when the execution of projects fails to comply with MAR Fund's Policy, its ESSs and its ESMS. The requirements for this type of mechanism are presented in the ESS 10 (*point 12.2.8 Grant-Level Grievance Mechanism* of this document)
78. When a grantee has in place its own grievance mechanism, MAR Fund can agree to use it for a MAR Fund-financed project, provided that it satisfies this Safeguard.
79. The Grievance Mechanism must be easily accessible to participating stakeholders, affected stakeholders, and other stakeholders. It must operate in the languages most used by the stakeholders, which includes Spanish, English, and, in some locations, traditional languages spoken by most of the population. The Grievance Mechanism must process grievances on an effectively timely, and culturally appropriate manner.
80. The Grievance Mechanism must allow for the reception and processing of confidential and anonymous complaints. The responses produced by the mechanism must be discrete, objective, and sensitive with the *complainer*.
81. The Grievance Mechanism does not preclude any legal recourse (or other type of action) related to the execution of a project to which an aggrieved party may feel entitled to, or that MAR Fund may find appropriate. Equally, the reception and processing of grievances by grantees or by MAR Fund do not imply recognition of fault by any of them.

3.5 COMPLIANCE WITH ESAP COMMITMENTS

82. Grant recipients are required to monitor compliance with ESAP commitments, including any ESS requirements that may have been triggered by the project. The grantees are required to report regularly to the MAR Fund on compliance with environmental and social measures as part of their regular reporting arrangements.
83. MAR Fund may verify the abovementioned compliance at any time at its sole discretion with the means it considers necessary.
84. In the event of a deviation from the commitments set forth in the ESAP or in the event of non-compliance with these environmental and social commitments, the grantee must adopt a Remediation Plan approved by MAR Fund. Likewise, it must report on

the remediation actions, in accordance with the provisions of said Plan. MAR Fund may withhold previously agreed payments if it is considered that this measure favors the achievement of a prompt remediation. Sustained noncompliance with ESAP commitments or any other environmental and social risk and impact management actions previously agreed to by the beneficiary is cause for suspension of the project.

85. Failure to remediate the sustained non-compliance by the grantee is a cause for termination of the grant agreement.

** ** END OF ESS 1 ** **

4 ESS 2: LABOUR AND WORKING CONDITIONS



4.1 INTRODUCTION

1. The “ESS 2: Labour and Working Conditions” (ESS 2) establishes a framework to ensure a healthy, fair, and secure working environment for MAR Fund and the organizations executing projects approved by MAR Fund (the grantees).
2. The ESS 2 is aligned with the IFC ES PS 2 and the World Bank ESS 2. It also introduces important elements of the United Nations Protocol on Allegations of Sexual Exploitation and Abuse Involving Implementing Partners⁶¹ (the UN Protocol).

4.1.1 OBJECTIVES

3. The objectives of the ESS 2 are:
 - i. To promote fair treatment, non-discrimination, and equal opportunities for people working for MAR Fund and people working on projects approved by MAR Fund, and to ensure safe & healthy working conditions for them.
 - ii. To prevent the use of any form of forced labour and child labour⁶².
 - iii. To support a working environment free from sexual exploitation and abuse.
 - iv. To promote compliance with the national⁶³ employment and labour laws governing activities and projects approved by MAR Fund.

4.1.2 SCOPE OF APPLICATION

4. The ESS 2 applies to MAR Fund and to all projects approved by MAR Fund. It means that persons working for MAR Fund and for organizations executing projects approved by MAR Fund (the grantees) are covered by the provisions of this ESS.

⁶¹ United Nations Protocol on Allegations of Sexual Exploitation and Abuse Involving Implementing Partners, 21 March 2018. [UN Protocol on Allegations of SEA for implementing Partners]. Available [here](#).

⁶² Of children 14 years old and younger.

⁶³ The Law of Mexico, Guatemala, Belize or Honduras, or the Laws of other jurisdictions where MAR Fund’s branches and operative units may be established.

4.2 LABOUR CONDITIONS OF PERSONS WORKING WITH MAR FUND AND WORKING ON PROJECTS APPROVED BY MAR FUND

5. The term “persons working with MAR Fund” refers to the individuals who provide services to MAR Fund, including MAR Fund employees or staff, consultants, and contractors.
6. The term “persons working on projects approved by MAR Fund” refers to the individuals who provide services related to the projects approved by MAR Fund, including employees or staff of the grantees, consultants, contractors, and occasional workers.
7. MAR Fund has a Human Resources Manual with policies and procedures aligned with the ILO Core Conventions⁶⁴ and this ESS 2. These policies and procedures may be adjusted and updated from time to time by the Board of Directors of MAR Fund. In case of a discrepancy between the Human Resources Manual norms and procedures and this ESS 2, this ESS 2 will prevail.
8. If the national legislation governing the MAR Fund grantees is silent or unclear with respect to the requirements set forth in this ESS 2, the provisions of this ESS 2 shall prevail over the uncertainties of the national legislation.
9. Neither MAR Fund nor MAR Fund grantees use forced labour⁶⁵ nor harmful child labour⁶⁶.
10. MAR Fund does not employ minors. MAR Fund’s grantees may employ minors older than 14 years old only when the benefit of doing so exceeds the risks. In such cases, these minors can only be employed if the employment is not economically exploitative, does not interfere with the child’s education, is not harmful to the child’s health and wellbeing, and does not affect the child’s social development.

⁶⁴ ILO Core Conventions or Fundamental Conventions are Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87); Right to Organise and Collective Bargaining Convention, 1949 (No. 98); Forced Labour Convention, 1930 (No. 29) and its 2014 Protocol; Abolition of Forced Labour Convention, 1957 (No. 105); Minimum Age Convention, 1973 (No. 138); Worst Forms of Child Labour Convention, 1999 (No. 182); Equal Remuneration Convention, 1951 (No. 100); Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (retrieved from [ILO website](#) on August 9, 2021).

⁶⁵ Forced labor means all work or service, not voluntarily performed, that is extracted from an individual under threat of force or penalty (From IFC Exclusion List).

⁶⁶ Harmful child labor means the employment of children that is economically exploitive, or is likely to be hazardous to, 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 (From IFC Exclusion List – IFC PS2).

11. The employment of minors 14-17 years old by organizations executing projects approved by MAR Fund, automatically increases the level of risk of the project as follows: if the project was Category C, it becomes Category B; if the project was Category B, it becomes Category B+. If the project was already Category B+, it maintains the same Category. If a minor is employed by organizations executing projects, passports or birth certificates need to be shown, and youngsters will be supervised by the grantee.
12. Persons working with MAR Fund or on projects approved by MAR Fund are free from discrimination based on race, age, religion, political or other opinion, gender, sexual orientation, and gender identity in every aspect of their working relationship, including recruitment, hiring, compensation, working conditions, access to training, promotion, termination, and retirement, regardless of the country where they reside or provide their services.
13. Persons working with MAR Fund or on projects approved by MAR Fund are free to express their complaints and grievances following the channels established for that purpose, including the Grievance Mechanism, without reprisals or negative consequences.
14. The use of the Grievance Mechanism by persons working on projects approved by MAR Fund does not preclude any legal or other recourse to which they may be entitled.
15. The labour relations between the persons working with MAR Fund or on projects approved by MAR Fund should be governed by the labour laws of the countries where the services are provided (Mexico, Guatemala, Belize, Honduras), or the countries where the workers reside, or any other third country acceptable to both parties.
16. Provisions governing these labour relations should ensure fair compensation for the work, equal pay for equal work, overtime payment, vacation, sick leave provisions, fringe benefits, and other provisions in line with the ILO Core Conventions⁴.
17. Persons working with MAR Fund or on projects approved by MAR Fund are free from sexual and gender-based violence (SGBV), including sexual harassment, sexual exploitation, and abuse (SEA). MAR Fund and the organizations executing projects approved by MAR Fund must comply with the United Nations Protocol on Allegations

of Sexual Exploitation and Abuse Involving Implementing Partners⁶⁷ (the UN Protocol) to ensure adequate safeguards and appropriate action related to SGBV, including SEA. The MAR Fund ESS 9: Gender provides guidance to grantees on this matter (see *section 11.2.1 Sexual Exploitation and Abuse* in this document).

18. MAR Fund approved projects may include the physical work of community members (known as community labour). In these cases, MAR Fund grantees will ascertain that such labour is provided voluntarily, because of a community agreement, and is free of any form of SGBV.

4.3 OCCUPATIONAL HEALTH AND SAFETY

19. Persons working with MAR Fund or on projects approved by MAR Fund (and Community Labour when applicable) should be protected from risks, hazards, accidents, and any other type of adverse effect in the fulfilment of their activities.
20. Where risks or potential adverse impacts to persons working with MAR Fund or on projects approved by MAR Fund are identified during the Due Diligence risk assessment process, a labour risk assessment will be conducted and measures will be developed, implemented, and monitored to manage those risks in a manner consistent with this ESS and respecting and protecting the fundamental rights of workers, in accordance with the ILO Declaration on Fundamental Principles and Rights at Work.
21. For proposed projects assessed as having significant risk in relation to labor and working conditions, labor management procedures will be established in accordance with the applicable laws of Mexico, Guatemala, Belize or Honduras and the requirements of this ESS and the nature of the project activities. This includes the application of the World Bank's General Environmental, Health and Safety (EHS) Guidelines and industry specific EHS and other International Good Industry Practices (GIIP), as required. These measures will be included in the ESAP.
22. MAR Fund grantees are responsible for the protection of the persons working with them. They must take all necessary steps to prevent accidents, injury, and disease arising from, associated with, or occurring in the course of work, in a manner

⁶⁷ United Nations Protocol on Allegations of Sexual Exploitation and Abuse Involving Implementing Partners, 21 March 2018. [UN Protocol on Allegations of SEA for implementing Partners]. Available [here](#).

consistent with good international industry practice⁶⁸. In that regard, they need to identify potential hazards to workers, minimise these hazards, and put in place preventive and protective measures to manage the residual hazards⁶⁹. It includes risks and adverse impacts that can be exacerbated by gender, sexual orientation, and gender identity.

23. MAR Fund grantees will provide mandatory Health and Safety (H&S) training to the persons working in their projects. They will also provide them with Personal Protective Equipment (PPE) when needed. Persons working with MAR Fund and on projects approved by MAR Fund shall use the Personal Protective Equipment (PPE) when it is necessary. Failure to do so represents a serious misconduct.
24. MAR Fund grantees will make sure that the persons working on projects approved by MAR Fund are trained in the safe use and proper operation of equipment for their marine and coastal activities, including operation of equipment in the water and in submarine environments.
25. Persons working with MAR Fund and on projects approved by MAR Fund shall always use Personal Life Saving Appliances when on board a boat or similar device in rivers, close by the coast, or in marine environments. Failure to do so represents a serious misconduct. They shall refuse embarkation when the required Personal Life Saving Appliances are not available to them.
26. The cost of the H&S measures, including the PPE and training will be part of the total cost of the project.
27. MAR Fund and MAR Fund grantees will maintain records of their H&S, including mandatory training delivery; near-misses⁷⁰, and accidents⁷¹. MAR Fund grantees will share these records with MAR Fund as part of the regular reporting agreement of the

⁶⁸ Good International Industry Practice is defined as the “exercise of professional skill, diligence, prudence, and foresight that would reasonably be expected from skilled and experienced professionals engaged in the same type of undertaking under the same or similar circumstances, globally or regionally” World Bank ESS 2. [2016. “World Bank Environmental and Social Framework.” World Bank, Washington, DC.] License: Creative Commons Attribution CC BY 3.0 IGO.

⁶⁹ It includes hazardous activities, hazardous conditions, hazardous substances, and any other occupational hazard.

⁷⁰ Near-miss is when something unexpected occurs without harm to workers nor damage to property, but it can be a precursor of an accident. They are also called “close calls”.

⁷¹ Accident is a sudden and uncontrolled liberation of energy producing harm to people and/or damage to property. The range of an accident is wide: it could be a simple hit on a leg because a file-cabinet was inadvertently left open in an office, and it also could be an extensive fire in a storage place causing the death of workers.

projects. Nevertheless, accidents or activities resulting in occupational injuries, deaths, disability, or disease and the remedial measures put in place must be reported immediately to MAR Fund.

4.3.1 SAFETY AND SECURITY IN BORDERING OR INTERNATIONAL ACTIVITIES

28. Some projects approved by MAR Fund may include activities in international waters or in terrestrial international borders. Grantees must plan and undertake these activities carefully with the ultimate purpose of ensuring the safety, security, and integrity of all the persons involved.
29. Bordering or international activities must be carried out with bi-national teams authorized by the authorities of their respective countries. Even when these activities affect a border zone but are carried out only in one country, the partner organizations of both countries must be informed at least a week in advance. Once notified, the partner organizations must notify the relevant authorities of their country.
30. Grantees shall review the contact information of maritime authorities that MAR Fund will update on its website.

4.3.2 SAFETY IN ACTIVITIES INVOLVING DIVING

31. Diving activities may have different risks. Grantees carrying out these activities must have in place an emergency protocol to prevent accidents and other incidents, adapt to contingencies, and respond effectively to diving emergencies.
32. Grantees must restrict their diving activities only to qualified divers with verifiable experience. The use of inexperienced divers or divers without adequate training in diving activities is prohibited. Grantees are responsible of the enforcement of this prohibition.
33. Grantees may use their own diving emergency protocols or follow the emergency protocol prepared by the MAR Fish project (and available in the MAR Fund's website).

** ** END OF ESS 2 ** **

5 ESS 3: RESOURCE EFFICIENCY AND POLLUTION PREVENTION



5.1 INTRODUCTION

1. The “ESS 3: Resource Efficiency and Pollution Prevention” (ESS 3) is based on the IFC’s PS 3 Resource Efficiency and Pollution Prevention and the World Bank’s ESS 3: Resource Efficiency and Pollution Prevention and Management. It reflects and integrates the aspects of these two instruments that are relevant to MAR Fund’s activities and projects. It also includes relevant elements from the KfW Sustainability Guideline and the IDB’s ESPS 3 Resource Efficiency and Pollution Prevention.

5.1.1 OBJECTIVES

2. The objectives of the ESS 3 are to:
 - i. Avoid adverse impacts on human health and the environment by implementing the mitigation hierarchy: avoiding, mitigating, and minimizing pollution⁷², including land-based sources of pollution that contribute to the degradation of marine and coastal zone ecosystems, and managing residual pollution that cannot be avoided or mitigated.
 - ii. Promote the sustainable use of natural resources, including energy and water.
 - iii. Improve the environmental and social performance of projects financed by MAR Fund.

5.1.2 SCOPE OF APPLICATION

3. The applicability of the ESS 3 is decided during the environmental and social due diligence, following the ESS 1 and with the support of the ESSQ tool. Projects that include infrastructure construction, refurbishment, or decommissioning trigger this ESS. Equally, projects that include the sustainable use of living resources trigger this ESS as well.

5.2 PRINCIPLES

4. MAR Fund will not finance or otherwise support projects and activities that generate uncontrolled pollution or make inefficient use of living natural resources.

⁷² The term pollution “refers to both hazardous and non-hazardous chemical pollutants in the solid, liquid, or gaseous phases and includes other components such as pests, pathogens, thermal discharge to water, GHG emissions, nuisance odors, noise, vibration, radiation, electromagnetic energy, and the creation of potential visual impacts, including light”. IDB, ESPS (ESPS 3).

5. The grantees will protect the environment and the communities from harm. They will avoid the release of pollutants into the air, water, and soil. Where total avoidance is not possible, they will minimize the release of pollutants to a minimum acceptable under the laws of Mexico, Belize, Guatemala, or Honduras (depending on the country where the project is implemented).
6. The grantees shall exert their best judgement to increase their resource use efficiency, optimize their use of energy to the extent technically and financially feasible, and implement measures to improve their resource use efficiency, including their use of water, raw materials and living resources.

5.2.1 WASTE MANAGEMENT

7. The grantees will implement a *reduce, reuse, recycle* approach to their waste. It means that they will reduce to the minimum possible the waste their projects produce; then, they will find ways to reuse the materials that were going to be disposed of as waste; and finally, when local facilities allow, they will recycle material as much as possible.
8. The grantees will explain how they will manage the waste produced during the implementation of their projects. In principle, they will avoid the generation of hazardous and non-hazardous waste. Where, despite prevention measures, the project generates some waste, they will recover and reuse as much waste as possible and dispose of the remaining waste in a manner that is safe for human health and the environment.
9. Projects with significant waste production must have a Waste Management Plan that articulates all actions to ensure the safe management of waste from generation to disposal, including safe handling and storage.
10. All projects involving the construction, renovation or decommissioning of infrastructure require such a plan. Other projects may also require such a plan. The grantees should follow the guidance for the development of the waste management plan contained in the World Bank's EHS guidelines. These plans will be integrated into the project's ESMP or ESCOP, as appropriate.

5.2.1.1 HAZARDOUS MATERIALS

11. The grantees shall avoid the use of hazardous materials as much as possible and shall give preference to less hazardous substitutes when they must use them. Hazardous materials include persistent organic pollutants, ozone depleting substances,

batteries, petroleum products, biocides and other pesticides, infectious agents of any host (plant, animal, human), cleaning products, paint, and radioactive, mutagenic, or carcinogenic materials, etc. Where hazardous materials are to be used despite avoidance and mitigation measures, grantees shall take special care in their safe handling, use and disposal, as set forth in § 12 and 13 below.

12. If the waste is totally or partially hazardous, grantees shall ensure that it is always segregated from non-hazardous waste, safely stored to prevent accidental releases, and managed by fully trained staff, respecting the national laws of Mexico, Belize, Guatemala, or Honduras (depending on the country where the project is implemented) and the pertinent international instruments and agreements. For this, they will implement a Hazardous Waste Management plan, following the World Bank's EHS Guidelines.
13. When the project produces small quantities of hazardous waste, such as electrical equipment waste, used batteries (nickel-cadmium or lead acid), spent solvents, used lubricated oil, lamp ballast, etc., the grantee shall ensure that this waste is stored, managed, and disposed of using the same precaution and care as requested in § 12 above.

5.2.2 PESTICIDE USE AND MANAGEMENT

14. In some circumstances, grantees may be required to control pests. In these cases, they shall use cultural, biological, and genetic practices for pest control – unless it is determined that doing so will impact biodiversity negatively.
15. When the use of these preferred practices is not feasible, the use of biocides may be considered as a last resort solution.
16. In that case, to ensure that the environmental and health risks associated with pesticide use are minimized and managed, the grantee should formulate and implement an Integrated Pest Management Plan (IPM Plan). An Integrated Pest Management Plan is a set of articulated ecosystem-based actions for effective and environmentally sound pest management while minimising health and environmental risks (including risks to terrestrial and aquatic ecosystems, non-target species and other important ecological resources associated with the use of biocides and other pest management techniques). An IPM comprehends a combination of techniques, including biological control, habitat manipulation, cultural practices and, at the last resort as it was said, reasonable and safe use of biocides.

17. The IPM Plan shall include biocides of low human toxicity, known efficacy against target species and be safe for non-target species and the environment. Biocides shall be packaged in safe containers and clearly labeled for safe and appropriate use. For labeling, preference will be given to the Globally Harmonized System of Classification and Labeling of Chemicals (GHS) classification. These plans will be integrated into the Activity's ESMP or ESCOP, as required.
18. If biological control agents are employed, the provisions of the International Standard for Phytosanitary Measures (ISPM) #3 '*Guidelines for the export, shipment, import and release of biological control agents and other beneficial organisms*' will be followed.
19. The grantees must not purchase, trade, store, or otherwise use products included in the WHO Recommended Classification of Pesticides by Hazard Class I.a. (extremely hazardous) or Class I.b. (highly hazardous).
20. The grantees must not purchase, trade, store, or otherwise use products included in the WHO Recommended Classification of Pesticides by Hazard Class II. (moderately hazardous) pesticides unless they have adequate controls in place, including access to properly trained and equipped personnel (with Personal Protective Equipment (PPE)), and appropriate facilities to handle, store and dispose of these products. These controls and capabilities must be demonstrated to MAR Fund's satisfaction and may be verified by MAR Fund.

5.2.3 INFRASTRUCTURE CONSTRUCTION, UPGRADE, OR DECOMMISSIONING

21. When a project includes the construction, improvement or dismantling of infrastructure, the grantee shall obtain the necessary permits and licenses required by the national regulations of Mexico, Belize, Guatemala, or Honduras, as the case may be.
22. Project proposals including medium and large infrastructure activities will be subject to the procedures for the assessment and management of environmental and social risks established by the ESS 1. With the occasion of the due diligence, the infrastructure activities will be categorized as follows:
 - Major infrastructure is defined as activities with a capital expenditure (capex) of more than US\$10 million;
 - Large infrastructure is defined as activities with a Capex between US\$5 million and US\$10 million;

- Medium/repair infrastructure is defined as activities with a Capex between US\$500,000 to US\$5 million; and
 - Small/repair infrastructure is defined as activities with a Capex of up to US\$500,000.
23. Project proposals that include major, large or medium infrastructure activities will be automatically classified at least as Category B+ (Substantial Risk), and therefore, there will be necessarily an ESIA. If the ESIA study find that the environmental and social risks and impacts of the project comprising *major, large or medium* infrastructure are significant, diverse, extended, irreversible, or unprecedented, the proposal might be classified as Category A (High Risk) and denied because of the Exclusion List. If it is found to be Category B+ (Substantial Risk), the proposal must follow the procedures for projects of this category.
24. Project proposals that include small infrastructure activities will be automatically classified at least as Category B (Moderate Risk). Small infrastructure is defined as facilities such as: wooden docks, palapas, trails and wooden watchtowers. The organization proposing the project with small infrastructure activities should plan, design, construct or decommission the infrastructure in a manner that ensures environmental and social sustainability (including climate resilience) throughout its life cycle. If the proposed project has minor environmental and social risks and impacts and the national legislation does not require an ESIA, an Environmental and Social Site Assessment shall be carried out and an ESCOP shall be formulated. If the national legislation requires, an ESIA will be conducted and an ESMP formulated. In either case, the ESMP or ESCOP should include the environmental and social management measures necessary to avoid, minimize, and mitigate environmental and social risks and impacts of the construction, upgrading, or decommissioning of the infrastructure.
25. The grantees executing or proposing projects that include the construction, improvement or dismantling of infrastructure shall follow the ESMP or ESCOP⁷³ measures, ensuring that their activities do not cause a permanent negative impact and that any temporary negative impact is minimized and mitigated.

⁷³ ESMP in case the project required an ESIA. ESCOP in case the project did not require an ESIA. For more information regarding ESMP and ESCOP, please refer to MAR Fund's ESS 1, sections 4.3.5 and 4.3.6 of this document.

26. If the infrastructure construction, upgrade, or decommissioning will take place in a protected area, the project shall be aligned with the area's management plan, as established in MAR Fund's ESS 6.
27. If the new or the upgraded infrastructure will be used by people⁷⁴ or will increase the influx of people on the premises, the grantee needs to implement a Drinking Water and Sanitation Plan to i) make sure that people using the infrastructure have access to drinking water, and b) people using the infrastructure have access to sanitation services, as per the following Water, Sanitation, and Hygiene (WASH) standard⁷⁵:
28. The infrastructure shall have safely managed drinking water⁷⁶ that is accessible on premises, available when needed, and free from contamination. This improved drinking water shall be at least limited drinking water, that is drinking water from an improved source for which collection time does not exceed 30 minutes for a roundtrip including queuing (which includes bottled drinking water).
29. The infrastructure shall have sanitation services that hygienically separate excreta from human contact, either treated and disposed of *in situ*, stored temporarily and then emptied and treated off-site, or transported through a sewer with wastewater and then treated off-site.
30. The infrastructure shall have basic hygiene service, that is an available handwashing facility with soap and water on-premises.

** ** END OF ESS 3 ** **

⁷⁴ I.e., the infrastructure is a building, a school, a community center, a health center, etc.

⁷⁵ Definitions are from the WHO/UNICEF Joint Monitoring Programme for Water Supply, Sanitation and Hygiene (JMP).

⁷⁶ Safely Managed Drinking Water: is drinking water from an improved water source that is accessible on premises, available when needed and free from faecal and priority chemical contamination.

6 ESS 4: COMMUNITY HEALTH, SAFETY, AND SECURITY



6.1 INTRODUCTION

1. The “ESS 4: Community Health, Safety, and Security” (ESS 4) reflects and integrates the relevant aspects of the IFC’s PS 4 Community Health, Safety and Security and the World Bank’s ESS 4: Community Health and Safety. It also includes material elements from the IDB’s ESPS 4 Community Health, Safety, and Security

6.1.1 OBJECTIVES

2. The objectives of the ESS 4 are:
 - i. To anticipate risks and avoid adverse impacts on the health, safety, and security of communities participating in, or otherwise affected by, projects approved by MAR Fund.
 - ii. To ensure that the enforcement measures of protected areas or resources are carried out in a way that minimises risks to communities.

6.1.2 SCOPE OF APPLICATION

3. The applicability of the ESS 4 is decided during the environmental and social due diligence with the support of the ESSQ tool. In principle, the ESS 4 applies to all projects that have risks and impacts on the health, safety, and security of communities participating, hosting, or otherwise affected by these projects.

6.2 REQUIREMENTS

6.2.1 COMMUNITY HEALTH RISKS

4. When the project involves the temporary influx of people into a community (as in the case of long-term research projects, documentary-films making, small construction projects, etc.) grantees must ensure that the incoming persons are trained in human rights, gender-based violence (GBV) and other gender-related issues.
5. The grantees shall reduce the risks of transmission of communicable diseases. It includes developing protocols and ensuring that their staff is fully vaccinated against COVID 19 and other communicable diseases before sending them into communities.
6. This also applies to all personnel living temporarily in the community, as presented below in § 4.

6.2.2 RISKS OF GENDER-BASED VIOLENCE

7. When the project involves the temporary influx of people into a community including workers of construction projects and security personnel, researchers, crews of shooting documentaries, etc., grantees must ensure that they are adequately trained in human rights, gender-based violence (GBV) and other gender-related issues.
8. MAR Fund will make available training materials to grantees including the prevention of sexual exploitation and abuse (PSEA) course that is mandatory for all personnel of United Nations Funds and Programmes, including consultants and volunteers. Refer to the ESS 9: Gender for more guidance about GBV and PSEA.

6.2.3 SECURITY OF COMMUNITIES AND WORKERS

9. Projects approved by MAR Fund will not be to the detriment of the safety and well-being of communities. When risks to the safety and well-being of communities, or potential adverse human rights impacts, are identified during the environmental and social due diligence, a human rights due diligence process is necessary to identify, prevent, mitigate, and address these risks and impacts by the grantee.
10. The security and safety of communities affected by projects approved by MAR Fund are essential. The grantees must ensure the duty to protect communities and individuals from human rights abuses, avoid adverse human rights impacts, and promptly address any human rights impacts that may occur
11. When a risk of this type is identified, the grantees shall ensure early engagement with communities to recognize pre-existing issues, such as historical inequality, legacy issues from previous projects, the existing human rights situation, social tension, and pressures on natural resources. This engagement will be supported by their Stakeholder Engagement and Communication Plan (SECP).
12. In cases where vulnerable or disadvantaged stakeholders and communities have been identified, as defined in the ESS 10, grantees should pay special attention to their needs and take special care to avoid abuses of their human rights.

6.2.4 ENFORCEMENT MEASURES WITH SECURITY PERSONNEL

13. Some projects may include enforcement of natural resources measures by using security personnel. It is necessary that such measures are adopted in conjunction with the hosting or surrounding communities, in a manner that satisfies the applicable law and the requirements set forth by MAR Fund's ESS 5: Access

Restrictions to Natural Resources, Livelihood Lost, and Limited Involuntary Resettlement (see section 7 of this document).

14. It is necessary that the security personnel engaged by a project respect and protect human dignity and maintain and uphold the human rights of all persons. Before their deployment, the security personnel must be trained in human rights, sexual and gender-based violence (SGBV), and harassment, including sexual exploitation and abuse and other risks based on sexual orientation and gender identity and sexual orientation.
15. The grantees are fully responsible for their security personnel and accountable to the legal authorities, communities and other stakeholders for their actions or omissions. Grantees remain fully responsible even when security personnel are contracted through agencies and third parties.
16. The grantees are required to review all allegations of unlawful or abusive acts by their security personnel, received through the Grievance Mechanism or any other channel, and to promptly remedy any anomalous situation and to demand that appropriate measures be taken to prevent recurrence. They shall also report any unlawful or abusive act to the relevant authorities. They are required to promptly inform MAR Fund of the occurrence of any of these developments.

6.2.5 EQUIPMENT-RELATED RISKS

17. When projects involve the purchase or leasing of equipment, grantees should take special care to minimize risks that may arise from faulty equipment installation or accidental use by untrained personnel or community members.
18. If the equipment is intended to be installed and left unattended, grantees must provide adequate training to the community before its installation. Likewise, grantees must take all necessary measures to prevent improper access to such equipment. It includes the construction of barriers, fences, and other obstacles to preventing unauthorized community members including children from accessing the equipment.
19. Same provisions must be taken when there is construction or maintenance of water reservoirs, water tanks, and any equipment for fish farming.

6.2.6 TEMPORARY DISRUPTIONS

20. Where projects involve temporary disruptions to the community (such as traffic or mobility disruptions), grantees will seek to minimize these disruptions to the extent

possible and address the community's needs with viable alternatives. It includes taking appropriate measures to inform the community of the disruptions and the alternatives to them, in the language spoken by the community and manner that is understandable.

6.2.7 EMERGENCY AND PREPAREDNESS MEASURES

21. The grantees will identify appropriate measures to address emergency events that may arise from their projects and articulate these measures in Emergency Response Plans (ERP). These ERPs seek to safeguard the health and safety of the community and to minimize and mitigate any potential impacts. Ultimately, these plans may also include compensation measures for residual community impacts.
22. Only projects with the potential to trigger emergency events will be required to have an ERP. This potential is established during the environmental and social due diligence exercise. In cases when risks of emergencies are identified, grantees shall conduct a risk assessment and prepare the ERP.
23. For projects involving minor construction, minor infrastructure renewal, or decommissioning, and require an ERP, the ERP will be part of the ESCOP. For projects with an ESMP, the ERP will be part of the ESMP. Projects that do not require either will not have an ERP.
24. The ERP shall include controls and alarms commensurate with the hazard; clear identification of available emergency equipment; designated emergency responders and clear lines of command and communication; notification procedures for emergency responders and the community; training for emergency responders; drills for emergency responders and the community; evacuation procedures; and restoration measures. The grantee shall evaluate the ERP annually and update it as necessary.

6.2.8 ENGAGEMENT WITH CHILDREN

25. In line with the United Nations Convention on the Rights of the Child, MAR Fund recognizes that all children have the right to protection from violence, abuse, exploitation, neglect, and mistreatment. Projects approved by MAR Fund may include specific activities with children and other type of engagement with children. The rights

of children must be safeguarded in all activities financed or otherwise supported by MAR Fund⁷⁷.

26. When carrying out activities with children, grantees must ensure the well-being and best interests of children and engage with them with dignity and respect. Grantees will avoid behaviour, actions, language, or relationships that could be inappropriate, offensive, abusive, discriminatory, or cultural insensitive; avoid unnecessary physical contact with children; ensure that representatives of the school or the community are always present and retain responsibility for the supervision of children; encourage open communication and be sensitive to children’s demands and concerns.
27. Grantees will ensure that their personnel who will be in contact with children have the relevant qualifications and experience, have their references checked, and satisfactory background, employment, and education history.
28. Grantees carrying out projects with continued participation of children are encouraged to adopt an Engagement with Children protocol.

6.2.9 USE OF IMAGES OF COMMUNITY MEMBERS – INCLUDING CHILDREN

29. The use of images of members of the communities participating in projects approved by MAR Fund must be wise and respectful. The images of community members shall present them with dignity and agency.
30. Grantees shall always seek the consent of the community member whose image is intended to be used.
31. Grantees wishing to use a child’s image must obtain the prior consent of the child - when the child is competent to give consent- and of the parent or guardian of the child. Grantees must exert good judgment and apply the necessary safeguards when using a child’s image to reduce the risks of misappropriation and misuse of the images. It may include ensuring the children are adequately clothed, no personal information is revealed, and watermarks are in place to identify the image as part of the project.

** ** END OF ESS 4 ** **

⁷⁷ This section draws from the Safeguarding Children and Adults at Risk Policy of the Fauna and Flora International organization.

7 ESS 5: ACCESS RESTRICTIONS TO NATURAL RESOURCES, LIVELIHOOD LOST, AND LIMITED INVOLUNTARY RESETTLEMENT



7.1 INTRODUCTION

1. The “ESS 5: Access Restrictions to Natural Resources, Livelihood Lost, and Limited Involuntary Resettlement” (ESS 5) is in alignment with the KfW’s Sustainability Guideline and adapts and incorporates provisions from the following internationally recognised safeguards and standards that are pertinent and appropriate to MAR Fund’s context and operations
 - The IFC’s PS 5 Land Acquisition and Involuntary Resettlement.
 - The World Bank’s ESS 5: Land Acquisition, Restrictions on Land Use and Involuntary Resettlement.
 - The IUCN’s Standard on Involuntary Resettlement and Access Restrictions.
2. The ESS 5 must be applied in full compliance with the national legislations of Mexico, Belize, Guatemala, and Honduras, including the countries’ obligations under international law. When the national law and this Safeguard have different views on the same issue, in accordance with MAR Fund’s *Most Stringent Policy Provision*⁷⁸, the most stringent standard or provision must apply.

7.1.1 OBJECTIVES

3. The objectives of the ESS 5: Access Restrictions to Natural Resources, Livelihood Lost, and Limited Involuntary Resettlement are to:
 - i. Establish procedures and requirements to avoid negative impacts on people and communities when restrictions on access to natural and other resources are unavoidable.
 - ii. Minimize and mitigate impacts caused by restrictions on access to natural resources and involuntary resettlement affecting communities and ensure full and fair compensation.

⁷⁸ *Most Stringent ES Policy provision*: When MAR Fund’s environmental and social provisions are to be considered in parallel with the provisions of any of the Governments of Mexico, Belize, Guatemala, and Honduras, the most stringent environmental and social Policy provision should apply. MAR Fund’s Environmental and Social Policy (section 2 of this document).

- iii. Enable affected people and communities to participate fully in the identification and design of mitigation measures that support livelihoods that are sustainable, environmentally, socially, and economically beneficial, culturally appropriate, and legally acceptable.
- iv. Ensure that natural resource access restrictions and resettlement activities are planned and implemented with adequate information disclosure, meaningful consultation, and informed participation of those affected.

7.1.2 DEFINITIONS

4. For the ESS 5: Access Restrictions to Natural Resources, Livelihood Lost, and Limited Involuntary Resettlement, the definitions in this section are adopted. Most of these definitions are from the IFC (PS 5, Guidance Note and support material) and the World Bank (ESS 1 and ESS 5, and Guidance Notes).
5. Cut-off date is the date of “completion of the census and assets inventory of persons affected by the *project*.”⁷⁹
6. Displaced persons are the people who are displaced because of the Activity. There are three types of displaced persons:
 - People who have formal legal rights to the land or assets they occupy or use
 - People who do not have formal legal rights to land or assets, but have a claim to land that is recognized or recognizable under national law
 - People who have no recognizable legal right or claim to the land or assets they occupy or use.
7. Forced eviction is the permanent or temporary removal against the will of individuals, families, or communities from the homes and lands which they occupy without the provision of, and access to, appropriate forms of legal and other protection. Involuntary resettlement does mean, nor imply, “*forced eviction*”.⁸⁰
8. Host Communities are any community receiving displaced people.
9. Involuntary Resettlement refers both “to physical displacement (relocation or loss of shelter) and to economic displacement (loss of assets or access to assets that leads

⁷⁹ IFC – Handbook for Preparing a Resettlement Action Plan.

⁸⁰ IFC Performance Standard 5 Land Acquisition and Involuntary Resettlement.

to loss of income sources or other means of livelihood)⁸¹ because of restrictions to access to natural resources. Affected stakeholders in involuntary resettlement (people and communities) do not have the right to refuse the imposition of access restrictions to natural resources or land use, or land acquisition, that result in physical or economic displacement. Involuntary resettlement neither means nor implies forced eviction.

Note 1: The grantees must be aware that there will not be involuntary resettlement of Indigenous Peoples in projects approved by MAR Fund.

Note 2: The World Bank ESS 5 establishes that affected stakeholders in involuntary resettlement (people and communities) do not have the right to refuse the imposition of access restrictions to natural resources or land use, or land acquisition, that result in physical or economic displacement. MAR Fund's ESS 5 establishes that it is necessary to have the Free, Prior, and Informed Consent (FPIC) of the affected communities to proceed with planning and implementing projects that will result in the resettlement of these communities.

10. Livelihood refers to the full range of means that individuals, families, and communities utilize to make a living, such as wage-based income, agriculture, fishing, foraging, other natural resource-based livelihoods, petty trade, and bartering".⁸²
11. Natural Resource Assets are a set of benefits that people, including businesses, derive from ecosystems. This definition is equivalent to that of Ecosystem Services⁸³ defined in the ESS 6.
12. Natural features with cultural significance, are also considered as cultural heritage and refer to various features such as "sacred hills, mountains, landscapes, streams, rivers, waterfalls, caves and rocks, sacred trees or plants, groves and forests; carvings

⁸¹ IFC Performance Standard 5 Land Acquisition and Involuntary Resettlement.

⁸² IFC Performance Standard 5 Land Acquisition and Involuntary Resettlement.

⁸³ "Ecosystem services are the benefits that people derive from ecosystems. Ecosystem services are organized into four types: (i) provisioning services, which are the products people obtain from ecosystems and which may include food, freshwater, timbers, fibers, medicinal plants; (ii) regulating services, which are the benefits people obtain from the regulation of ecosystem processes and which may include surface water purification, carbon storage and sequestration, climate regulation, protection from natural hazards; (iii) cultural services, which are the nonmaterial benefits people obtain from ecosystems and which may include natural areas that are sacred sites and areas of importance for recreations and aesthetic enjoyment; and (iv) supporting services, which are the natural processes that maintain the other services and which may include soil formation, nutrient cycling and primary production." World Bank Guidance Note of ES1: Footnote 27.

or paintings on exposed rock faces or in caves; and paleontological deposits of early human, animal or fossilized remains”.⁸⁴

7.1.3 PRINCIPLES

13. MAR Fund's preference is to avoid resettlement altogether. Large involuntary resettlement⁸⁵ is prohibited by MAR Fund exclusion list. MAR Fund does not support involuntary resettlement of Indigenous Peoples or Local Traditional Communities.
14. MAR Fund only supports access restrictions to natural resources to achieve the recovery or restoration of the resources and the protection or conservation of ecosystems and their functionality. For this Safeguard, the term “natural resources” refers to both terrestrial and aquatic resources, including marine areas and resources.
15. MAR Fund recognizes that economic and livelihood losses, loss of income, and non-material impacts related to the spiritual, cultural, and educational value of natural resources, are some of the impacts of access restrictions.

7.1.4 LARGE AND LIMITED INVOLUNTARY RESETTLEMENT

16. Whether the involuntary resettlement is large or limited depends on the frame of reference, including the extension, components, budget, and other characteristics of the projects to be approved by MAR Fund. When a large number of people or a significant portion of the affected communities would be subject to relocation, it will be considered as Large Resettlement. The no-project scenario must be given serious consideration when the trade-off between the project benefits and the impacts and cost of resettlement exceeds an acceptable level or if the affected population is particularly vulnerable.
17. As it relates to MAR Fund, projects involving resettlement of up to 50 persons or 10 households may be considered as Limited Resettlement and, therefore, subject to this Safeguard. Projects involving more than 500 persons or 100 households will be

⁸⁴ World Bank's ESS 8 Cultural Heritage.

⁸⁵ Large involuntary resettlement is defined as the resettlement of more than 100 households of the same location.

assessed as Large Resettlement and therefore not considered for funding on the grounds of the Exclusion List.

7.1.5 VOLUNTARY ADOPTION OF RESTRICTIONS TO ACCESS TO NATURAL RESOURCES

18. There may be situations where the community is willing to commit to upholding access restrictions to natural resources, agree on a voluntary basis with these restrictions, and in some cases even demand the imposition of the restrictions. These situations may be broadly classified as “Voluntary Adoption of Restrictions to Access to Natural Resources”⁸⁶.
19. A proposal or a project may include Voluntary Adoption of Restrictions to Access to Natural Resources. Subject to prior MAR Fund approval, this may be acceptable providing the grantee demonstrates the following:
 - A. The community involved in the project was appropriately informed regarding the proposed activity and its impacts, its requirements in terms of access to natural resources, and their rights to compensation for livelihood loss, if any.
 - B. The community involved in the project could exercise their free will, i.e., could refuse the restrictions.
 - C. The community involved in the project knowingly rejected their right to renege on their decision.
 - D. The community involved in the project may not require compensation.
20. The grantees must document the process of the Voluntary Adoption of Restrictions to Access to Natural Resources, especially regarding literals A), C), and D) of the previous paragraph. MAR Fund will request evidence of this process during the environmental and social due diligence.

7.2 SCOPE OF APPLICATION

21. The applicability of the ESS 5 is decided during the environmental and social due diligence, following the ESS 1, with the support of the ESSQ tool.

⁸⁶ This section adapts the content from the Guidance Note 4.11 of the ESS 5 of the World Bank.

22. EES 5 applies to projects that include permanent or temporary impacts due to restrictions on access to natural resources, loss of livelihoods, or limited involuntary resettlement⁸⁷ resulting from the following types of restrictions:
- Restrictions of access to natural resources or land use that cause a community, or groups within a community, to lose access to resource usage where they have traditional or customary tenure, or recognizable usage rights. This may include situations where new legally designated protected areas, forests, biodiversity areas or buffer zones are established in connection with the project.
 - Restrictions on access or use of other resources including communal property and natural resources such as marine and aquatic resources, timber and non-timber forest products, fresh water, medicinal plants, hunting and gathering grounds and grazing and cropping areas.
 - Restrictions arising from changes in natural resource use and management regimes that negatively affect the economic, social, cultural, and environmental benefits that communities derive from these resources.
 - Land rights or land use rights acquired or restricted through expropriation or other compulsory procedures in accordance with national law, or through negotiated settlements with those with legal rights to the land, if failure to reach settlement would have resulted in expropriation or other compulsory procedures.
 - Relocation of people without formal, traditional, or recognizable usage rights, who are occupying or utilizing land prior to a project specific cut-off date.
 - Land rights or claims to land, or resources relinquished by individuals or communities without full payment of compensation⁸⁸.

⁸⁷ As per KfW guidance on risk-based classification, projects requiring large scale resettlement or that lead to a significant loss of livelihood shall be classified as Category A and, therefore, will be included in MAR Fund Exclusion List.

⁸⁸ In cases when the land, or portion of the land, necessary for the project is donated by an individual, a group of individuals or a community. This shall be previously approved by MAR Fund, provided that the grantee demonstrates that “the potential donor (s) have made the donation after making sure that “a) the potential donor or donors have been appropriately informed and consulted about the project and the choices available to them; (b) potential donors are aware that refusal is an option, and have confirmed in writing their willingness to proceed with the donation; (c) the amount of land being donated is minor and will not reduce the donor’s remaining land area below that required to maintain the donor’s livelihood at current levels; (d) no household relocation is involved; (e) the donor is expected to benefit directly from the project; and (f) for community or collective land, donation can only occur with the consent of individuals using or occupying the land”. (World Bank Guidance Note of ESS 5 (Footnote 10). The grantee will “maintain a transparent record of all consultations and agreements reached.”

23. This ESS will be triggered when any of the following apply to the project and the restrictions caused have an impact on the rights, livelihoods, and quality of life of those involved (the applicability is decided on a case-by-case basis):
- The project establishes restrictions on natural resources in new protected areas.
 - The project establishes sustainable natural resource management plans that involve access restrictions outside protected areas
 - The project includes enforcement of existing restrictions on natural resources, in protected areas or outside of protected areas
 - The project restricts physical access to subsistence resources, or to areas where social services are provided to the community
24. This Safeguard ***does not apply*** in the following cases:
- The project is Non-Area-Based, as defined in ESS 1 (section 3.2.2 *Area-Based and Non-Area-Based Projects*).
 - To “Voluntary Adoption of Restrictions to Access to Natural Resources” as defined in *point 7.1.4*⁸⁹.
 - Risks and impacts on community incomes and livelihoods that are not a direct result of natural resource access restrictions imposed by the project. In that case, such risks and impacts are addressed in line with MAR Fund’s ESS 1.
 - The project supports land titling or other confirmation, regularisation, or determination of land rights. In these cases, it is necessary to carry out a social, legal, and institutional assessment, in line with MAR Fund’s ESS 1.
 - The project consists of “land use planning or the regulation of natural resources to promote their sustainability on a regional, national, or subnational level (including watershed management, ground water management, fisheries management, and coastal zone management)”⁹⁰. When MAR Fund supports projects to develop better plans but does not support the implementation of such

⁸⁹ In these cases, the grantee may freely use the requirements and the methodology established in this Safeguard to provide some sort of compensation for livelihoods loss.

⁹⁰ World Bank ESS 5 (The text has been highlighted by the author of this ESS).

plans, it is necessary to carry out a social, legal, and institutional assessment, in line with MAR Fund's ESS 1⁹¹.

7.3 REQUIREMENTS FOR GRANTEES

25. MAR Fund urges grantees to work with communities to find viable alternatives to limited resettlement. If limited resettlement is unavoidable, grantees must satisfy the requirements established in this Safeguard, including securing the Free, Prior, and Informed Consent (FPIC) of the community to be affected by the resettlement.
26. MAR Fund requires the FPIC of the communities affected by the access restrictions to natural resources. Without their FPIC, MAR Fund cannot support imposing or otherwise implementing these restrictions.
27. Projects involving access restrictions to natural resources and/or limited resettlement will be automatically classified as Category B+. Grantees must seek professional assistance to satisfy the requirements of this Safeguard, unless they have enough experience with resettlement and restoration of livelihoods and fully trained personnel
28. When the imposition of restrictions on access to natural resources or the limited resettlement of households is unavoidable and necessary to achieve a higher objective of protection or conservation of ecosystems and their functionality, grantees must compensate the affected people unless there is a Voluntary Adoption of Restrictions to Access to Natural Resources as defined in *point 7.4.2* (Resettlement Action Plan or a Process Framework).
29. When compensating affected people, the grantees must provide them with all necessary assistance to improve or restore their standard of living or livelihoods to at least pre-intervention levels.

7.3.1 ELEGIBILITY

30. Affected persons eligible for compensation, resettlement, and other assistance and benefits will be identified with a census to be elaborated in collaboration with the affected community as part of the *Process Framework* (see *section 7.4.1*). The affected persons will be classified as follows:

⁹¹ When MAR Fund supports a project that include the implementation of these plans that involve the imposition of restrictions to access to natural resources, this Safeguard will apply. World Bank Guidance Note 8.1 to the ESS 5.

- A. Persons who have formal legal rights to land or assets.
 - B. Persons who do not have formal legal rights to land or assets but have a claim to land or assets that is recognizable by the law of Mexico, Belize, Guatemala, or Honduras (as the case may be).
 - C. Persons who have no recognizable legal right or claim to the land or assets they occupy or use.
31. Those who encroach into the affected area after the eligibility cut-off date will not be entitled to any compensation. The grantee will not be required to compensate such persons, provided that the cut-off date has been clearly established and communicated. Similarly, fixed assets such as built structures, crops, fruit trees and forest plots, established after the date of completion of the asset inventory, or a mutually agreed alternative date, shall not be compensated.

7.3.2 COMPENSATION AND BENEFITS

32. Compensation and benefits will be standard for each of the three categories of affected persons established in § 30, meaning that all persons included in category A will have the same type of compensation. Same for all persons included in category B and in category C.
33. Compensation includes in-kind compensation, non-monetary compensation, and monetary compensation, as appropriate. The type of compensation and benefits by category will be documented and disclosed by the grantee. Compensation and benefits will be distributed through transparent procedures.
34. Where the livelihoods of affected persons are land-based based, or where land is collectively owned, and access restrictions are permanent, or there is permanent displacement, grantees should offer a replacement option. This replacement option should have productive potential, locational advantages, and other factors at least equivalent to that which is lost.
35. In exceptional circumstances, after grantees have demonstrated to MAR Fund that no feasible replacement land is available, and no other viable alternative exists, MAR Fund may approve compensation instead of replacement.
36. The grantees shall establish effective restrictions on access to natural resources only after replacement or compensation has been made available to affected persons by this ESS, and if the project involves limited resettlement, the displaced persons have

been resettled, and their livelihoods have been returned or compensation has been provided to them

37. Notwithstanding the above requirement, in exceptional cases where, despite the efforts of the grantees, the payment of compensation to some affected persons proves too difficult for reasons beyond the control of the grantees, MAR Fund may authorize the establishment of restrictions on access to natural resources, provided that the grantee deposits the necessary compensation funds in an interest-bearing account. These funds will be made available to the affected parties when the problems that made payment impossible are resolved.
38. Affected persons under category C (in § 30) are entitled to compensation in lieu of land.
39. Affected persons whose livelihoods are derived from illegal activities under the law of their country (Mexico, Belize, Guatemala, or Honduras) will not be eligible for compensation and benefits. These activities include, but are not limited to, poaching, logging, and dynamite fishing⁹².

7.3.3 LIVELIHOOD LOSS AND ECONOMIC DISPLACEMENT

40. Where the project involves loss of livelihoods, impacts on income generation, or economic displacement, the beneficiary should plan and implement effective measures to enable affected people to restore their income and livelihoods⁹³. The plan shall establish transparently, consistently, and equitably the different entitlements of affected persons. The grantee shall pay particular attention to gender differences and shall strive to meet the needs of the most vulnerable, including the LGBTQ+ persons. The grantee shall monitor the effectiveness of such measures and evaluate them upon completion.
41. Mitigation of loss of livelihood and economic displacement shall be considered completed when the affected persons have received all assistance to which they are entitled and have been provided with an adequate opportunity to restore their livelihoods.

⁹² Activities such as smuggling and drug trafficking that may be affected by access restrictions are not subject to any compensation.

⁹³ The provisions of this Safeguard do not apply to the Voluntary Adoption of Restrictions to Access to Natural Resources, as defined in point 8.1.3

42. The results of the implementation of livelihood restoration and resettlement activities will be evaluated in the framework of an independent completion audit.
43. The grantee shall offer to the persons affected by livelihood lost or other economic displacement classified under A. or B. (in § 30) replacement property of equal or greater value or, where appropriate, cash compensation at replacement cost. In case of affected persons classified under C. (in § 30), the grantee shall compensate them for lost assets other than land (such as crops, irrigation infrastructure and other improvements) at replacement cost. Additionally, the grantee will provide assistance instead of land sufficient to give such persons an opportunity to re-establish livelihoods elsewhere. There is additional guidance for cases where commercial enterprises are affected⁹⁴.
44. The grantees shall ensure that economically displaced persons can restore their livelihoods, income-earning capacity, and standard of living.
45. Persons whose affected livelihoods are land-based must be offered replacement land with productive potential at least equivalent to that being lost. Persons whose affected livelihoods are natural resource-based must be allowed to continue accessing the affected resources or provided with access to alternative resources equally accessible and with equivalent livelihood-earning potential. Where common property resources are affected, the benefits and compensation may be collective in nature.
46. Only when it is demonstrated to MAR Fund that replacement land or resources are unavailable, grantees may offer economically displaced persons other options for alternative income earning opportunities including credit facilities, skills training, business start-up assistance, employment opportunities, or cash assistance additional to compensation for assets.

7.3.4 PHYSICAL DISPLACEMENT

47. Where the project requires the physical displacement of individuals, the grantee should offer resettlement options, including housing replacement or cash

⁹⁴ "In cases where land acquisition or restrictions on land use affect commercial enterprises (including shops, restaurants, services, manufacturing facilities, and other enterprises, regardless of size and whether licensed or unlicensed) affected business owners will be compensated for the cost of identifying a viable alternative location; for lost net income during the period of transition; for the cost of the transfer and reinstallation of the plant, machinery, or other equipment; and for re-establishing commercial activities. Affected employees will receive assistance for temporary loss of wages and, if necessary, assistance in identifying alternative employment opportunities." World Bank ESS 5.

compensation. The grantee shall also provide adequate relocation assistance tailored to each group of displaced persons.

48. New locations should offer at least the same conditions as the previous location. Where the previous location's conditions are/were below national minimum codes or local minimum codes, new locations must at least satisfy those codes.
49. The grantee will offer persons affected by physical displacement classified as category A. or B. (in § 30), the alternative of a replacement property of equal or greater value, with security of tenure, better or equivalent characteristics, or cash compensation at replacement cost. In the case of affected persons classified as C. (in § 30), the grantee will enable them to obtain adequate housing with security of tenure. Where these persons own structures, assets, or other improvements, the grantees will compensate them at replacement cost for the loss of assets other than land. Prior consultation, instead of compensation for land, grantees will provide them with relocation assistance sufficient to restore their standard of living.

7.3.5 COMMUNITY ENGAGEMENT

50. The implementation of this safeguard requires meaningful community involvement. This involvement should begin early in the proposal development process, continue during project appraisal and approval, and be sustained during project implementation.
51. Community involvement will facilitate agreement on the process framework required for all projects that include access restrictions, loss of livelihoods, and/or limited resettlement. The process framework is described in *section 7.4.1 Process Framework*.
52. Community engagement is a good faith dialogue between the grantee and the communities affected by access restrictions and/or resettlement. This dialogue should be culturally sensitive, conducted in a language easily understood by the community, and in collaboration with the representative of the affected communities' organization.
53. The grantees shall ensure that the community engagement process reflects the perspectives, interests, and concerns of people of all genders, gender identities, and sexual orientations, without discrimination based on gender or sexual orientation.

54. The grantees should ensure that all stakeholders can effectively engage in community participation sessions and can express their preferences and issues related to livelihood restoration and resettlement planning. It may involve grantees having to organize separate consultation sessions to respond to the special needs of stakeholders. For example, it may be necessary to conduct an intra-household analysis in cases where women's and men's livelihoods are affected differently and have different preferences for restoration or compensation.
55. The host communities (i.e., the communities living in the locations where the new settlement is to be prepared) need to be consulted previously regarding the resettlement plans.
56. For the community engagement, grantees shall follow the guidance established in MAR Fund's ESS 10, and in ESS 9 for matters specific to gender.

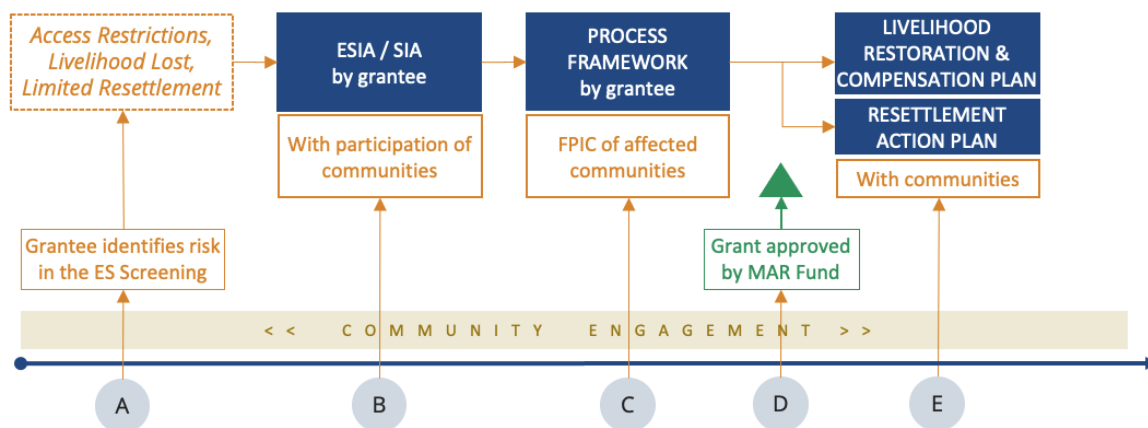
7.3.6 GRIEVANCE MECHANISM

57. According to ESS 1 and ESS 10, grantees must have in place a Grievance Mechanism to manage grievances and concerns of affected persons regarding the imposition of access restrictions, livelihood restoration, compensation, and relocation.
58. The Grievance Mechanism should be easily accessible through different channels. It shall also allow for the receipt and processing of confidential and anonymous complaints. Complaints will be handled by the grantees in a culturally appropriate manner. Responses should be discreet, objective, and sensitive to the individuals concerned. To this end, grantees shall follow the guidance set forth in MAR Fund's ESSs.

7.4 ACCESS RESTRICTIONS AND LIMITED RESETTLEMENT PROCEDURE

59. When the risks and impacts from access restrictions or limited resettlement are identified in the environmental and social assessment made by the organization proposing the project to MAR Fund, the following procedure is triggered (Figure 2: Access Restrictions - Livelihood Lost - Limited Resettlement Procedure).

Figure 2: Access Restrictions - Livelihood Lost - Limited Resettlement Procedure



- A. While conducting the environmental and social screening, the grantee determines that the project involves access restrictions to natural resources and/or limited resettlement. The grantee carries out the screening with the participation of potentially affected communities. If the resettlement is limited, the grantee classifies its proposal as Category B+. If the resettlement is large, the grantee classifies its proposal as Category A and shall abstain from presenting it to MAR Fund⁹⁵.
- B. The grantee prepares a fit-for-purpose Environmental and Social Impact Assessment (ESIA) or a Social Impact Assessment (SIA), with the active participation of the affected stakeholders (i.e., the persons and the community most likely to be affected by access restrictions and resettlement).
- C. After the ESIA / SIA, the grantee prepares a Process Framework to assess, mitigate and manage impacts of access restriction and limited resettlement, as established in this ESS 5. The FPIC of the affected communities is necessary for the Process Framework.
- D. Upon completion of the Process Framework and verification of FPIC of the affected communities, MAR Fund may approve the proposed project. This

⁹⁵ Activities including resettlement or more than 15 households of the same location will be deemed to include large resettlement, be in MAR Fund Exclusion List, and therefore they will not be subject to financing by the MAR Fund.

approval includes a commitment to complete and implement the Livelihood Restoration and Compensation Plan or Resettlement Action Plan, as appropriate. These instruments are also subject to approval by MAR Fund.

- E. The grantee develops and implements a Livelihood Restoration and Compensation Plan or Resettlement Action Plan, as appropriate, in collaboration with the affected communities. The grantees and communities will monitor and evaluate the plan execution. The grantees will introduce corrective measures where necessary. The completion of livelihood restoration and resettlement plans, and the results of their implementation will be evaluated as part of an independent completion audit, which cost shall be included as part of the project budget.

7.4.1 PROCESS FRAMEWORK

- 60. All projects involving access restrictions, loss of livelihoods, and limited resettlement should prepare a Process Framework. It involves an ongoing process of engagement and collaboration with affected communities.
- 61. The Process Framework will include a description of the risks and impacts of the project. It will present the eligibility criteria for compensation, assistance, resettlement, and livelihood losses. It will also adapt the procedures set out in ESS 7 for obtaining FPIC from affected communities to local circumstances. The Process Framework will include a census of grantees or the ToR of the census if it has not been conducted yet as part of the ESIA/SEA. The Process Framework will satisfy the requirements set forth by the ESS 5, ESS 7, and ESS 10.
- 62. Access restrictions will be determined with the best available scientific information and traditional knowledge, through participatory processes where the affected communities will play a central role.
- 63. For projects involving access restrictions with impacts on livelihoods or income generation, the process framework shall set out the following: eligibility criteria for affected persons; compensation procedures and standards; additional measures related to livelihood improvement or restoration; provisions for monitoring; the consultation process; and grievance management.

64. For projects involving limited resettlement, in addition to the aspects mentioned in the previous point, the Process Framework shall set out relevant additional measures for the relocation of affected persons.
65. The above provisions (§ 63 and 64) also apply where the project includes land-use changes that restrict access to resources in legally designated protected areas or other common property resources on which local people may depend for their livelihoods. In these cases, the process framework shall establish a participatory process to determine appropriate use restrictions and establish mitigation measures to address adverse impacts on livelihoods that may result from such restrictions.
66. The process framework shall describe the roles and responsibilities for implementing the plans (the livelihood restoration and compensation plan or resettlement action plan, as appropriate). It includes roles and responsibilities of the grantee, any third-party organization contracted by the grantee to assist in the plan's implementation. It also includes the roles and responsibilities of the community representatives and other stakeholders. An indicative budget and a schedule are also required. Organizations submitting project proposals should note that the total cost of the plans must be included in the total estimated cost of the project.
67. The process framework shall include provisions for monitoring the implementation of the livelihood restoration and compensation plan or resettlement action plan and the timely adoption of any necessary corrective actions. The plan's implementation results will be evaluated as part of an audit of the project.
68. To identify who will be affected by restrictions on access to natural resources or resettlement, grantees will conduct a census to collect appropriate baseline socio-economic data. The census may be part of the ESIA/ SIA or may be conducted later if circumstances require. The census will help in determining who will be eligible for compensation and assistance and provide an inventory of land and other resources, as well as who will be eligible for compensation and assistance. The census will respect an eligibility cut-off date to discourage ineligible persons - opportunistic livelihood seekers. Information about the cut-off date should be disseminated widely throughout the affected area at different times and by various media, including written information, non-written forms (such as graphics and other visuals), audio using local radio stations, and social media.

69. The following indicative content for the Process Framework is suggested. It shall be adapted to the specific circumstances of each project. A Process Framework format is available in the Annex section of this document and in MAR Fund’s website.

- Brief description of the project
- Definition of the affected area and of the areas used by the affected community (including social mapping, GIS mapping and official maps of protected areas -if there are any).
- ToR for the census, including the cut-off date
- Affected stakeholder analysis, including description of their customary approach to natural resources management
- A land / marine tenure assessment, including the formal / legal tenure and the informal, customary systems
- Description of the Protected Area management plan (if there is any)
- Description of the risks and anticipated positive and negative impacts
- Description of any conservation agreement with the affected communities
- Description and documentation of the community engagement process and the process to seek FPIC.
- Criteria for eligibility of beneficiaries and affected people
- Mitigation measures to restore livelihoods (or improve them)
- Roles and responsibilities
- Monitoring arrangements

7.4.2 INSTRUMENTS RELATED TO LIVELIHOOD RESTORATION AND COMPENSATION, AND RESETTLEMENT

70. The Livelihood Restoration and Compensation Plan and the Resettlement Action Plan are the instruments to use after the Process Framework is approved. Formats of both Plans are presented in the Annex section of this document and are available on the MAR Fund website.

** ** END OF ESS 5 ** **

8 ESS 6: BIODIVERSITY AND CONSERVATION AND SUSTAINABLE MANAGEMENT OF LIVING NATURAL RESOURCES



8.1 INTRODUCTION

1. The “ESS 6: Biodiversity and Conservation and Sustainable Management of Living Natural Resources” (ESS 6) pursues MAR Fund’s vision, shared with donors, founders, and implementing partners, of a thriving Mesoamerican reef system that sustains, and is supported by, society within a regenerative economy.
2. MAR Fund is a Conservation Trust Fund (CTF), member of the IUCN, and bearer of the clear mission to drive regional funding and partnerships for the conservation, restoration, and sustainable use of the Mesoamerican Reef. Therefore, its Biodiversity Safeguard is of particular importance and, in some respects, exceeds similar safeguards of development and funding agencies. In this regard, this ESS 6 does not permit the approval or implementation of projects that affect biodiversity to the extent that compensation measures are required.⁹⁶
3. The ESS 6 structure follows, to some extent, the IUCN’s Standard on Biodiversity Conservation and Sustainable Use of Natural Resources. It also complies with the IFC’s PS 6 Biodiversity Conservation and Sustainable Management of Living Natural Resources, the World Bank’s ESS 6: Biodiversity Conservation and Sustainable Management of Living Natural Resources, and the IDB’s ESPS 6: Biodiversity Conservation and Sustainable Management of Living Natural Resources.

8.1.1 PURPOSE AND OBJECTIVES

4. The purpose of the ESS 6 is to ensure that projects approved by MAR Fund have a considerable net benefit for the MAR Region’s biodiversity as provider of global environmental benefits, maintain ecosystem services, and support the generation of local livelihoods by making sustainable use of natural resources.
5. The objectives of the ESS 6 are the following:
 - i. To conserve and protect freshwater, coastal, and marine biodiversity in the MAR Region and to guide restoration of the Mesoamerican Reef.

⁹⁶ This provision does not prevent MAR Fund from approving projects that implement components of a compensation system, provided that the negative impacts that caused the need to compensate are not produced in a protected area nor as a consequence of a MAR Fund approved grant or project.

- ii. To have a systems approach to ecosystems to preserve their functions and ensure the benefits from their services, especially to communities that depend on them for their livelihoods.
- iii. To improve the performance of projects approved by MAR Fund to achieve net biodiversity benefits.

8.1.2 DEFINITIONS

6. For MAR Fund's ESMS, the terms presented in this section will have the following meaning. These definitions rely on the IUCN's Standard on Biodiversity Conservation and Sustainable Use of Natural Resources and the Convention of Biological Diversity, unless otherwise explicitly indicated.
- Areas with high biodiversity value are areas with one or more of the following attributes:
 - areas important to threatened species according to the *IUCN Red List of Threatened Species*;
 - areas important to endemic or restricted-range species or to migratory and species that aggregate;
 - areas representing key evolutionary processes, providing connectivity with other critical habitats or key ecosystem services;
 - highly threatened and/or unique ecosystems⁹⁷;
 - areas identified as Key Biodiversity Areas and subsets such as:
 - important Bird and Biodiversity Areas
 - important Plant Areas
 - important Sites for Freshwater Biodiversity and
 - Alliance for Zero Extinction (AZE) sites
 - High Conservation Value areas⁹⁸ (including Indigenous Peoples' sacred sites)
 - Biological Diversity means the variability among living organisms from all sources including, inter alia, terrestrial, marine, and other aquatic ecosystems and the

⁹⁷ To be determined by the evolving IUCN Red List of Ecosystems.

⁹⁸ Referred to by other safeguard systems as Critical Habitats (IFC PS 6, IDB PS 6).

ecological complexes of which they are part; this includes diversity within species, between species and of ecosystems⁹⁹.

- *Critically Endangered species* is used in the context of the IUCN Red List, to refer to a species with extremely high risk of extinction in the wild in the immediate future.
- *Endangered species* is used in the context of the IUCN Red List, to refer to a species with very high risk of extinction in the wild in the immediate future.
- *Ecosystem* is a dynamic complex of plant, animal and micro-organism communities and their non-living environment interacting as a functional unit⁴.
- *Ecosystem services* are a set of benefits that people, including businesses, derive from ecosystems. They are organized in four types:
 - Provisioning services: the products people obtain from ecosystems;
 - Regulating services: the benefits people obtain from the regulation of ecosystem processes;
 - Cultural services: the non-material benefits people obtain from ecosystems; and
 - Supporting services: the natural processes that maintain the other services
- *Habitat* means the place or type of site where an organism or population naturally occurs⁴. There may be *Modified Habitats*, that are areas that may contain a large proportion of plant or animal species of non-native origin, where human activity has substantially modified the area's primary ecological functions and species composition¹⁰⁰.
- *Protected Area* are clearly defined geographical spaces, recognised, dedicated, and managed, through legal or other effective means, to achieve the long-term conservation of nature with associated ecosystem services and cultural values.
- *Sustainable use* is the use of components of biological diversity in a way and at a rate that does not lead to the long-term decline of biological diversity, thereby maintaining its potential to meet the needs and aspirations of present and future generations⁴.

⁹⁹ Convention of Biological Diversity, Article 2., Use of Terms.

¹⁰⁰ IDB's ESPS 6: Biodiversity Conservation and Sustainable Management of Living Natural Resources.

8.1.3 APPLICABILITY AND TRIGGERS

7. The ESS 6 applies when there are risks causing harm to the biodiversity, or the project may be detrimental to ecosystem services or make unsustainable use of natural resources. The environmental and social due diligence with the support of the ESSQ determines the applicability of the ESS 6.
8. The ESS 6 does not apply to Non-Area-Based projects, as defined in ESS 1 (*section 3.2.2 Area-Based and Non-Area-Based Projects*), nor does it apply to projects classified as Category C (*section 3.2.1 Risk-Based Classification*).
9. By general rule, the ESS 6 is not applicable for projects that are implemented exclusively in Modified Habitats, as defined in *section 8.1.2 Definitions above*, and that do not include the use of living natural resources.
10. Projects of the following type will most probably trigger the ESS 6. It is important to keep in mind that this is just an indicative list and the decision regarding the applicability of the ESS 6 will be made case by case:
 - Projects involving the creation of a Protected Area
 - Projects changing the management regime of a Protected Area
 - Projects that include the introduction of non-native species
 - Projects that are carried out in a Protected Area or in an area with high biodiversity value, and:
 - Include infrastructure construction, upgrades, or decommissioning
 - Include agriculture or aquaculture activities
 - include wild-harvest fisheries or wildlife management activities
 - involve the use of timber or non-timber forest products
 - Involve the risk of creating pathways for spreading invasive species

8.2 REQUIREMENTS

8.2.1 PROTECTED AREAS

11. All projects to be implemented in a Protected Area should comply with the pertinent national legislation of the country where the Protected Area is located (Mexico, Belize,

Guatemala, and Honduras)¹⁰¹. When a project involves Protected Areas located in more than one country, the grantee should comply with the national pertinent legislation of the involved countries. When two different national legislations can be applied to the same project at the same time, in accordance with MAR Fund's *Most Stringent Policy Provision*¹⁰², the most stringent standard or provision must apply.

12. In Protected Areas, grantees only can implement projects intended to support and strengthen these areas. Their projects will not lead to adverse impacts on the biodiversity, nor affect the ecological processes supporting this biodiversity, nor lead to a net reduction of the population of any Critically Endangered or Endangered species, as defined in *section 8.1.2 Definitions above*.
13. When a project is to be implemented in a Protected Area, the grantee shall ensure alignment with the management plan (or an equivalent document) of that area unless the project is intended to formulate the management plan of the Protected Area -in such case the provisions of § 14 apply.
14. When the project includes formulating a management plan of a Protected Area or making significant changes to the existing management plan of a Protected Area, the grantee shall follow the national legal, institutional, and regulatory requirements for this specific purpose, including when necessary, carrying out a fit-for-purpose ESIA to inform the formulation of such plan or the changes to the existing plan.
15. The management plan of a Protected Area must not impinge on the lands owned, or claimed, by Indigenous Peoples, impact territory under traditional use by indigenous Peoples; affect indigenous Peoples' access to resources unless the project satisfies the requirements set forth in MAR Fund's ESS 7 Indigenous Peoples and Local Communities (*section 9* of this document). When formulating or modifying protected area management plans, grantees shall be vigilant of not disempowering Indigenous Peoples and Traditional Local Communities, including violating their rights or creating the conditions for removing them from their lands.

8.2.1.1 INFRASTRUCTURE IN A PROTECTED AREA

¹⁰¹ For more information about the legal framework see MAR Fund National Legislation Overview.

¹⁰² *Most Stringent ES Policy provision*: When MAR Fund's environmental and social provisions are to be considered in parallel with the provisions of any of the Governments of Mexico, Belize, Guatemala, and Honduras, the most stringent environmental and social Policy provision should apply. MAR Fund's Environmental and Social Policy (*section 2* of this document).

16. Projects approved by MAR Fund to be implemented in protected areas may include only small (to be analyzed on a case-by-case basis) infrastructure construction, refurbishment, or decommissioning. These projects must satisfy all the requirements established by the national legislation and secure all the necessary permits and licenses. In addition, these projects must satisfy the requirements of MAR Fund's ESSs that are not included in the national legislation.
17. The grantees executing projects involving infrastructure construction, upgrade, or decommissioning shall ensure that their activities will not cause negative permanent impact on the Protected Area and that any temporary negative impact is minimized and mitigated.
18. The grantees shall conduct a fit-for-purpose ESIA and formulate an ESMP before executing projects involving small infrastructure construction, refurbishment, or decommissioning in a protected area. If the national legislation does not require an ESIA for this type of projects, and the environmental and social due diligence does not identify the need to carry out an ESIA, grantees shall carry out an Environmental and Social Site Risk Assessment and formulate an ESCOP. This also applies to projects involving sustainable use of living resources in protected areas. (See more information about this topic in sections 3.3.5 *Procedures related to the ESIA* and 3.3.6 *Procedures related to the ESCOP*).
19. Any new or refurbished infrastructure in a protected area shall satisfy the requirements set forth in MAR Fund's ESS 3 (*section 5.2.3 Infrastructure Construction, Upgrade, or Decommissioning*).

8.2.2 OTHER AREAS WITH HIGH BIODIVERSITY VALUE

20. Projects to be implemented in Areas with High Biodiversity Value, as defined in *section 8.1.2 Definitions above*, will not lead to adverse impacts on the biodiversity, nor affect the ecological processes supporting this biodiversity, nor lead to a net reduction of the population of any Critically Endangered or Endangered species.
21. Areas with High Biodiversity Value may include modified habitats.
22. For the purposes of this Safeguard, *Fish Spawning Aggregation Sites* are considered areas with high biodiversity value whether they are part of a Protected Area or not.
23. To determine whether the project is inside an Area with High Biodiversity Value, grantees are encouraged to use the best available data, including spatial data and

landscape mapping, land classification and land use maps, satellite imagery, ecosystem maps, and topographical and hydrological maps.¹⁰³

24. If the project involves infrastructure construction, upgrade, or decommissioning inside an Area with High Biodiversity Value, grantees shall satisfy the provisions established in section 8.2.1.1 *Infrastructure in a Protected Area*.

8.2.3 RESEARCH ACTIVITIES

25. Research is essential to improve long-term biodiversity conservation and use of living natural resources. Accordingly, some projects may include research activities intended to increase critical knowledge of biodiversity and natural resources.
26. All research-related activities of projects approved by MAR Fund shall involve the participation of scientists, use the best available expert advice. They should also involve local communities and their traditional and ancestral knowledge with their FPIC, use local fishers when feasible, and share research results with local communities, organizations managing Protected Areas, and other stakeholders.
27. The use of animals for scientific purposes projects approved by MAR Fund shall always be justified in terms of its contribution to the achievement of net biodiversity benefits. Projects that include research activities using animals and other natural living resources shall have a Research Protocol that summarizes the measures to prevent harm, minimize stress, and avoid other unintentional adverse impacts. The grantees are welcome to adopt commonly used research protocols for this purpose. If the activity requires the collection of specimens, it must be carried out in accordance with national legislation, after obtaining the necessary permits.

8.2.4 RESTORATION ACTIVITIES

28. To preserve the genetic variability of ecosystems/populations in restoration projects, MAR Fund will preferentially support projects that include or consider genetic studies to maintain genetic variability in the ecosystem/population being restored. The Grantees shall always follow the best available science to guide their restoration activities.
29. All proposals that involve restoration activities, including coral restoration and other type of restoration, must have all the relevant permits and licenses –or proof that the

¹⁰³World Bank's Guidance Note on ESS 6.

permits are being processed– required by the legislation of Mexico, Belize, Guatemala, or Honduras, as the case may be, before being considered by MAR Fund. When a proposal is presented without the required permits and licenses, it shall not be approved by MAR Fund.

30. When a project proposal includes coral restoration¹⁰⁴, the grantee shall justify the activity a thorough review of the status of coral species in the region where the activity is to be implemented, as well as the geographic location, the site ecology, the available human resources, and the required permits.
31. For asexual coral restoration, preference will be given to “fragments of opportunity”¹⁰⁵. After “fragments of opportunity” are used, restoration can be carried out using fragments removed from intact colonies (donor colonies) in reference sites or similar reefs that are located close to the recipient sites.
32. It is highly recommended that the amount of extracted material from intact colonies does not exceed 10 percent of each colony as to avoid damage to, and minimize stress of, donor areas. This decision, however, will be made on a case-by-case basis.

8.2.5 INTRODUCTION OF INVASIVE ALIEN SPECIES

33. Projects approved by MAR Fund shall avoid introducing invasive alien species in the MAR Region.
34. Invasive alien species are alien species whose introduction and/or spread threaten biological diversity¹⁰⁶.
35. MAR Fund’s grantees shall identify and manage potential pathways of introduction of invasive species in their projects, especially in projects involving the sustainable use of living natural resources¹⁰⁷.

¹⁰⁴ Understood as the “processes of recovering reefs that have been damaged or disturbed in their physical, biological, or functional integrity, by implementing actions to revert it, as much as possible, to its original state” MAR Fund’s Training Guide for Coral Reef Restoration. The section of Coral Reef Restoration has been developed under the basis of the training guide prepared by MAR Fund and the Mesoamerican Reef Rescue Initiative (RRI) with the support of the International Coral Reef Initiative (ICRI) and the Small Grants Program for United Nations Environmental Programme (UN/UNEP).

¹⁰⁵ Fragment of opportunity is a portion of a coral that is broken off. These fragments are abundant after damaging events such as boat grounding or storms. (MAR Fund’s Training Guide for Coral Reef Restoration).

¹⁰⁶ Convention on Biological Diversity Secretariat (2000).

¹⁰⁷ It is worth noting that “many types of alien species – including agriculture crops- may not be native but are not invasive and do not themselves pose a threat to biodiversity”. The World Bank’s Guidance Note on ESS 6.

36. Projects with high risk of introduction of invasive alien species will be classified as Category A and, therefore, excluded from MAR Fund support.
37. Projects that present moderate risk of introduction of invasive alien species will be classified as Category B+ unless they present strong Management Plans of Invasive Alien Species that include preventive and mitigation measures such as inspection, wash-down and quarantine procedures specifically designed to address the risk of spread of invasive species¹⁰⁸. When this risk is moderate and the project is implemented in vulnerable ecosystems such as islands and isolated ecosystems, the project shall be classified as Category B+.
38. The grantees may refer to the Technical Note of the Convention of Biological Diversity: “Pathways of Introduction of Invasive Species, their Prioritization and Management” for further guidance, resources, and tools¹⁰⁹.

8.2.6 SUSTAINABLE USE OF LIVING NATURAL RESOURCES

39. Living natural resources are wild living resources or plants and animals cultivated or harvested for human or animal consumption. The term relates to agriculture, animal husbandry, wild-harvest fisheries, aquaculture, forestry, wildlife management and the harvest of wild plants and other non-timber forest products.
40. Projects involving plantation development (agriculture or forestry or any other type) that requires conversion or degradation of natural forest areas or of any other area with high biodiversity value, will not be supported by MAR Fund¹¹⁰.
41. When proposing projects that include using living natural resources and the national legislation does not require an ESIA, grantees shall carry out an Environmental and Social Site Risk Assessment and formulate an ESCOP. If the national legislation requires an ESIA, grantees shall conduct a fit-for-purpose ESIA and formulate an ESMP. The grantees will carefully consider the beliefs, values, cultural characteristics, and the concerns of affected communities and other stakeholders while conducting either study. (See more information about ESIA/ESCOP in sections 3.3.5 *Procedures related to the ESIA* and 3.3.6 *Procedures related to the ESCOP*). Projects including any of the following activities are subject to these considerations:

¹⁰⁸ World Bank Guidance Note on ESS 6.

¹⁰⁹ Convention on Biological Diversity Secretariat, Subsidiary Body on Scientific, Technical, and Technological Advice. Pathways of Introduction of Invasive Species, Their Prioritization and Management. Montreal, June 2014.

¹¹⁰ As they will be in the Exclusion List.

- Agriculture
 - Animal husbandry
 - Wild-harvest fisheries
 - Aquaculture
 - Forestry
 - Wildlife management
 - Harvest of wild plants and other non-timber forest products¹¹¹
42. Projects involving the production of living natural resources should use industry-specific sustainable management practices and standards and, where available and appropriate, credible verification or certification schemes^{112, 113}.
43. Credible globally, regionally, or nationally recognized standards are those which (i) are objective and achievable; (ii) are founded on a multi-stakeholder consultative process; (iii) encourage stepwise and continual improvements; and (iv) provide for independent verification or certification through appropriate accredited bodies for such standards.¹¹⁴

** ** END OF ESS 6 ** **

¹¹¹ Including harvesting of native wild species as well as harvesting of substances produced by living species, such as sap from trees, or honey and wax from bees (World Bank's Guidance Note ESS 6).

¹¹² IUCN's Standard on Biodiversity Conservation and Sustainable Use of Natural Resources.

¹¹³ The grantees are encouraged to use different references to standards, like the ones included in the <https://standardsmap.org/>.

¹¹⁴ IFC PS 6.

9 ESS 7: INDIGENOUS PEOPLES AND TRADITIONAL LOCAL COMMUNITIES

INDIGENOUS PEOPLES
AND LOCAL
TRADITIONAL
COMMUNITIES



9.1 INTRODUCTION

1. The “ESS 7: Indigenous Peoples and Traditional Local Communities” (ESS 7) articulates the provisions of the following internationally recognised safeguards and standards that are relevant and pertinent to MAR Fund’s context and operations:
 - The IDB’s ESPS 7 Indigenous Peoples
 - The World Bank’s ESS 7 Indigenous Peoples / Sub-Saharan African Historically Underserved Traditional Local Communities.
 - The IFC’s PS 7 Indigenous Peoples
 - The IUCN’s Standard on Indigenous Peoples
2. To the effects of MAR Fund’s ESMS, the term Indigenous Peoples and Local Traditional Communities mirrors the World Bank’s definition of “*Indigenous Peoples/Saharan African Historically Underserved Traditional Local Communities*”¹¹⁵.
3. The term is used in a generic sense to refer exclusively to “a distinct social and cultural group possessing the following characteristics:
 - Self-identification as members of a distinct indigenous social and cultural group and recognition of this identity by others; and
 - Collective attachment to geographically distinct habitats, ancestral territories, or areas of seasonal use or occupation, as well as to the natural resources in these areas;
 - Customary cultural, economic, social, or political institutions that are distinct or separate from those of the mainstream society or culture; and
 - A distinct language or dialect, often different from the official language or languages of the country or region in which they reside”.

¹¹⁵ ESS 7 *Indigenous Peoples/Saharan African Historically Underserved Traditional Local Communities* [2016. “World Bank Environmental and Social Framework.” World Bank, Washington, DC.] License: Creative Commons Attribution CC BY 3.0 IGO.

- Indigenous Peoples¹¹⁶ and Local Traditional Communities may be referred to in the MAR Region by such terms as original peoples (*pueblos originarios*), autochthonous peoples (*pueblos autóctonos*), residents of indigenous counties (*comarcas*) or reserves (*resguardos*), or any other formally recognized indigenous peoples in Latin America¹¹⁷.
- 4. The term may also include communities or groups of Indigenous Peoples and Local Traditional Communities who, “during the lifetime of members of the community or group, have lost collective attachment to distinct habitats or ancestral territories in the project area, because of forced severance, conflict, government resettlement programs, dispossession of their land, natural disasters, or incorporation of such territories into an urban area”¹¹⁸.
- 5. MAR Fund is fully supportive of the positive relationship between Indigenous Peoples and Local Traditional Communities and biodiversity, recognizes their essential role in conservation, and strives to work with them in the efforts to crystalize MAR Fund’s vision of a thriving Mesoamerican Reef system that sustains, and is supported by, society within a regenerative economy. MAR Fund also recognizes that Indigenous Peoples’ and Local Traditional Communities’ lands are a fundamental element of the MAR region’s biodiversity¹¹⁹.

9.1.1 OBJECTIVES

6. The objectives of the ESS 7 are the following:
 - Respect the human and collective rights, culture, and livelihoods of indigenous peoples and traditional local communities in all projects approved by the MAR Fund.
 - Recognize and support the activities and conservation efforts of indigenous peoples and traditional local communities.

¹¹⁶ Indigenous Peoples in the MAR Region may include, among others, Caribbean Creole, Garífuna, Kakchikel, Jacatleco, Mam y Q’eqchi’, Chuj, Garífuna, Ixil, Miskitu, Mopan, Motozintleco, Yucatec Maya, Pocomam, and Xinca.

¹¹⁷ IDB Environmental and Social Policy Framework (IDB ESPF), ESPS 7: Indigenous Peoples.

¹¹⁸ ESS 7 *Indigenous Peoples/Saharan African Historically Underserved Traditional Local Communities* [2016. “World Bank Environmental and Social Framework.” World Bank, Washington, DC.] License: Creative Commons Attribution CC BY 3.0 IGO.

¹¹⁹ This refers to lands owned or governed by Indigenous Peoples’ and Local {Traditional} Communities, with or without legal recognition. (WWF, UNEP-WCMC, SGP/ICCA-GSI, LM, TNC, CI, WCS, EP, ILC-S, CM, IUCN. The State of Indigenous Peoples’ and Local Communities’ Lands and Territories: A technical review of the state of Indigenous Peoples’ and Local Communities’ lands, their contributions to global biodiversity conservation and ecosystem services, the pressures they face, and recommendations for actions Gland, Switzerland (2021))

- Ensure an adequate Free, Prior, and Informed Consent (FPIC) process of Indigenous Peoples and Traditional Local Communities when required.
- Avoid environmental and social risks and adverse impacts to Indigenous Peoples and Traditional Local Communities. When total avoidance is not possible, minimize these risks and adverse impacts, and mitigate remaining impacts.
- Recognize, respect, and preserve traditional knowledge and ensure fair and equitable sharing of benefits arising from the use of genetic resources.

9.1.2 SCOPE OF APPLICATION

7. The applicability of the ESS 7 is decided during the environmental and social due diligence, following the ESS 1, with the support of the ESSQ tool. The ESS 7 shall be applied when the Due Diligence determines one or more of the following situations:
 - The project will be implemented with or by Indigenous Peoples and Traditional Local Communities.
 - The project carries the risk of adversely affecting Indigenous Peoples and Traditional Local Communities, including or not limitations on their access to Natural Resources or critical cultural resources.
 - Indigenous Peoples and Traditional Local Communities inhabit the project area.
 - The project includes access to, and use of, traditional knowledge associated with genetic resources.
 - The project includes the use of cultural heritage over which Indigenous Peoples and Traditional Local Communities have customary rights for commercial or any other economic benefit.

9.2 REQUIREMENTS

8. The participation of Indigenous Peoples and Traditional Local Communities in the project, or their presence in the project location, is determined with the Stakeholder Analysis conducted by the grantee, as per the ESS 1.
9. When the participation of Indigenous Peoples and Traditional Local Communities in the project, or their presence in the project location, is established, the grantee shall carry out either a meaningful consultation process or a Free, Prior, and Informed Consent (FPIC) process, as needed (*see § 21 below*).

10. The grantees executing projects that include the formulation or update of the management plan of a Protected Area where Indigenous Peoples and Traditional Local Communities live or have their livelihoods must be vigilant as not to impinge on the lands owned, or claimed, by Indigenous Peoples, impact territory under traditional use by indigenous Peoples; affect indigenous Peoples' access to resources unless the project satisfies the requirements set forth in this Safeguard. When formulating or modifying protected area management plans, grantees shall be vigilant of not disempowering Indigenous Peoples and Traditional Local Communities, including violating their rights or creating the conditions to remove them from their lands.

9.2.1 MEANINGFUL CONSULTATION WITH INDIGENOUS PEOPLES AND LOCAL TRADITIONAL COMMUNITIES

11. Meaningful consultation is a good faith dialogue between the grantee and Indigenous Peoples and Traditional Local Communities. This process seeks to enable Indigenous Peoples and Traditional Local Communities to effectively express their views and concerns about the risks and impacts of the proposed project.
12. The meaningful consultation process shall be conducted in a culturally sensitive manner, in the language most commonly used by the concerned Indigenous Peoples and Traditional Local Communities, and in close coordination with their indigenous local authorities and customary representatives' bodies and organisations.
13. The grantee shall comprehensively communicate to the Indigenous Peoples and Traditional Local Communities the purpose of the proposed project, its sub-grants, and components, the environmental and social risks and impacts and opportunities, the anticipated schedule and budget, and any other relevant elements.
14. To achieve effective communication, the grantee should use communication media responsive to the culture, capacities, and customs of the Indigenous Peoples and Traditional Local Communities concerned.
15. The views, concerns, and proposals of the Indigenous Peoples and Traditional Local Communities concerned should be taken seriously into consideration by the grantee, as they will inform the proposed activity. This material should be summarized and presented with the proposal.
16. Notwithstanding that the consultation process should be carried out by the traditions of Indigenous Peoples and Traditional Local Communities, such process shall not

allow discrimination based on gender or sexual orientation nor reinforce pre-existing gender-based inequalities. The grantees are obligated to ensure the participation of indigenous women and people of diverse gender identities and sexual orientation in the meaningful consultation process by accommodating their needs and providing specific spaces for participation.

17. Indigenous Peoples and Traditional Local Communities must be meaningfully consulted at least twice: first, during proposal preparation, to improve the proposal, and second, at the end of proposal preparation, to be informed of the results of the meaningful consultation process and the final proposal document. The grantees will document these consultations and keep written and audiovisual records available to the MAR Fund. The output of the consultation may be summarized by an Act of Minutes of the meeting.
18. The grantees will keep the Indigenous Peoples and Traditional Local Communities informed about the development of the project and will offer different options for them to participate in the activities of the project.
19. The grantees will accommodate the reasonable requirements that interested Indigenous Peoples and Traditional Local Communities may have for participation in the project.
20. The grantees should follow the additional guidance on this aspect of the ESS 10 Stakeholder Engagement, including requirements for information disclosure.

9.2.2 FREE, PRIOR, AND INFORMED CONSENT

21. FPIC is required in the following cases:
 - The project includes the direct participation of Indigenous Peoples and Traditional Local Communities (i.e., they conduct or actively participate in the sub-activities, they are the direct beneficiaries of, or receive funds from, the project).
 - The project takes place in the territory where Indigenous Peoples and Traditional Local Communities live or have their livelihood (it could be land or sea).
 - The project imposes access restrictions to natural resources or to critical cultural resources to Indigenous Peoples and Traditional Local Communities (in this case, the ESS5 also applies)

- The project includes the use of traditional knowledge of Indigenous Peoples and Traditional Local Communities, especially traditional knowledge related to genetic resources.
 - The project supports the use of, or the generation of economic benefit from, the cultural heritage of Indigenous Peoples and Traditional Local Communities (In this case ESS 8 may also apply).
22. The FPIC must satisfy all the requirements of the meaningful consultation with Indigenous Peoples and Traditional Local Communities presented in *section 9.2.1 Meaningful Consultation with Indigenous Peoples and Local Traditional Communities* as well as the following requirements. (All other Activities, that do not demand FPIC, require meaningful consultation process).
 23. Indigenous Peoples and Traditional Local Communities provides their consent voluntary, independently decided upon, without coercion or intimidation or manipulation. It is Free.
 24. Indigenous Peoples and Traditional Local Communities may abstain from providing their consent; in such a case the project requiring the FPIC must not be approved.
 25. Indigenous Peoples and Traditional Local Communities may withdraw the consent previously provided. If they decide to do so, they must communicate their decision in the same way used to provide their FPIC. In that case, if the project is already approved and in implementation, the grantee may continue implementing the project's activities that were originally covered by the FPIC but cannot extend, increase, or otherwise enhance them. If the project is approved but not yet in implementation, the grantee may present alternatives to the concerned Indigenous Peoples and Traditional Local Communities to regain their FPIC. In this latter case, and only when technically viable, the grantee may also propose to MAR Fund feasible modifications to the project to circumvent the sub-activities that required FPIC. If the project is not yet approved when the Indigenous Peoples and Traditional Local Communities withdraw their FPIC, it must not be approved.
 26. Indigenous Peoples and Traditional Local Communities' consent is provided prior approval of the project and ideally before it is submitted to MAR Fund.
 27. For the consent to be *informed* Indigenous Peoples and Traditional Local Communities must have clear, consistent, culturally appropriate, transparent

information about the project, delivered in their languages, available in their locations, easily accessible without barriers.

28. The grantees will inform the concerned Indigenous Peoples and Traditional Local Communities about their rights under the law of Mexico, Belize, Guatemala, or Honduras, as the case may be. They also need to inform of the requirements set forth by this Safeguard, including their right to decline consent.
29. During the due diligence process it will be established whether the proposed project requires a fit-for-purpose ESIA and the formulation of an ESMP or just an Environmental and Social Site Risk Assessment and an ESCOP (See more information about this topic in sections 3.3.5 *Procedures related to the ESIA* and 3.3.6 *Procedures related to the ESCOP*). In either case, the grantee, or any third-party organization retained by the grantee to carry out this process, must engage with the concerned Indigenous Peoples and Traditional Local Communities to work collaboratively to identify with them the environmental and social risks and adverse impacts of the proposed project, and the required mitigation measures.
30. The resulting ESMP or ESCOP, and the ESAP, must be disclosed to the concerned Indigenous Peoples and Traditional Local Communities in a culturally appropriate manner. Sufficient time and resources shall be provided to allow for effective participation, discussion, and decision making.
31. Indigenous Peoples and Traditional Local Communities representatives must participate in the execution of the environmental and social measures and requirements that may be included in the ESMP or the ESCOP and in the ESAP as well.
32. The grantees will make their best efforts to involve Indigenous Peoples and Traditional Local Communities' representatives in the monitoring of the environmental and social performance of the project. The grantees will periodically inform the concerned Indigenous Peoples and Traditional Local Communities of the environmental and social performance of the project.
33. The grantees must create a Grievance Mechanism (required by the ESSs 1 and 10) that is culturally appropriate for the concerned Indigenous Peoples and Traditional Local Communities. The Grievance Mechanism must be operational during the FPIC process and throughout the implementation of the project.
34. The grantees shall document the FPIC process and keep written and audiovisual records available to MAR Fund.



** ** END OF ESS 7 ** **



10 ESS 8: CULTURAL HERITAGE



10.1 INTRODUCTION

1. The “ESS 8: Cultural Heritage” (ESS 8) is part of MAR Fund’s Environmental and Social Management System (ESMS), which includes the Environmental and Social Management Policy and Exclusion List, nine Environmental and Social Safeguards other than this, an Environmental and Social Screening Questionnaire and formats for several plans and instruments.
2. This Safeguard is consistent with the World Bank’s ESS 8: Cultural Heritage and the IFC’s PS 8 Cultural Heritage. This Safeguard reflects various elements from the IUCN’s Standard on Cultural Heritage.

10.1.1 OBJECTIVES

3. The objectives of the ESS 8 are:
 - i.* To manage the risks and impacts of projects approved by MAR Fund on cultural heritage.
 - ii.* To establish a chance-finds procedure for projects approved by MAR Fund.
 - iii.* To promote equitable sharing of benefits derived from the use of cultural heritage

10.1.2 SCOPE OF APPLICATION

4. As general rule, the ESS 8 will be triggered by any Area-based project that is going to be implemented in, or close by, a recognized cultural heritage site or sites of cultural significance. It also applies to projects that promote the conservation, management, and use of cultural heritage, including restricting access to natural sites of cultural, spiritual significance.
5. The ESS 8 also applies to projects that include movement of land related to small infrastructure construction (to be analyzed on a case-by-case basis), use of natural living resources, or another type of Area-based activity that may cause a chance find.
6. The applicability of the ESS 8 is decided during the environmental and social due diligence, following the ESS 1, with the support of the ESSQ tool.

7. The ESS 8 must be applied in conjunction with the applicable national legislation of Mexico, Belize, Guatemala, or Honduras, as the case may be. This includes the countries' obligations under international law. When the national law and this Safeguard have different views of the same issue, in accordance with MAR Fund's *Most Stringent Policy Provision*¹²⁰, the most stringent standard or provision must apply.

10.1.3 DEFINITIONS

8. For MAR Fund's ESS 8, the terms presented in this section will have the following meaning. These definitions rely on the IUCN's Standard on Cultural Heritage, the IFC Performance Standard 8 Cultural Heritage and the World Bank Environmental and Social Safeguard 8 Cultural Heritage, unless otherwise is explicitly indicated.
 - Cultural Heritage includes tangible and intangible heritage.
 - Tangible cultural heritage refers to:
 - i. movable or immovable objects, property, sites, structures, or groups of structures, paleontological, archaeological, historical, cultural, artistic, religious, spiritual, symbolic aesthetic, or other cultural significance value for a nation, People, or community; and
 - ii. natural features or tangible objects that embody cultural, religious, spiritual, or symbolic significance for a nation, People, or community.
 - Tangible cultural heritage also includes *Underwater Cultural Heritage*, that is "all traces of human existence having a cultural, historical, or archeological character which have been partially or totally under water, periodically or continuously, for at least 100 years".¹²¹
 - Intangible cultural heritage refers to practices, representations, expressions, knowledge, skills, as well as the instruments, objects, artifacts, and cultural spaces associated therewith, that communities and groups recognize as part of their

¹²⁰ Most Stringent ES Policy provision: When MAR Fund's environmental and social provisions are to be considered in parallel with the provisions of any of the Governments of Mexico, Belize, Guatemala, and Honduras, the most stringent environmental and social Policy provision should apply. MAR Fund's Environmental and Social Policy (section 2 of this document).

¹²¹ United Nations Convention Concerning the Protection of the World Cultural and Natural Heritage. This includes "(i) sites, structures, buildings, artefacts and human remains, together with their archaeological and natural context; (ii) vessels, aircraft, other vehicles or any part thereof, their cargo or other contents, together with their archaeological and natural context; and (iii) objects of prehistoric character". The text of the Convention explicitly says that "Pipelines and cables placed on the seabed shall not be considered as underwater cultural heritage" nor other type of installations placed on the seabed and still in use.

cultural heritage, as transmitted from generation to generation and constantly recreated by them in response to their environment, their interaction with nature and their history.

- *Critical* cultural heritage is defined as consisting of one or both of the following types of cultural heritage:
 - i. the internationally recognized heritage of communities who use or have used within living memory the cultural heritage for long-standing cultural purposes;
 - ii. legally protected cultural heritage areas, including those proposed by host governments for such designation.
- *Replicable* cultural heritage is defined as the “tangible forms of cultural heritage that can themselves be moved to another location or that can be replaced by a similar structure or natural features to which the cultural values can be transferred by appropriate measures.”¹²²
- *Natural* features with cultural significance are also considered as cultural heritage.¹²³
- *Movable* cultural heritage is defined as a wide variety of historic or rare artifacts and objects highly vulnerable to theft, trafficking, or abuse.¹²⁴

10.2 REQUIREMENTS

9. The grantees executing projects approved by MAR Fund will avoid risks and adverse impacts on cultural heritage.
10. While total avoidance is not feasible, grantees will minimize and mitigate these risks and impacts. Remaining risks and impacts will be managed by restoring the cultural heritage in situ, provided that the authenticity, integrity, and functionality of the resource is assured.

¹²² “Archeological or historical sites may be considered replicable where the particular eras and cultural values they represent are well represented by other sites and/or structures.” IFC PS 6.

¹²³ It refers to “sacred hills, mountains, landscapes, streams, rivers, waterfalls, caves and rocks, sacred trees or plants, groves and forests; carvings or paintings on exposed rock faces or in caves; and paleontological deposits of early human, animal or fossilized remains”. World Bank’s ESS 8 Cultural Heritage.

¹²⁴ It includes “books and manuscripts; paintings drawings, sculptures, statuettes, 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 shells, flora, or minerals.” World Bank’s ESS 8 Cultural Heritage.

11. Mitigation measures should consider the specific characteristics of the cultural heritage and the different values attributed to it by the various stakeholders. In line with the mitigation hierarchy, it is best to protect immovable cultural heritage in its place of origin to avoid irreparable damage by its removal¹²⁵.
12. If, after applying the mitigation hierarchy, there are residual risks and potential impacts, the last-resort measure is the re-localization of the cultural heritage. The re-localization shall be carefully assessed in terms of its community costs, the net conservation gains, and the functionality and integrity of the cultural asset.
13. Re-localisation of cultural heritage resources affecting Indigenous Peoples and Traditional Local Communities must have the Free, Prior, and Informed Consent, as established in MAR Fund's ESS 7.
14. When the risks and adverse impacts on cultural heritage cannot be avoided, mitigated, or minimized and managed to an acceptable level, MAR Fund must not approve the proposed project.

10.2.1 SCOPING RISKS AND IMPACTS TO CULTURAL HERITAGE

15. Risks to cultural heritage are identified in the environmental and social due diligence. The ESSQ includes questions specific to cultural heritage.
16. The stakeholder engagement process and the meaningful consultations that are part of it are valuable source of information about cultural heritage. Consultations include the local communities and local authorities, experts, traditional knowledge holders, sponsors of protected areas, and other organizations.
17. It is necessary to consider the impacts on cultural heritage that local communities recognize and value, even if it is not legally recognized or protected. Cultural heritage may be designated, protected, or managed by religious, tribal, ethnic, or other community authorities and thus recognized according to tradition and custom and not necessarily by formal regulations¹²⁶.
18. Additional risks may be identified with an ESIA, an Environmental and Social Site Risk Assessment, or a similar study required by the project.

10.2.2 ACCES RESTRICTIONS TO CULTURAL HERITAGE

¹²⁵ World Bank's Guidance Note 9.2 to the ESS 6.

¹²⁶ World Bank's Guidance Note 6.3 to the ESS 6.

19. The project may include temporary restrictions to access to cultural heritage sites. In that case, the grantee shall comply with the requirements set forth by the ESS 2. It may be the case of projects involving infrastructure construction, refurbishment, or decommissioning, whose Health and Safety (H&S) Plans make it necessary to impose such restrictions. These restrictions shall be clearly explained and openly discussed with stakeholders.
20. MAR Fund's strong preference is to avoid permanent restrictions to access to cultural sites. Nevertheless, when projects have risks of restricting access to cultural sites on a permanent basis, grantees shall fully comply with the requirements set forward in the ESS 5.

10.2.3 CHANCE FINDS PROCEDURE

21. A chance find is any unanticipated discovery or recognition of cultural heritage. It includes discovery of artifacts indicating a buried archaeological site, human remains, or other archaeological material.
22. A Chance Finds Procedure is a project-specific standard procedure for accidental findings of unknown cultural heritage. It includes the identification, notification, documentation, and management of chance finds in accordance with national laws and, where applicable, this Safeguard.
23. A Chance Finds Procedure shall be included in contracts and other procurement documents related to projects that involve infrastructure construction, refurbishment, or decommissioning. The convenience to include this type of procedure in contracts and other procurement documents related to projects that involve the use of natural living resources (agriculture, aquaculture, etc.) shall be determine on a case-by-case basis.
24. The Chance Finds Procedure shall include the following steps:
 - A. Ground disturbance activities monitoring, especially in places with a high probability of having a cultural heritage.
 - B. Measures to temporarily suspend work in the vicinity of the find.
 - C. Measures to protect chance finds from the impacts of any other activity.
 - D. Demarcation, documentation, and securing of the area of the find.
 - E. Establishment of the Chain of Custody of the find.

- f. Notification to the competent authorities.
- g. Resumption of operations after the investigation by relevant authorities (provided to the grantee with written permission to continue work).

10.2.4 COMMERCIAL USE OF CULTURAL HERITAGE

- 25. A project may include the use of cultural heritage for commercial purposes and other economic benefits. This includes tourism to cultural sites, knowledge, innovations, of practices of local communities for commercial purposes (such as the commercialization of traditional medicine knowledge, techniques for processing plants and fibers)¹²⁷. In these cases, grantees shall satisfy the following requirements.
- 26. When the cultural heritage concerns Indigenous Peoples and Local Traditional Communities, the project must obtain their Free, Prior, and Informed Consent and satisfy all the requirements set forth in ESS 7.
- 27. As part of the stakeholder engagement and meaningful consultation processes required for the project, the grantee shall inform the stakeholders of the scope and nature of the project, the intended use of the cultural heritage, their rights under the national law and the dispositions of this Safeguard, and the risks of endangering local communities.
- 28. A fair and equitable sharing of benefits from commercialization of such knowledge, innovation, or practice, consistent with the customs and traditions of the holders of the customary rights shall be agreed upon.
- 29. The mitigation measures included in sections 10.2.1, 10.2.2, and 10.2.3 of this Safeguard shall be implemented.

** ** END OF ESS 8 ** **

¹²⁷ IFC PS 8.

11 ESS 9: GENDER



11.1 INTRODUCTION

1. The “**ESS 9: Gender**” (ESS 9) is part of MAR Fund’s Environmental and Social Management System (ESMS), which includes the Environmental and Social Management Policy and Exclusion List, nine Environmental and Social Safeguards other than this, an Environmental and Social Screening Questionnaire and formats for several plans and instruments.
2. The purpose of the ESS 9 is to overcome the gender gap in Projects approved by MAR Fund¹²⁸ by enhancing gender responsiveness and identifying and managing gender-based risks and potential impacts of these projects.
3. This Safeguard also seeks to halt the recurrence of these risks and impacts, reduce gender inequalities, and contribute to closing the gender gap with the introduction of gender-specific measures.
4. This Safeguard acknowledges that diverse sexual orientations and gender identities can make people more vulnerable, more likely to suffer negative impacts from projects, and less likely to access or enjoy the positive effects these projects may have. Equally, this Safeguard recognizes that Sexual and gender-based violence (SGVB), including sexual exploitation and abuse (*see section 11.1.3 Definitions*), is a prevalent global problem that permeates all sectors of activity and affects women and people of diverse sexual orientations and gender identities (LGTBQ+ persons).
5. This Safeguard is consistent with the IDB’s ESPS 9 Gender Equality to which it is indebted as it reflects its structure and adapts part of its content to MAR Fund’s specific circumstances. Likewise, this Safeguard responds to the requirements of the United Nations Protocol on Allegations of Sexual Exploitation and Abuse Involving Implementing Partners.

11.1.1 OBJECTIVES

6. The objectives of the ESS 9 are:

¹²⁸ If the conditions of the project make overcoming the gap impossible, the ESS 9 seeks to significantly narrow the gender gap.

- i. To identify, anticipate, and prevent adverse risks and impacts based on gender, sexual orientation, and gender identity in projects approved by MAR Fund.
- ii. To mitigate for impacts that could not be avoided or prevented.
- iii. To prevent discrimination against women or girls and any other gender-based discrimination in projects approved by MAR Fund.
- iv. To prevent SGBV, including sexual harassment, exploitations, and abuse and, when incidents of SGBV occur, to respond promptly and effectively.
- v. To achieve full participation of people of all genders, sexual orientations, and gender identities in Projects approved by MAR Fund and ensure their fair share of their benefits.

11.1.2 SCOPE OF APPLICATION

7. This Safeguard applies to all projects approved (or to be approved) by MAR Fund regardless of the program, mechanism, or window. Some of its requirements and dispositions only apply to projects that trigger them. The environmental and social due diligence with the support of the ESSQ determines the applicability of these specific requirements.

11.1.3 DEFINITIONS

8. For this and all Safeguards of MAR Fund the terms presented in this section will have the following meaning:
 - Discrimination is any “unfair treatment or arbitrary distinction based on a person’s race, sex, religion, nationality, ethnic origin, sexual orientation, disability, age, language, social origin, or other status. Discrimination may be an isolated event affecting one person or a group of persons similarly situated or may manifest itself through harassment or abuse of authority”¹²⁹.
 - Sexual abuse means “the actual or threatened physical intrusion of a sexual nature, whether by force or under unequal or coercive conditions”¹³⁰.

¹²⁹ Secretary-General’s Bulletin on Prohibition of discrimination, harassment including sexual harassment, and abuse of authority, ST/SGB/2008/5.

¹³⁰ Secretary-General’s Bulletin on Special measures for protection from sexual exploitation and sexual abuse, ST/SGB/2003/13.

- Sexual harassment: is “any unwelcome sexual advance, request for sexual favour, verbal or physical conduct or gesture of a sexual nature, or any other behaviour of a sexual nature that might reasonably be expected or be perceived to cause offence or humiliation to another, when such conduct interferes with work, is made a condition of employment, or creates an intimidating, hostile or offensive work environment. While typically involving a pattern of behaviour, it can take the form of a single incident. Sexual harassment may occur between persons of the opposite or same sex. Both males and females can be either the victims or the offenders”².
- Sexual exploitation is “any actual or attempted abuse of a position of vulnerability, differential power, or trust, for sexual purposes, including, but not limited to, profiting monetarily, socially, or politically from the sexual exploitation of another”³.

11.2 REQUIREMENTS AND PROCEDURES

9. Organizations presenting project proposals to MAR Fund or executing projects approved by MAR Fund (the grantees) must identify and assess the risks and potential impacts of their proposals and projects, including the way these impacts would disproportionately affect women, girls, and LGBTQ+ persons.
10. The grantees must identify, anticipate, and prevent risks and adverse impacts based on sexual orientation and gender identity. Gender-based risks and impacts comprise every form of sexual and gender-based violence (SGBV), including sexual harassment, sexual exploitation, and abuse.
11. Equally, the grantees must identify the intersections of vulnerabilities related to age, race, ethnicity, income, disability, and sex and gender orientation.
12. The grantees will pay attention to the gender differences in ownership status and livelihoods, household workloads, unpaid work, income generation, inheritance of land and other resources, access to credit, mobility restrictions, limit to participation in activities (i.e., pregnancies), parental leave, etc.
13. The grantees must identify measures to ensure that all those recognized as disadvantaged a cause of their sex or gender orientation and any other increased vulnerability, have access to the benefits derived from the project. These measures may include appropriate specific staffing, budget allocations, adoption of gender-responsive monitoring indicators, and other implementation arrangements. It may

also include the design of specific process of information disclosure, consultation, and grievance management.

14. The grantees must also identify actions to eliminate the possibility of reinforcing pre-existing inequalities based on gender and opportunities to advance gender equality as well.
15. A list of this type of gender-related measures will be presented with the project proposal and will constitute the basis for the Gender Statement or the Gender Action Plan of the project.
16. Any study or investigation required by the project approval process must include provisions to ensure that the collection and management of data is disaggregated as to track differentiated impacts by sex, age, and other characteristics. This provision also applies to the monitoring activities of all projects approved by MAR Fund.

11.2.1 SEXUAL EXPLOITATION AND ABUSE

17. MAR Fund develops and maintains internal institutional capacity to prevent and mitigate risks of sexual exploitation and abuse and makes sure that its grantees have similar capacity, including the following:
 - A Grievance Mechanism¹³¹ and any other necessary reporting and monitoring mechanisms in place to prevent and respond to allegations and incidents of SEA.
 - A procedure to properly screen staff for involvement or alleged involvement in SEA or human rights violations. This procedure can be as simple as a systematic review of references and background checks for grantee personnel.
18. MAR Fund periodically reviews its internal institutional capacity and the capacity of its grantees to prevent and mitigate risks of sexual exploitation and abuse and makes the necessary adjustments.
19. In preventing, addressing, and otherwise dealing with cases of sexual exploitation and abuse, MAR Fund and the grantees will be guided by a human rights perspective. As such, upon any allegation of sexual exploitation and abuse, the resulting process must be guided by a *victim-center approach*, including adherence to, and respect for, the principles of *do no harm*, confidentiality, safety, non-discrimination, participation

¹³¹ See MAR Fund's ESS 10 for guidance related to the Grievance Mechanism.

in decision-making processes, and informed consent on disclosure and use of information.

20. If a documented incident of sexual exploitation and abuse arises in MAR Fund, appropriate measures must be taken without delay, such as immediate referral of the victim to safe and confidential victim assistance, including legal assistance, based on their needs and consent; termination of the staff contract and/or referral for criminal accountability, if appropriate; and share information on the allegation with relevant authorities as appropriate, upon a protection risk assessment and in line with informed consent. MAR Fund will inform the concerned donor or partner about this situation.
21. MAR Fund does not approve proposals from, nor establish partnerships with, organizations that fail to address gender-based violence (SGBV) and harassment, including sexual exploitation and abuse through appropriate preventive measures, investigation, and corrective action.
22. When a serious risk of sexual exploitation and abuse, or a risk of child sexual exploitation and abuse, or any other risk and adverse impact based on sexual orientation and gender identity, is identified, grantees and MAR Fund must abide by the follow procedure:
 - A. The project shall be classified as Category B+ (High Risk).
 - B. Mandatory training specific to sexual exploitation and abuse to be completed by the grantee personnel during the regular approval process as a condition of approval.
 - C. Review of the grantee's existing policies on sexual exploitation and abuse (or gender policy with mention to sexual exploitation and abuse) or, if there is none, formulation of a policy on sexual exploitation and abuse.
 - D. Sensitization of personnel involved with the project and of local community involved in the project (if applicable).
 - E. Formulation of a procedure to ensure that survivors of an eventual incident of sexual exploitation and abuse, have access to multiple forms of support and services. The grantees shall note that LGBTQ+ persons, and especially transgender women, might be subjected to specific forms of sexual exploitation and abuse, and hate crimes and as a result may require additional protections.

- F. Establishment of special reporting requirements related to sexual exploitation and abuse.
 - G. Prepare, adopt, and implement a stand-alone sexual exploitation and abuse Action Plan.
23. If a documented incident of past or present sexual exploitation and abuse in the organization proposing the project is established¹³², MAR Fund classifies the project as Category A (High Risk), which triggers the end of the approval process as established in *section 3.3.4 Procedures for Category A-Projects*).
24. The provision of the previous paragraph may be superseded if the Board of Directors of MAR Fund considers that the perceived environmental and or social value of the project greatly outweighs the risks and impacts derived from the documented incident, and formally inform its decision to MAR Fund. In that case, MAR Fund will undertake the following actions:
- A. To ask the organization proposing the project to adopt appropriate preventative measures, investigation, and corrective actions.
 - B. To make sure that the person(s) involved in the documented incident as the offending party does not participate in any capacity in the project.
 - C. To make sure that all the staff to be involved in the project undertake additional training and capacity building on sexual exploitation and abuse.
 - D. To establish close monitoring procedures for the grantee that include specific reporting lines on this issue in the regular reports.
25. After A., B., C., and D., are satisfactorily performed, MAR Fund at its sole discretion, may decide to re-classify the Activity to Category B+ and continue with the approval process.
26. MAR Fund requires that the grantees' staff assigned to, or otherwise involved with, projects approved by MAR Fund undertake specific training related to Gender, SGBV (including sexual harassment, sexual exploitation, and abuse).¹³³

¹³² The grantees shall notice that the incident must be documented and established. An allegation by somebody may not be enough to constitute a documented incident. It may constitute a serious risk and subject to the provision of the previous paragraph.

¹³³ The Annex of this document contains a list of training courses related to Gender and SGBV, including sexual exploitation and abuse that are available in MAR Fund's ESMS or in external sites.

11.2.2 GENDER AND RESETTLEMENT

27. MAR Fund require that grantees make sure that projects involving livelihood restoration and limited resettlement do not compromise existing legitimate rights for land and natural resource tenure and use (including collective rights, subsidiary rights, and the rights of women) or have other unintended consequences. The grantees must take into consideration that more women than men are likely to be vulnerable to displacement from key assets such as land and housing, since they tend not to have clear property rights.
28. The grantees are urged to make sure that “women’s perspectives are obtained, and their interests factored into all aspects of resettlement planning and implementation. Addressing livelihood impacts may require intra-household analysis in cases where women’s and men’s livelihoods are affected differently. Women’s and men’s preferences in terms of compensation mechanisms, such as replacement land or alternative access to natural resources rather than in cash, should be explored”¹³⁴.
29. The grantees, and third-party organizations retained by them, are urged to undertake all necessary actions to document ownership or occupancy and compensation payments in the names of both spouses including same sex couples and single heads of households, including LGBTQ+ persons. In the same sense, grantees shall make resettlement assistance, such as skills training, access to credit, and job opportunities, equally available to women and adapted to their needs⁷.
30. The grantees, and third-party organizations retained by them, shall set out in the Livelihood Restoration and Compensation Plan and the Resettlement Action Plan the rights and entitlements of the affected persons, with particular emphasis on gender aspects, and ensure that these entitlements are provided in a transparent, consistent, and equitable manner.

11.2.3 EQUITABLE PARTICIPATION OF PEOPLES OF ALL GENDERS IN CONSULTATIONS

31. The grantees shall ensure that the consultation process reflects the concerns of people of all genders, gender identities, and sexual orientations. Different genders may have different views and interests, even within the same stakeholder group. The assessment of risks and impacts may differ according to people's gender. Similarly,

¹³⁴ Environment & Social Framework for IPF Operations – Gender. Good Practice Note. The World Bank.

gender differences may imply different ideas of avoiding or remedying those risks and impacts.

32. The grantees should identify stakeholders by gender with other relevant aspects (such as age, disabilities, displacement status, etc.) and design participation and information dissemination mechanisms that respond to their specific needs.
33. The grantees shall ensure that there is no gender discrimination hindering a group's ability to influence decision-making in the consultation process. The grantees shall identify and address obstacles of women and people of diverse sexual orientations and gender identities to participate in consultations. Some of these obstacles may include timing and location of consultations, distance away from home, mobility restrictions, household workloads, caring for children or the elderly, lower education, language, security issues, etc.
34. Some of the measures that grantees can take to ensure the participation of women and people of diverse sexual orientations and gender identities in consultations include establishing appropriate meeting times, providing transportation, providing childcare support, and consulting men and women separately (in addition to jointly, where appropriate).
35. Where necessary, and where the size and budget of the project so warrants, grantees should also consider hiring gender and group management specialists who can overcome gender barriers and obstacles in some settings.

** ** END OF ESS 9 ** **

12 ESS 10: STAKEHOLDER ENGAGEMENT, INFORMATION DISCLOSURE, AND PARTICIPATION



12.1 INTRODUCTION

1. The “ESS 10: Stakeholder Engagement, Information Disclosure, and Participation” (ESS 10) is part of MAR Fund’s Environmental and Social Management System (ESMS), which includes the Environmental and Social Management Policy and Exclusion List, nine Environmental and Social Safeguards other than this, an Environmental and Social Screening Questionnaire and formats for several plans and instruments.
2. Stakeholder engagement, information disclosure, and public participation are essential elements of the environmental and social performance of MAR Fund and the projects it approves, and the foundation to comply with MAR Fund’s safeguards.
3. This Safeguard is consistent with the World Bank’s ESS 10: Stakeholder Engagement and Information Disclosure and the IDB’s ESPS 10 Stakeholder Engagement. It also satisfies the aspects of the IFC’s PS 1 Assessment and Management of Environmental and Social Risks and Impacts that are pertinent to stakeholder engagement.
4. This Safeguard is also consistent with the objective of implementing the rights of access to environmental information, public participation in the environmental decision-making process, and access to justice in environmental matters enshrined in the Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean (Escazú Agreement).

12.1.1 OBJECTIVES

5. The objectives of the ESS 10 are the following:
 - i.* To facilitate and promote adequate engagement with stakeholders throughout the project life cycle, ensuring that relevant information is appropriately disclosed, and grievances are proactively and effectively managed.
 - ii.* To guide the process of meaningful consultation with stakeholders and facilitate MAR Funds grantees’ compliance with the applicable national legislation related to consultation and public participation in environmental and social issues¹³⁵.

¹³⁵ Refer to the MAR Fund’s National Legislation Overview for more information about applicable national legal frameworks.

- iii. To articulate a systematic approach to stakeholder engagement that builds trust and contributes to increasing the transparency of projects approved by MAR Fund.
- iv. To contribute to the reduction of environmental and social risks and the enhancement of the environmental and social performance of projects approved by MAR Fund by ensuring that stakeholders' views, interests, concerns, and knowledge are duly considered in the design and implementation.
- v. To increase community engagement, especially from vulnerable or disadvantaged stakeholders¹³⁶ throughout the project's life cycle on issues that could potentially affect or benefit them.

12.1.2 SCOPE OF APPLICATION

- 6. The ESS 10 applies to all projects approved (or to be approved) by MAR Fund regardless of the program, mechanism, or window.
- 7. The scope of this Safeguard includes Category B+ projects, Category B, and Category C projects (whether they are *Area-based* or *Non-area-based*). It covers projects and activities both fully and partially financed by MAR Fund.

12.1.3 DEFINITIONS

- 8. To the effects of MAR Fund's ESMS and particularly this Safeguard, the meaning of the term stakeholder is ample and inclusive. It refers to individuals, groups of people, and organizations affected by, or likely to be affected by, or who have any interest in, projects approved by MAR Fund or other activities funded by MAR Fund.
- 9. The term stakeholder comprises partners (including donors, bilateral agencies, and Multilateral Development Banks); authorities at regional, national, and local levels; Indigenous Peoples, Traditional Local Communities; communities participating in, or affected by, the projects; grantees and sub-grantees; MAR Fund's member funds; peer organizations; the private sector, the Academia, and other organizations.
- 10. Disadvantaged or vulnerable stakeholders are these who "may be more likely to be adversely affected by the project impacts and/or less able to take advantage of a project's benefits. Such an individual/group is also more likely to be excluded from or

¹³⁶ See definition in point 13.1.3.

unable to participate fully in the mainstream consultation process and may require specific measures or assistance to do so”¹³⁷.

11. Indigenous Peoples and Local Traditional Communities are generically included in the ample meaning of the term stakeholder. Nevertheless, projects involving Indigenous Peoples and Local Traditional Communities must comply with the requirements set forth by MAR Fund's ESS 7 Indigenous Peoples and Local Traditional Communities, including obtaining their Free, Prior, and Informed Consent (FPIC).

12.2 REQUIREMENTS

12. MAR Fund requires that, in the spirit of the Escazú Agreement, all its projects support, and align with, the implementation of the rights of access to environmental information and public participation in the environmental decision-making process with regards to environmental and social matters. Meaningful engagement and consultation with local stakeholders during proposal development and project implementation is required to realize these rights.
13. Stakeholders must have opportunities to express their opinions about the proposed project in a manner that is free from fear of reprisals, negative consequences in their potential participation in the project activities, and any other retaliatory action. Stakeholder views, opinions, and concerns shall be considered in the final design of the proposed project.
14. All MAR Fund grantees will engage with their projects' stakeholders in meaningful consultations early in the process of developing their project proposals. The length and depth of these consultations should be proportional to the environmental and social risks and impacts of the projects. (See *section 12.3 Engagement and Consultation Procedures*).
15. Vulnerable and disadvantaged stakeholders (as defined in *point 12.1.3 Definitions*) may lack the agency and ability to act on their behalf. Therefore, they could be left behind or ignored if there is not an articulated and systematic effort to identify them and enable their informed participation in stakeholder engagement processes and public consultations.

¹³⁷ “World Bank Environmental and Social Framework.” World Bank, Washington, DC. License: Creative Commons Attribution CC BY 3.0 IGO) *and* IDB – ESPF – ESPS 10 Stakeholder Engagement and Information Disclosure.

16. These stakeholders must have fair opportunities to participate in meaningful and fruitful consultation and engagement processes related to project proposals and projects approved by MAR Fund. The grantees must ensure that the engagement and consultation processes include vulnerable and disadvantaged stakeholders. It may imply carrying out independent meetings for women and men or seniors or independent sessions with specific population groups
17. MAR Fund requires equitable participation of people of all genders in stakeholder engagement and consultation processes related to the projects, both at the project-proposal stage and at the project-execution stage. The grantees will ensure that the consultation process reflects the concerns of people of all genders, gender identities, and sexual orientations without discrimination based on gender or sexual orientation.
18. Projects approved by MAR Fund will have stakeholder engagement and communication plans (SECP) that include information disclosure and public participation measures, commensurate to their environmental and social risks and potential adverse impacts. These SECPs shall be made accessible in the grantees' websites and/or social media. The characteristics of these plans are presented in *section 12.2.4 Stakeholder Engagement and Communication Plan (SECP)*.
19. It is important to note that the requirements of information disclosure and public participation of this Safeguard do not replace the requirements of MAR Fund's ESS 7 Indigenous Peoples and Local Traditional Communities, that apply when a project involves or otherwise affects Indigenous Peoples and Local Traditional Communities.

12.2.1 STAKEHOLDER IDENTIFICATION AND ANALYSIS

20. Stakeholder identification and analysis is a continuous activity in every project approved by MAR Fund. The grantees will identify the stakeholders of their proposed projects, including those who may oppose, those who support, and those that are directly or indirectly affected by the project. This identification should be as exhaustive as possible.
21. If during the stakeholder identification exercise, it becomes evident that Indigenous Peoples and Traditional Local Communities are participating in the proposed project, are -or may be- affected otherwise by the proposed project or are present in the area where the project will be implemented, MAR Fund's ESS 7 will be triggered. In this case, that the Free, Prior, and Informed Consent (FPIC) of the concerned Indigenous

Peoples and Traditional Local Communities is required, the grantee will follow the procedure established in the ESS 7.

22. The organization proposing the project must identify the project stakeholders who comprise a wide variety of organizations and people, including vulnerable or disadvantaged stakeholders as defined in *point 12.1.3 Definitions*.
23. The project stakeholders may be persons participating in the project -*referred to as beneficiaries-*, persons affected by the project -*referred to as project-affected peoples or PAPs*. They may be governmental and public organizations, elected officials, and other local authorities holding decision power over the project, such as an office granting licenses or permits, or a Ministry that can create a protected area. They may also be organizations like the grantees (*peers*), NGOs, and other civil society organizations. They may also be private sector organizations, farmers, and grassroots organizations. Donors, Multilateral Development Banks, and bilateral cooperation agencies may also be stakeholders.
24. Stakeholders shall be analyzed in terms of their interest and motivation to participate in, support, or oppose the project (Interest); their influence and power over the project (Influence); the legitimacy of their involvement in the project activities (Legitimacy); and the urgency of their needs and concerns (Urgency).
25. The analysis will facilitate the categorization of stakeholders in different groups. The resulting categories of the initial stakeholder analysis will be useful for stakeholder engagement and communication planning.
26. A summary of the stakeholder identification and analysis should be presented with the project proposal. This information will be used by the grantee to formulate its SECP.
27. The stakeholder categorization is dynamic, and it is expected to change over time in response to the evolving local context, the development of the project, and the execution of the SECP. For these reasons, the stakeholder analysis needs to be performed periodically. It is advisable that grantees revisit their stakeholder analysis at least once a year.

12.2.2 PLANNING COMMUNICATION WITH STAKEHOLDERS

28. Stakeholder engagement is a communication process in which the organization proposing the project (the grantee) and the stakeholders interact.

29. Communication with stakeholders should be a horizontal, two-way process, in the sense that the grantee and the project's stakeholders establish a dialogue in good faith, respectful of their differences, with the shared interest of finding common ground. Both parties must have timely access to accurate and understandable information about the proposed project and its implications.
30. The stakeholders do not constitute a monolithic communication audience. They are divided into several groups and sub-groups that constitute different communication audiences with specific interests, profiles, habits, abilities, and ways of communicating.
31. The stakeholder's differentiated communication needs shall be satisfied with multimedia, multichannel, and multilevel communication. Some of this communication shall be face-to-face, without mediation, as in the case of public hearings, workshops, and other public gatherings. Other communication shall be mediated to reach wider audiences, ensure repetition and exposure, and overcome barriers such as the challenges posed by the COVID 19 pandemic (*see section 12.2.3 Stakeholder Engagement in the Context of Social and Physical Distancing*)
32. The organization proposing the project will inquire into the stakeholders' ability to engage in digitally mediated interpersonal communication processes with the view of using this kind of communication as much as feasible. This includes virtual meetings and face-to-face conversations supported by digital platforms.
33. Communication with stakeholders will be also conducted with the use of traditional media such radio, TV, and newspapers, as well as mobile phones and social media.

12.2.3 STAKEHOLDER ENGAGEMENT IN THE CONTEXT OF SOCIAL AND PHYSICAL DISTANCING

34. The emerging environmental and social risks such as the COVID 19 pandemic dramatically modify the conditions of the communication process with the stakeholders. The restriction of large gatherings, due to social distancing mandates and other public health measures, demands changes in the way communication with stakeholders is planned and executed, especially with regards to public consultation and public participation. The health and safety of stakeholders and the organization's staff participating in public consultation and public participation events that require face-to-face interaction is paramount.

35. Social distancing mandates in the MAR countries may restrict large gatherings of stakeholders and, in some cases, even their movement from one place to another. These measures may have direct negative consequences in public consultation and participation processes.
36. MAR Fund's grantees must comply with public health regulations, including the social and physical distancing and at the same time satisfying the requirements of this Safeguard. The challenge is to engage with their stakeholders while preserving their health and wellbeing. For these reasons, MAR Fund's grantees will conduct their stakeholder engagement with the support of digital media, including social media, in addition to traditional media.
37. The grantees may organize meetings, consultations, public hearings, and other events of this type using digital platforms. In these cases, they will keep available digital records of such meetings. They will inform the participants that the meeting is being recorded, that the record will be kept in the file of the project, and it may be accessed by MAR Fund, or a third-party organization mandated to do so.
38. It is the responsibility of grantees to find out whether the type of meetings described above in § 37 are acceptable for the national legislation of Mexico, Belize, Guatemala, or Honduras, as the case may be, as a proof that the public consultation or public hearing were held.

12.2.4 STAKEHOLDER ENGAGEMENT AND COMMUNICATION PLAN (SECP)

39. Considering the importance of stakeholder engagement, information disclosure, and public participation for the environmental and social performance of MAR Fund and of the projects it bestows, all projects must have a Stakeholder Engagement and Communication Plan (SECP), regardless of their risk category or their budget.
40. The SECP shall be *proportional* and *commensurate* to the risks, impacts, activities, scope, budget, and duration of the project.
41. Project proposals do not need to have a SECP but only a summary of the stakeholder identification and analysis.
42. The SECP shall be formulated after the proposed project is approved by MAR Fund, as one of the first expected outputs of the project. The cost of formulating the SECP may be included in the total cost of the project.

43. When the project proposed to MAR Fund is a part of a wider project and that wider project has a stakeholder engagement plan in place, that plan can be presented as the SECP of the project, if it satisfies the requirements of this Safeguard.
44. For projects classified as Category C, the SECP does not need to be a stand-alone document as it can be a section of their Environmental and Social Action Plan. For projects classified as Category B and Category B+, the SECP needs to be a separate document.
45. The SECP consists of the articulation of all the meaningful engagement and consultation actions related to a project, including the roles and responsibilities in conducting the different stakeholder engagement and communication processes, the type and timing of the information to be disclosed to stakeholders, the management of stakeholder grievances, the budget to implement the plan, and the continuous identification and analysis of stakeholders as well.
46. The objectives of the SECP are the following:
 - i. Facilitate meaningful engagement and consultation with stakeholders.
 - ii. Increase trust between the grantees, communities, and other stakeholders.
 - iii. Facilitate information disclosure and compliance with national legislation regarding consultation and citizen participation¹³⁸.
 - iv. Increase community engagement, especially for disadvantaged, vulnerable stakeholders.
 - v. Facilitate operationalization of the Grievance Mechanism.
 - vi. Increase transparency in projects approved by MAR Fund.
 - vii. Contribute to the project's environmental and social performance enhancement.
47. The standard content of the SECP includes the following aspects. A format of a SECP is presented in the Annex section of this document and it is available in the MAR Fund's website.
 - Introduction
 - Purpose and objectives of the SECP

¹³⁸ Refer to the MAR Fund's National Legislation Overview.

- Stakeholder Identification and Analysis
- Stakeholder Engagement Strategy
- Information Disclosure
- Grievance Mechanism
- Record Keeping and Documentation

Additional content that may be necessary for certain projects and not for others:

- Legal and Institutional Framework
 - Process to obtain FPIC.
 - Stakeholder Engagement Activities
 - Reporting to Stakeholders
 - Documenting Stakeholders Engagement
48. When the proposed project is composed of several sub-grants or sub-projects that are not yet completely defined but they will be defined as part of the implementation of the project, the grantees will produce a Stakeholder Engagement and Communication Framework (SECF) rather than a SECP. The SECF will be applied to all subsequent sub-projects. The SECF will develop most of the elements of the SECP with less detail and without budget as the specific activities are unknown. In most of the cases, this SECF will be complementary to the Environmental and Social Management Framework (ESMF) required for the project.

12.2.5 INFORMATION DISCLOSURE

49. Accurate, timely, and culturally appropriate information is essential for adequate stakeholder engagement and informed participation.
50. For this reason, MAR Fund’s grantees and organizations submitting proposals to MAR Fund will actively disclose information related to their proposals and projects. that allows for the meaningful engagement and consultation process to be conducted in a transparent, equitable, and well-informed manner.
51. The Information Disclosure Matrix presented below lays out the minimum standard of information disclosure in projects approved by MAR Fund.

Table 3: Information Disclosure Matrix

PHASE	ITEM	TO WHO	HOW
DESIGN (All categories)	Concept	Participating ¹³⁹ and affected stakeholders	Workshops, hearings, and/or proponent website, and/or printed copies
PROPOSAL (All categories)	Proposed project brief (or) summary	Participating and affected stakeholders	Workshops or hearings, and proponent website, and printed copies
Proposed Category C Projects	Nothing additional		
Proposed Category B Projects	Executive Summary of due diligence	Participating, affected, and other stakeholders	Workshops or hearings, and proponent website, and printed copies
Proposed Category B+ Projects	Executive Summary of due diligence, TORs and summary of results of ESIA + other studies ¹⁴⁰ .	Participating, affected and other stakeholders. Special guidance when FPIC is sought after	Workshops or hearings, and proponent website, and printed copies. Special guidance when FPIC is sought ¹⁴¹
APPROVAL (All categories)	Project summary Budget	Participating and affected stakeholders	Grantee's website

¹³⁹ Also called "*beneficiaries*"

¹⁴⁰ Other studies are environmental and social inquiries and investigations additional to the ESIA that may be required by the ESSs.

¹⁴¹ For special guidance when FPIC is sought after see MAR Fund's ESS 7: Indigenous Peoples and Local Communities.

PHASE	ITEM	TO WHO	HOW
	Schedule		MAR Fund’s website posts only the project summary.
Category C Projects	Nothing additional		
Category B Projects	Brief of the ESAP	Participating, affected, and other stakeholders	Grantee’s website
Category B+ Projects	Executive summary and findings of the ESAP (Full ESAP available at request). Other plans to comply with ESSs	Participating, affected, and other stakeholders. Special guidance when FPIC was secured	Workshops or hearings, and proponent website, and printed copies. Special guidance for FPIC
EXECUTION (All categories)	Grievances Monitoring reports	Participating and affected stakeholders	Grantee’s website MAR Fund’s website shall show aggregated information on grievance management
Category C Projects	Nothing additional		
Category B Projects	ESAP monitoring reports	Participating and affected stakeholders	Grantee’s website

PHASE	ITEM	TO WHO	HOW
Category B+ Projects	ESAP monitoring reports Other plans' monitoring reports	Participating, affected, and other stakeholders. Special guidance when FPIC was secured	Workshops or hearings, printed copies, and proponent website. Special guidance when FPIC is sought after
CLOSING (All categories)	ESAP closing report – including grievances report	Participating, affected, and other stakeholders	Grantee's website. MAR Fund's website shall show aggregated information on all projects' grievance management and environmental and social management.

12.2.6 GRIEVANCE MECHANISM

52. As outlined in ESS 1, MAR Fund has a Grievance Mechanism to receive and manage grievances, address concerns, and facilitate resolution of complaints with regards to the environmental and social performance of projects funded by MAR Fund and of any other activity financed by MAR Fund. The Grievance Mechanism is especially pertinent when the execution of a project fails to comply with MAR Fund's Policy, or any of its applicable ESSs.
53. MAR Fund requires all its projects to have a functional similar mechanism. The specific requirements to this respect are presented in *section 12.2.8 Grant-Level Grievance Mechanism*.
54. When a grantee has in place its own grievance mechanism, MAR Fund can agree to use it, provided that such a mechanism satisfies this Safeguard.
55. The Grievance Mechanism must be easily accessible to all stakeholders (participating, affected, and other). It will function in the languages spoken in the project location. It will timely process all grievances in a culturally appropriate manner.

56. The Mechanism will permit reception and processing of confidential and anonymous complaints. The responses will be discrete, and sensitive with the *complainer*.
57. The Mechanism does not preclude any legal recourse (or other type of action) related to the execution of a project to which an aggrieved party may feel entitled to, or that MAR Fund may find appropriated. Equally, the reception and processing of grievances by the grantees or by MAR Fund do not imply recognition of fault by any of them.

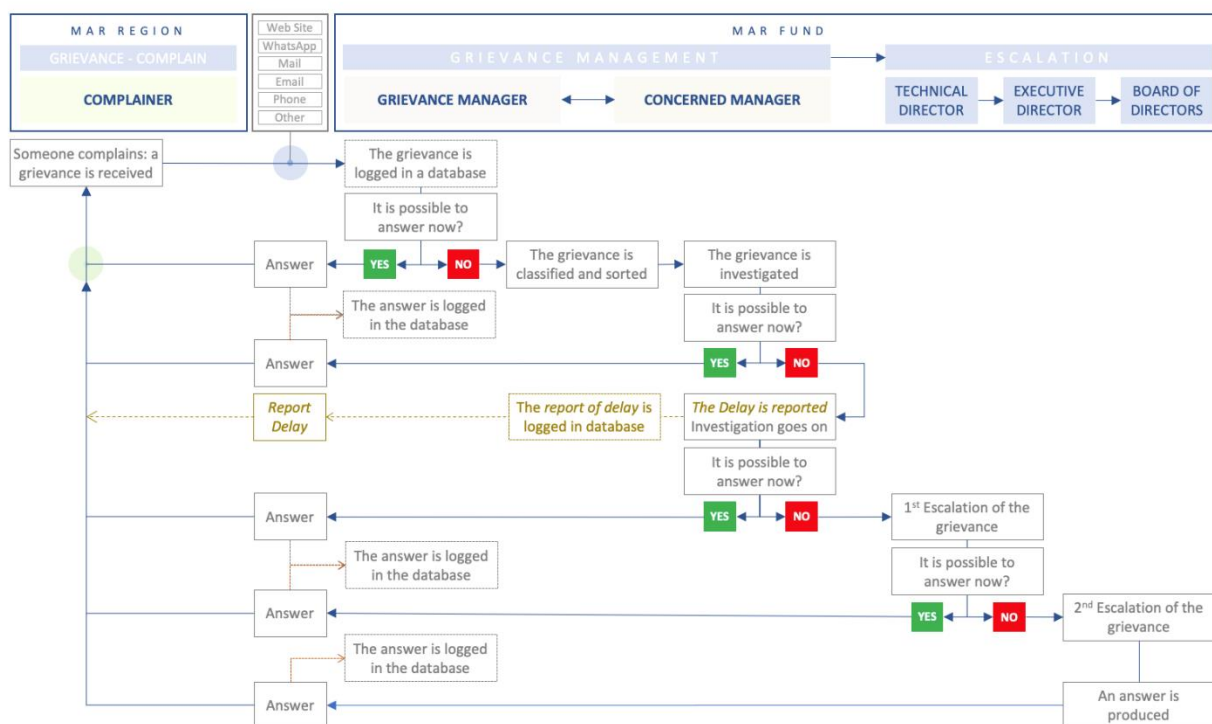
12.2.7 GRIEVANCE MECHANISM AT MAR FUND

58. MAR Fund's Grievance Mechanism consists of the following elements: access, record keeping, process, consolidation, and reporting. All grievances received by the Grievance Mechanism will follow the process presented in next page, Figure 3: MAR Fund's Grievance Mechanism (<https://marfund.org/en/esms/>).

12.2.7.1 ACCESS TO MAR FUND'S GRIEVANCE MECHANISM

59. The Grievance Mechanism can be accessed by any of the following channels: a dedicated email address; functional WhatsApp number; physical (civic) MAR Fund address to receive regular mail; a dedicated sub-section on MAR Fund's website.
60. The Grievance Mechanism is advertised in MAR Fund's website and social media accounts.
61. Grievances can be received by MAR Fund directly from the affected stakeholder. They can also be received as the result of an escalation from a project's Grievance Mechanism.

Figure 3: MAR Fund's Grievance Mechanism



12.2.7.2 RECORD KEEPING

- 62. MAR Fund records the received grievances and the triggered actions on a Grievance Database hosted by the ESMS.
- 63. Grievances are logged on the database at their reception and are assigned with a unique identification number that will be kept all throughout the process.

12.2.7.3 MAR FUND'S PROCESS OF GRIEVANCES

- 64. All grievances received by MAR Fund are processed in the next 25 working days after being logged on the database. If the grievance refers to an issue that requires urgent corrective or preventive action, MAR Fund will act on time to avoid or prevent any harm to people or nature and then process the grievance.
- 65. In this term, MAR Fund delivers, if it is feasible, a complete response looking into the matter of the grievance. If a complete response is not feasible in that period, MAR Fund produces an acknowledgment of reception of the grievance and an explanation of the processing time and the expected date of a complete response. In this case, the full response is due in a reasonable timeframe.

66. If the grievance relates to any of MAR Fund's programs/projects, the manager of the concerned program/project is responsible for the grievance process and response. This person will produce an answer to the grievance in collaboration with the environmental and social safeguards manager of MAR Fund.
67. If the manager of the concerned program, is not available, MAR Fund's environmental and social safeguards manager is responsible for the response process.
68. If the grievance concerns the manager of a program/project, MAR Fund's Technical Director is responsible for the grievance process and response.
69. If the grievance concerns MAR Fund's Technical Director, MAR Fund's Executive Director is responsible for the grievance process and response.
70. If the grievance concerns MAR Fund's Executive Director, MAR Fund should escalate it to the Board of Directors which will abide by the same response processing times

12.2.7.4 CONSOLIDATION AND REPORTING BY MAR FUND

71. All grievances are consolidated in a database hosted by the ESMS.
72. MAR Fund reports to the Board of Directors on grievances received and the processed as part of the regular reporting arrangements but not less than once per year.

12.2.8 PROJECT-LEVEL GRIEVANCE MECHANISM

73. The project-level Grievance Mechanism consists of the following elements: access, record keeping, process, escalation, consolidation, and reporting.

12.2.8.1 ACCESS TO THE PROJECT-LEVEL GRIEVANCE MECHANISM

74. There are a dedicated email address and a functional WhatsApp number to receive grievances at the grantee organization, at a minimum.
75. If the grantee has social media accounts, the Grievance Mechanism and information about how to access it and present a grievance should be available in those accounts.
76. The Grievance Mechanism is advertised in the grantee's communication pieces and social media accounts.
77. Projects implemented in the field have a visible letter box close by a known location such as a community center, the office of an administrator of a Protected Area, a fish market, etc., where letters and other documents can be deposited. These letter boxes

should be checked periodically, and any grievance received should be promptly remitted to the grantee. The project pays the remittance cost.

78. Persons working in the project have access to the Grievance Mechanism and may use it free from reprisal. The grantee will provide them with clear and simple information about the grievance mechanism at the time of recruitment (if they are hired to work on the project) or at the time of incorporation into the project team.

12.2.8.2 PROJECT-LEVEL RECORD KEEPING

79. All grievances are logged on a project-level Grievance Database (on a spreadsheet or similar) and identified with a number that allows for tracking and record keeping.
80. The grievance process and triggered actions are recorded in the project-level Grievance Database and aggregated at the MAR Fund Grievance Database hosted by the ESMS.

12.2.8.3 PROJECT-LEVEL PROCESS

81. The grantee processes the grievance in the next 25 working days after reception.
82. In this term, the grantee delivers, if it is feasible, a complete response to the grievance, or if it is not possible, produces an acknowledgment of reception of the grievance and an explanation of the processing time and the expected date for a complete response. In this case, the full response is due in a *reasonable* timeframe.
83. If the grievance affects MAR Fund's reputation or the reputation of its partners and donors, the grantee should pass this information to MAR Fund without delay.
84. This process is recorded in the project-level Grievance Database (on a spreadsheet or similar) and in the MAR Fund Grievance Database.

12.2.8.4 ESCALATION

85. Although it is preferable to resolve project-related grievances at the grantee level, it may be necessary to escalate the grievance to MAR Fund for further processing. Any grievance could also be escalated autonomously by the aggrieved party if the grantee response is found unsatisfactory.
86. For the escalation, the grantee sends the grievance and the record of the process (partial answers, investigations) to MAR Fund through the regular communication

channels used by the two organizations. The grantee informs the aggrieved party of the escalation.

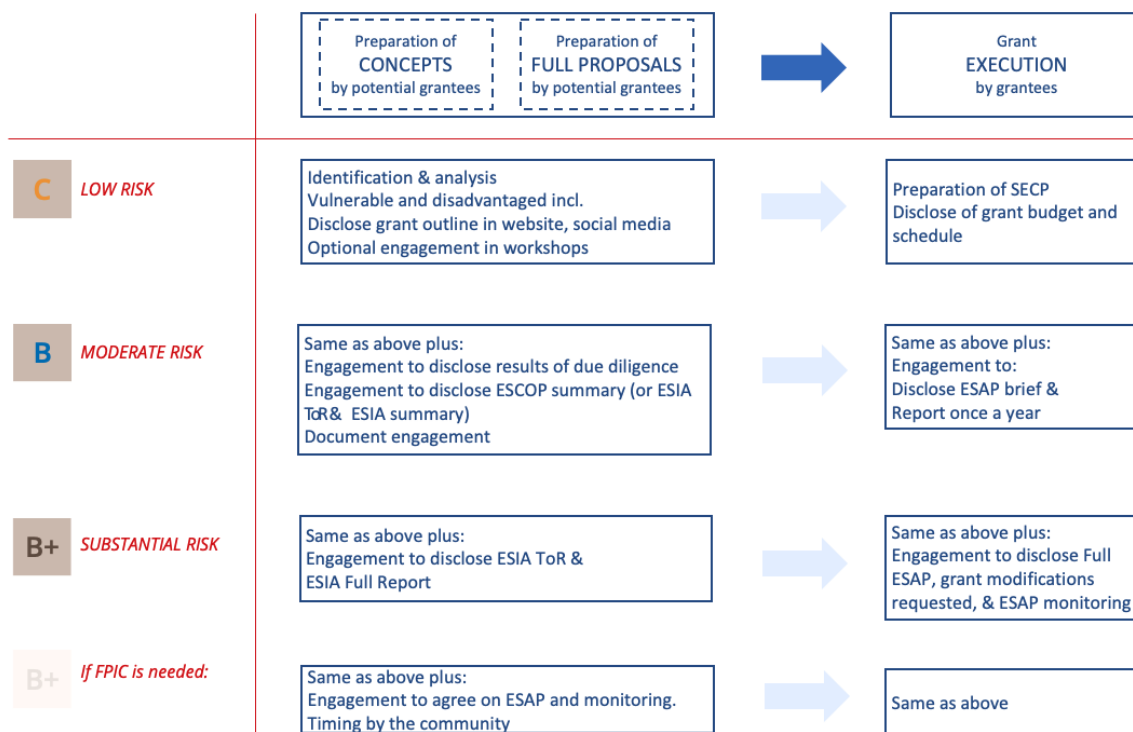
12.2.8.5 PROJECT-LEVEL CONSOLIDATION AND REPORTING

- 87. All grievances at the project-level are consolidated by the grantee.
- 88. The grantee reports to MAR Fund on the grievances received and the processes triggered as part of the regular project reporting arrangements but no less than twice a year.

12.3 ENGAGEMENT AND CONSULTATION PROCEDURES

- 89. The extent and intensity of the stakeholder engagement and consultation is commensurate to the environmental and social risks, potential adverse impacts, and opportunities of the proposed project, as presented in *Figure 4: Stakeholder Engagement by Risk Category*.

Figure 4: Stakeholder Engagement by Risk Category



12.3.1 STAKEHOLDER ENGAGEMENT IN CATEGORY C PROJECTS

90. Organizations preparing proposals of Category C projects need to carry out the stakeholder identification and analysis as described before in *section 12.2.1 Stakeholder Identification and Analysis*. They shall disclose an outline of the proposed project and the organizations that eventually will participate in their website or other media¹⁴².
91. During the preparation of their project proposals, these organizations have the option to organize stakeholder engagement sessions with the participating stakeholders (or “beneficiaries”), should they consider it appropriate. In that case, these organizations may include documentations of these sessions with their proposal. The grantees must consider that Category C project proposals that have been shared and discussed with stakeholders are much more likely to be approved than proposals that have not been shared and discussed.
92. Once the proposals are approved, projects classified as Category C require a simple SECP, as described before in section 12.2.4 Stakeholder Engagement and Communication Plan (SECP). This SECP shall not be a stand-alone document but a part of the ESAP of the project. This SECP must include a functional Grievance Mechanism, as described in *section 12.2.8 Project-Level Grievance Mechanism*.
93. The grantees will disclose the project outline, budget, and schedule in their websites and other media.
94. The grantees executing Category C projects are not requested to comply with anything else regarding stakeholder engagement unless their projects include specific stakeholder engagement activities, or the ESAP include additional engagement activities different than consultation.

12.3.2 STAKEHOLDER ENGAGEMENT IN CATEGORY B PROJECTS

95. In addition to the requirements for Category C projects, organizations preparing proposals of Category B (Moderate Risk) projects shall engage with stakeholders to disclose to them the results of the preliminary environmental and social due diligence.
96. During the preparation of their project proposals, the grantees shall engage with the participating stakeholders (or “beneficiaries”) and with other affected stakeholders to

¹⁴² They shall not disclose any sensitive information.

disclose the concept of their proposed project and consult with them in view of enhancing the design of the proposal by reflecting the stakeholders' views, ideas, and concerns.

97. Similar engagement shall be carried out to discuss the ToR of the studies that may be necessary to complete the proposal, such as the Environmental and Social Site Risk Assessment and an ESCOP. In the remote case that the Category B project proposal requires an ESIA, the procedure established in *point 108* shall be followed.
98. This stakeholder engagement and consultation should be carried out through workshops, public hearings, working meetings, and other similar situations. It can also be carried out through alternative digitally mediated interpersonal communication processes if the emerging environmental and social risks such as the COVID 19 pandemic prevents stakeholders from participating in public meetings.
99. These events should be documented, and records of them should be kept available for a period equivalent to the duration of the project plus two years. MAR Fund may request them.
100. It may be the case that the proposed project is enhanced because of these consultations, by including stakeholder suggestions, responding to their concerns, and accommodating their requirements.
101. The documentation of the engagement and consultation for project proposal preparation should include a summary of the modification or changes made because of this process, as well as the reasons for not considering or not acting upon other proposals, ideas, and concerns of stakeholders.
102. Once the proposals are approved, projects classified as Category B require a full SECP, as described before in section 12.2.4 Stakeholder Engagement and Communication Plan (SECP) with a fully functional Grievance Mechanism, as described in *section 12.2.8 Project-Level Grievance Mechanism*.
103. The grantees shall reach out to and engage with the project's stakeholders, including the vulnerable and disadvantaged stakeholders and promote their involvement in the project.
104. The grantees will engage with stakeholders to disclose a brief of the project's ESAP and any other matter of interest to them.

105. For multi-year projects, grantees will organize update sessions with stakeholders at least once a year to present the partial results of the project and discuss the next scheduled actions. These updates could be provided in workshops, public hearings, working meetings, and other similar situations, or through alternative digitally mediated interpersonal communication processes.
106. If there is a significant change in the project that may result in additional environmental and social risks and impacts, the grantees should inform their stakeholders timely and appropriately.

12.3.3 STAKEHOLDER ENGAGEMENT IN CATEGORY B+ PROJECTS

107. In addition to the requirements for Category C and Category B projects, organizations preparing proposals of Category B + (Substantial Risk) projects shall engage with participating and affected stakeholders to discuss the ToR document of the ESIA before it is finalized with the purpose of integrating stakeholder's suggestions. In the remote case that the Category B + project proposal does not require an ESIA, the same procedure will be followed with the ToRs of the Environmental and Social Site Risk Assessment and an ESCOP.
108. Similar stakeholder engagements shall be carried out to disclose the results of the ESIA and discuss its findings, especially with regards to the single environmental and social risk or potential impact that is significant, irreversible, extended, or unprecedented.
109. Documentation of these consultations shall be presented with the proposal.
110. Once the proposals are approved, projects classified as Category B + require a full SECP, as described before in section 12.2.4 Stakeholder Engagement and Communication Plan (SECP) with a fully functional Grievance Mechanism, as described in *section 12.2.8 Project-Level Grievance Mechanism*.
111. The grantees shall reach out to and engage with the project's stakeholders, including the vulnerable and disadvantaged stakeholders and promote their involvement in the project.
112. The grantees will engage with stakeholders to disclose a full version of the project's ESAP, and the monitoring arrangements, especially these related to the social risk or potential impact that is significant, irreversible, extended, or unprecedented.

113. Category B + projects that involve access restrictions to natural resources, must satisfy the requirements set forth by MAR Fund’s ESS 5: Access Restrictions to Natural Resources, Livelihood Lost, and Limited Involuntary Resettlement (section 7 of this document).
114. For multi-year projects, grantees will organize update sessions with stakeholders at least once a year to present the partial results of the project and discuss the next scheduled actions. These updates could be provided in workshops, public hearings, working meetings, and other similar situations, or through alternative digitally mediated interpersonal communication processes.
115. When a Category B + project required the FPIC of the affected communities, in addition to the FPIC specific requirements established in *section 9.2.2 Free, Prior, and Informed Consent* of this document, the affected communities need to be engaged during project preparation to discuss and agree on the ESAP elements of the future project and the monitoring arrangements. The timing of the stakeholder engagement and consultation cannot be established unilaterally by the organization proposing the project because it should respond to the needs and customs of the community whose FPIC is sought after.
116. If there is a significant change in the project that may result in additional environmental and social risks and impacts, the grantees should inform their stakeholders timely and appropriately.

** ** END OF ESS 10 ** **

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