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Environmental and Social Management Framework (ESMF)

Integrated approach to proactive management of human-wildlife conflict and wildlife crime in hotspot landscapes in Namibia

Comments on this ESMF and annexes, including Indigenous Peoples Planning Framework should be sent by email to:

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Executive Summary

This Environment and Social Management Framework (ESMF) applies to the GEF-financed project *“Integrated approach to proactive management of human-wildlife conflict and wildlife crime in hotspot landscapes in Namibia”* (UNDP ID: PIMS 6303; GEF ID: 10200), which is a child project of the World Bank-coordinated Global Wildlife programme. The ESMF was prepared by the UNDP as the GEF Agency, in close collaboration with the Implementing Partner, the Namibian Ministry of Environment and Tourism.

This ESMF has been prepared based on the social and environment screening procedure (UNDP’s SESP) that was completed as part of the project design phase, and consultations carried out on behalf of UNDP during the project preparation phase with the project partner and stakeholders in government, local communities and civil society entities.

The ESMF has been developed on the basis of the project risk categorisation and to outline the processes that will be undertaken during the project inception/implementation phases for the additional assessment of potential impacts, and identification and development of appropriate risk management measures, consistent with UNDP’s Social and Environmental Standards (SES).¹ It contains measures and plans to avoid, and where avoidance is not possible, to reduce, mitigate and/or offset adverse risks and impacts. The ESMF specifies the most likely applicable social and environmental policies and requirements and how those requirements will be met through procedures for the screening, assessment, approval, mitigation, monitoring and reporting of social and environmental risks and impacts associated with the project activities.

The ESMF identifies the steps that will be followed during the inception/implementation phases for the completion of stand-alone management plans as justified based on the results of the SESP for the moderate and high risks identified, including an Environmental and Social Impact Assessment (ESIA), Environment and Social Management Plan (ESMP), Stakeholder Engagement Plan and Indigenous Peoples Plan (IPP), and an effective project-level Grievance Redress Mechanism (GRM).

The ESMF also details the roles and responsibilities for its implementation and includes a detailed budget and monitoring and evaluation plan, and guidelines for Terms of Reference to be used to guide the development of the required assessments and management plans (see Annexes).

The UNDP Social and Environmental Screening Procedure (SESP) identified 10 potential social and environmental risks associated with this Project. One risk of these has been assessed as low risk, seven as moderate and three as high risk, with the overall SESP risk categorization rating as “High”.

High risks identified with the Project are:

- Indigenous peoples including vulnerable groups might not engage in, support of, or benefit from project activities.
- Anti-poaching patrols could pose safety risks to local communities if they are not properly trained, managed or overseen.
- Anti-poaching patrols could face safety risks during encounters with poachers.

Moderate risks identified within the Project are:

- Local governments and community associations might not have the capacity to implement and/or coordinate project activities successfully.

¹ <https://www.undp.org/content/undp/en/home/accountability/social-and-environmental-responsibility/social-and-environmental-standards.html>

- Poorly-informed or executed project activities could damage critical habitats and change landscape suitability for threatened species.
- Project activities and approaches might not fully incorporate or reflect views of women and girls, and ensure equitable opportunities for their involvement and benefit.
- Increased enforcement and new approaches to HWC/WC could change current access to PAs, buffer zones and resources, potentially leading to economic displacement and/or changes to property rights.
- Project outcomes will be vulnerable to potential impacts of climate change, including reduced annual rainfall.

The project document includes the SESP template that details the specific environmental and social risks identified (See Annex 4 to the Prodoc) . The risks apply only to project components 1, 2 and 3.

Abbreviations and Acronyms

APU	Anti-Poaching Units
CO	Country Office
EIA	Environmental Impact Assessment
ESIA	Environmental and Social Impact Assessment
ESMF	Environmental and Social Management Framework
ESMP	Environmental and Social Management Plan
FPIC	Free, prior and informed consent
GEF	Global Environment Facility
GRM	Grievance Redress Mechanism
GRN	Government of the Republic of Namibia
GWP	Global Wildlife Programme
HWC	Human-Wildlife Conflict
IP	Indigenous Peoples
IPPF	Indigenous Peoples Planning Framework
IIED	International Institute for International Development
IUCN	International Union for the Conservation of Nature
MEFT	Ministry of Environment, Forestry and Tourism
M&E	Monitoring and Evaluation
NAMPOL	Namibian Police Force
NDF	Namibian Defence Force
PA	Protected Area
PIF	Project Identification Form (GEF)
PIR	GEF Project Implementation Report
POPP	Programme and Operations Policies and Procedures (UNDP)
PPG	Project Preparation Grant (GEF)
PMU	Project Management Unit
SECU	Social and Environmental Compliance Review Unit (UNDP)
SES	Social and Environmental Standards (UNDP)
SESA	Social and Environmental Assessment (UNDP)
SESO	Social and Environmental Safeguards Officer
SESP	Social and Environmental Screening Procedure (UNDP)
SRM	Stakeholder Response Mechanism (UNDP)
UNDP	United Nations Development Programme
UNDP-GEF	UNDP Global Environmental Finance Unit
WC	Wildlife Crime

1 Introduction and Project Description

This Environmental and Social Management Framework (ESMF) has been prepared by UNDP in collaboration with the Namibian Ministry of Environment, Forestry and Tourism (MEFT)² for the project: *“Integrated approach to proactive management of human-wildlife conflict and wildlife crime in hotspot landscapes in Namibia”* (hereafter referred to as the Project). This is a child project under the World Bank-coordinated Global Wildlife Programme.

The Project focuses on three hotspot landscapes: the North-Central Region including Etosha National Park; the North-West (or Kunene) Region; and the North-East Region including Bwabwata National Park. These three broad landscapes have a high incidence of Human Wildlife Conflict (HWC) and risk of Wildlife Crime (WC), but good potential to build rural livelihoods based on a vibrant wildlife-based economy, including established Conservancies that provide active platforms for Community-Based Natural Resource Management (CBNRM).

The *project objective* is “To incentivise wildlife conservation through proactive management of human-wildlife conflict and wildlife crime, and delivery of wildlife-based benefits to rural communities in selected hotspot landscapes”.

To achieve this objective, the project will implement **four complementary strategic approaches**³ to collectively address the twin challenges of human wildlife conflict and wildlife crime in more proactive and integrated ways that seek to generate benefits for rural communities from wildlife-based value chains

The first approach is centred on reducing, mitigating and preventing human wildlife conflict (HWC). The project will strengthen the capacities of conservancies, communal farmers and MEFT to more effectively plan for, manage and monitor HWC in the targeted hotspot landscapes. It will specifically build the individual, community and institutional capacities to implement key elements of the *Revised National Policy on HWC* (2018-2027) in the hotspot landscapes.

The second approach is centred on combating wildlife crime (WC) and protecting wildlife populations. The project will strengthen the capacity for law enforcement, and for the science-based management and monitoring of populations of high-risk/high-value species. It will specifically assist in operationalising and coordinating the deployment of anti-poaching units in the hotspot landscapes.

The third approach is centred on generating economic benefits for communities from wildlife-related enterprises. The project will support the development and operationalisation of wildlife-based Joint Venture (JV) enterprises in community conservancies, and strengthen the capacities of local communities to support, service and obtain employment in these JVs, in the hotspot landscapes. It will also support the diversification of income streams in community conservancies to help offset the ‘costs’ of living with wildlife.

The fourth approach is centred on enhancing local and national coordination, cooperation and knowledge sharing in HWC and WC. The project will specifically help to build the HWC-WC community of practice, both locally and regionally.

² In March 2020, the Directorate of Forestry in the Ministry of Agriculture, Water and Forestry (MAWF) was relocated to the Ministry of Environment and Tourism (MET), creating the Ministry of Environment, Forestry and Tourism (MEFT)

³ These strategic approaches have, in turn, been framed as ‘components’ in the project log frame.

The Project strategy is centred on socially-inclusive, multi-stakeholder collaboration at national, regional and local scales; evidence-driven decision-making and management approaches, based on integrated social, economic and ecological research; implementation of innovative, fit-for-purpose technologies and best-practices that enhance capacity for prevention and management of wildlife crime and human-wildlife conflict; and entrepreneurship and sustainable business models that enable rural communities to gain greater benefits from wildlife conservation through diversified value chains.

Project Implementing Partner: Ministry of Environment, Forestry and Tourism

Project Duration: Six years, 2020-2026.

Purpose and scope of this ESMF

This ESMF is a management tool to assist in managing potential adverse social and environmental impacts associated with activities of this UNDP-supported GEF funded Project, in line with the requirements of the UNDP Social and Environmental Standards (SES).⁴ The implementing partners of the Project and the Project Management Unit will follow this ESMF to ensure the environmental and social risks and impacts are fully assessed and management measures are in place prior to the implementation of the relevant Project activities.

The ESMF has been developed on the basis of the project risk categorisation and to outline the processes that will be undertaken during the project inception/implementation phases for the additional assessment of potential impacts, and identification and development of appropriate risk management measures. It contains measures and plans to avoid, and where avoidance is not possible, to reduce, mitigate and/or offset adverse risks and impacts. The risks apply specifically to project components 1, 2 and 3.

This ESMF identifies the steps for detailed screening and assessment of the project's potential social and environmental risks, and for preparing and approving the required management plans for avoiding, and where avoidance is not possible, reducing, mitigating and managing these potential adverse impacts. These include an Environmental and Social Impact Assessment (ESIA), Environment and Social Management Plan (ESMP), Stakeholder Engagement Plan and Indigenous Peoples Plan (IPP), and an effective project-level Grievance Redress Mechanism (GRM).

The ESMF also details the roles and responsibilities for its implementation and includes a detailed budget and monitoring and evaluation plan, and guidelines for Terms of Reference to be used to guide the development of the required assessments and management plans (see Annexes).

⁴ <https://www.undp.org/content/undp/en/home/librarypage/operations1/undp-social-and-environmental-standards.html>

2 A description of the potential social and environmental impacts, both positive and negative, related to typology of likely activities, sub-projects, policies, and/or regulations to be supported during project implementation

The UNDP Social and Environmental Screening Procedure (SESP) was used to identify potential social and environmental risks associated with this Project (refer to Annex 4 of the UNDP PRODOC). The screening highlighted the Project intentions as they related to mainstreaming human rights, gender equality and women's empowerment, and environmental sustainability.

An impact risk assessment was undertaken using the UNDP Social and Environmental Screening Procedure to assess the probability and the impact of the risk. From the scoring of probability and impact, a significance value of low, moderate or high was attributed to the potential impact of these risks.

The SESP identified a total of 11 potential risks, of which one has been assessed as low risk, seven as moderate and three as high risk, with the overall SESP risk categorization rating as "High". The risks apply only to project components 1, 2 and 3.

High Risk: defined by UNDP's SES⁵ as *"Projects that include activities with potential significant and/or irreversible adverse social and environmental risks and impacts, or which raise significant concerns among potentially affected communities and individuals as expressed during the stakeholder engagement process."*

Risk 1: Indigenous peoples including vulnerable groups might not engage in, support, or benefit from project activities (SES Standard 6).

Referring to SES Standard 6: Indigenous Peoples, the policy and operating environment of Namibia in relation to indigenous peoples is relatively progressive and stable, in comparison to a number of other countries in sub-Saharan Africa. Namibia has a well-defined rule of law and democratic principles, low levels of unjustified detention, and GRN has established an office within the Vice Presidency assigned to "marginalised communities" (see section 3.2), including the San and Ovahimba, and is currently awaiting approval of a broad policy guidance entitled "White Paper on the rights of indigenous peoples in Namibia". The Ovahimba, Ovazemba and Ovatjimba in northern Kunene also likely meet SES criteria for the identification of indigenous peoples (also see section 3.2).

However, a number implementation risks to the Project remain due to the minority and marginalised position of Namibia's indigenous peoples/marginalised communities. These include but are not limited to:

- i) Representation and participation – San and Ovahimba are both minority populations, and lack strong political and institutional representation in the project landscapes. The Ovahimba, Ovazemba and Ovatjimba have limited representation. In general, levels of formal education and technical experience are also lower within San and Ovahimba communities compared with national averages, and, in the case of the San, cultural approaches to disagreements have traditionally leaned towards avoiding direct disputes and therefore, a historical erosion of land, resource and livelihood rights has ensued.

⁵ UNDP Social and Environmental Standards (2014), page 47.

These factors, among other issues, often result in weaker representation and limited established rights in comparison to neighbouring groups. This can be compounded by the lack of Traditional Authority leaders for such groups within the Project landscapes: in the North West, the small populations of San and Ovatie fall under various Traditional Chiefs in their locality; in Bwabwata National Park, the larger Khwe San community falls under the neighbouring Mbukushu Chief, but the relationship is marked by a lack of agreement and cohesion.

During Project implementation, special attention should be paid to ensuring that consultation systems are comprehensive and monitored, following SES and free, prior and informed consent (FPIC) principles. This should include identification of such communities through document review; consultation with GRN and civil society, Traditional Authorities, Conservancies and communities; and, subsequently, ensuring the participation of San, Ovatie and other marginalised groups in wider community meetings or, where this is not possible, targeted consultations and dissemination to that effect. Such approaches must also take into account balanced gender and youth participation.

- ii) Potential for limited benefits from wildlife and natural resources – in the North West project area, the limitations highlighted above can potentially result in reduced participation and access to wider or increased community benefits from wildlife and natural resources, where these are introduced or strengthened through the Project's outputs. Therefore, principles of consultation and inclusion should be established within the project's framework when planning and implementing activities around increasing benefits from wildlife and natural resources. For example, this might include ensuring that a San or Ovatie community-nominated representative is included in Conservancy decision-making processes where activities may involve San Conservancy members, with an overall focus on ensuring participation of San community members where relevant and that any benefits are equitable and appropriate.
- iii) Language – consultation and dissemination within the project with all local communities should take into account language barriers, and utilise translation as required, with increased attention given to minority languages such as those spoken by San communities, especially where secondary language-use is limited.
- iv) Bwabwata National Park represents an unusual situation of an estimated 5,000 or more indigenous peoples, principally the Khwe but also the !Kung, living within the park alongside a smaller number of other groups, including the Mbukushu. With respect to the planning, consultation and implementation of project activities within Bwabwata National Park, special attention should be paid to issues such as representation, community access to resources and benefits, livelihoods, and traditional knowledge skills, including the controlled gathering of plants for sale, medicine and nutrition.

As detailed in the Indigenous Peoples Planning Framework (IPPF), preliminary FPIC consultation has been carried out. Further consultations are required to mitigate risk and engage indigenous peoples in the Project.

Required Action to address points (i) to (iv), above: In order to safeguard indigenous peoples within project activities an Indigenous Peoples Plan must be formulated for the project, within the first 6 months of implementation. This may be carried out under the ESMP preparation activities, as a sub-contract or a standalone contract. In all cases the PMU and specifically the SESO will ensure a coordinated approach to ESMP and IPP development. The Project's Stakeholder Engagement Plan will also take account of factors noted above, including the use of appropriate language, engagement of youth and use of consultation. FPIC consultations must be carried out for certain project activities(refer to the Project IPPF in Annex I for more detail).

Risk 5: Anti-poaching patrols could pose safety risks to local communities if they are not properly trained, managed or overseen (SES Principle 1, Standard 3).

The experiences of international organisations in other sub-Saharan African countries have highlighted the importance of clear policies, transparency, monitoring, complaints mechanisms and communication between anti-poaching units and community members, in order to avoid disruption to communities, minimise the chances of mistaken or unwarranted use of force, ensure community participation in the preventing of poaching, and cooperation in intelligence gathering from communities.

This project seeks to employ lessons from previous GEF-financed, UNDP-supported projects (and other relevant initiatives) in Namibia and internationally, including expanding economic opportunities and livelihoods options, and involving communities in anti-poaching activities. This includes support for activities under current Community-Based Natural Resource Management approaches, including community game guards within Conservancies, and focused approaches such as the IUCN/IIED supported “First Line of Defence against illegal wildlife trade” (FLoD)⁶.

The project will ensure that a risk assessment for the specific activities related to anti-poaching units, for example training, funding of patrol costs, and the provision of equipment to anti-poaching units under MEFT, the Namibian Police Force (NAMPOL) and Namibian Defence Force (NDF) and others, is carried out during development of the ESMP to mitigate any risks to community members. To this end, consultations with community members during the ESIA process regarding anti-poaching risks and community engagement with anti-poaching activities will be included. It is recommended that the ESMP includes an activity for the sensitisation of regional anti-poaching leadership on indigenous peoples and local community support and concerns for anti-poaching activities.

Other measures to be further elaborated within the ESIA and ESMP may include, for example: supporting periodic joint patrols between anti-poaching units and community game guards⁷ (potentially including within national parks), ensuring annual or bi-annual consultations between a wide range of community members and anti-poaching unit representatives to ensure information sharing and feedback. A measure which must be included within the ESMP is the establishment by the Project of a transparent and accessible complaints procedure for community members, taking into account gender issues, safety and protection of the identity of complainants.

Required Action: Consultations with communities on the potential risks of anti-poaching patrols and engagement with anti-poaching activities will form part of ESIA and ESMP consultations, and the ESMP will define any sensitisation or additional project activities required to mitigate risks to communities and strengthen anti-poaching outcomes. Human rights-focused training will be provided to anti-poaching units in line with SES requirements.

Additionally, the project will put in place a Grievance Redress Mechanism (that meets the requirements of the UNDP SES policy), the design of which will take into account accessibility, protection and participation for community members.

Risk 6: Anti-poaching patrols could face safety risks during encounters with poachers (SES Principle 1, Standard 3).

⁶ <https://www.iucn.org/regions/eastern-and-southern-africa/our-work/conservation-areas-and-species/local-communities-first-line-defence-against-illegal-wildlife-trade-flood>

⁷ Community game guards in Namibian conservancies conduct patrols and monitoring to inform local conservation management plans, law enforcement and MEFT. <https://wildlifecredits.com/community-game-guards>

This risk does not directly result from project activities but relates to activities undertaken by anti-poaching units (APUs) to which the Project will provide support under Component 2. Anti-poaching units patrol activities will be managed by MEFT, NAMPOL and the NDF. Equipment and training provided through the project will reduce this risk by ensuring better communications and effectiveness of anti-poaching units. The project will facilitate consultations with Ministry officials and key anti-poaching unit staff to ensure that Project activities reduce this risk through the purchase of priority equipment.

Required Action: The ESIA and ESMP processes consult with MEFT, key anti-poaching unit staff to define measures within the Project to mitigate risks to anti-poaching units equipment (see project output 2, as described in the Prodoc).

Moderate Risk: defined by UNDP's SES as *"Projects that include activities with potential adverse social and environmental risks and impacts, that are limited in scale, can be identified with a reasonable degree of certainty, and can be addressed through application of standard best practice, mitigation measures and stakeholder engagement during Project implementation"*.

Risk 2: Local governments and community associations might not have the capacity to implement and/or coordinate project activities successfully (SES Principle 1).

While capacity and coordination constraints present a risk to delaying or not delivering project outputs, the Project is working largely with existing institutional structures that have been in operation for a number of years.

However, it should be noted that medium-term effects of the COVID-19 pandemic, while currently ill-defined, are likely to have a considerable effect in terms of redistributed resources and capacity in government and civil society. Longer-term economic effects are likely to reduce government resources, and income from tourism and trophy hunting will take time to be reestablished, and will have local impacts on the capacity of conservancies. All Project outcomes may be affected by the pandemic, but Outcome 3 is of specific relevance.

Therefore, the project will assess plans for delivery of all project outputs to ensure they are suited to available capacity in local areas and at national level, and that partners have suitable capacity levels for given activities before they commence. The project will, if necessary, provide additional support through capacity building or technical support to partners, or will redesign activities to prevent bottlenecks in the Project's progress. Project *Outcome 3: Growth in the wildlife-based economy of local conservancies* in particular provides for capacity building and training activities that will enhance rural livelihoods and capacity. Should they occur, some limitations to capacity and resources may be reduced or mitigated through increased partnerships and coordination with civil society and related donor funded projects within MEFT, to ensure outcomes are fully realized.

Required Action: The ESIA and ESMP will define how the project will assess potential partner capacity before activities commence and mitigate any shortfalls in capacity through capacity building, technical support or redesign of activities, particularly in Outcome 3, though also in Outcome 1 and other areas as necessary.

Specific issues related to the COVID-19 pandemic and response will be reviewed within the ESIA and ESMP processes, and resulting recommendations integrated into the Project management and activities.

Risk 3: Poorly-informed or executed project activities could damage critical habitats and change landscape suitability for threatened species (SES Principle 3 and Standard 1).

Given current pro-conservation national policies, laws and regulations (including the need for environmental impact assessments) under the Environmental Management Act (2007), and Project activities that will encourage conservation-compatible land uses, this remains a low-probability risk, but, in the unlikely event that it is triggered, the impact would be high.

However, activities under Component 2 related to improving water sources in communities could result in higher survival/stocking rates of livestock, and therefore increased grazing, which in turn might impact land condition, and biodiversity in the longer term. As such the ESIA will take into account the potential impacts of all activities that have a physical impact on the environment, and measures will be incorporated into the ESMP to avoid, mitigate and manage these risks. During Project implementation, there should be specific consultation with communities, Conservancies and Traditional Authorities with regard to this issue, which may be mitigated through agreements with stakeholders on livestock stocking rates, and, potentially, complementary support from GRN and NGOs to improve grazing management in lieu of increasing the extent of community grazing areas.

Required Action: The ESIA and the ESMP will define further actions to be implemented during the project, including Project alignment with national regulations.

Risk 4: Project activities and approaches might not fully incorporate or reflect views of women and girls, and ensure equitable opportunities for their involvement and benefit (SES Principle 2).

This risk will be continually monitored by project management throughout the Project's implementation, and with reference to the Stakeholder Engagement Plan and Gender Action Plan, with particular attention given to women's participation in community consultations and income generating activities. Gender-disaggregated targets have been incorporated into the project's results framework, where possible.

Required Action: The Project will follow recommendations of the ESMP, Stakeholder Engagement Plan and Gender Action Plan to ensure the inclusion of women and girls in the Project's activities. The Project's Social and Environmental Safeguards Officer (SESO) duties will include monitoring of gender issues.

Risk 7: Increased enforcement and new approaches to HWC/WC could change current access to PAs, buffer zones and resources, potentially leading to economic displacement and/or changes to property rights (SES Principle 1, Standard 1 and Standard 5).

This risk stems from the continued competition for land between conservation and agricultural livelihoods, though the current status quo in Namibia leans towards reduction in buffer zones and encroachment on PAs, rather than exclusion. The potential exception is in Bwabwata National Park, where substantial encroachment exists but enforcement is more likely given its classification as State land, as opposed to communal land in other project landscapes. However, the likelihood of economic displacement (discounting illegal activities) and changes to property rights as a result of project activities remains low.

Required Action: The ESIA and ESMP will define processes through which the Project, with the support of MEFT and other stakeholders, will monitor and consult on any likely changes to land use and enforcement resulting from project activities, before they are implemented, incorporating suitable mitigation measures wherever possible.

Risk 8: Project outcomes will be vulnerable to potential impacts of climate change, including reduced annual rainfall (SES Standard 2).

Namibia has experienced several years of poor rainfall, with 2019 being the driest year on record for 90 years. Drought conditions in Namibia have led to short-term changes in the movement of wildlife, including elephants and predators, and to incidents of human-wildlife conflict. It has also caused livestock losses and crop failures by subsistence farmers in the project landscapes, and has resulted in increased grazing and farming activities in core wildlife and corridor areas. Therefore, increased drought and long-term predicted temperature rises, especially in the North East landscape, may have an effect on the sustainability of the Project's achievements.

Required Action: The ESIA will assess activities for impact and sustainability within Namibia's national context, including its arid climate. The ESMP will define necessary avoidance, mitigation or management activities. Furthermore, the project will draw on the expertise of MEFT and local partners to ensure that the Project's activities are sustainable, in the face of increasingly unpredictable climate.

In addition, it is important to note that current unidentifiable and emergent risks from the not-yet-defined pilot activities and changing economic, health and travel circumstances related to COVID-19 may develop during the course of the Project after the ESIA and ESMP are completed.

These could, for example, be due to pilot activities (for example Output 3.3) that will be defined during project implementation, and with COVID-19 global pandemic related economic, health and travel impacts.

Therefore, quarterly reports, annual project implementation reports (PIRs), and the mid-term review (MTR) will screen for additional risks that develop during project implementation. The Emergent Risk section of the PIR will reflect any risks that are subsequently identified. Additional risks will be added to monitoring, and mitigation measures designed by the Project Management Unit (PMU) and consultants as required, in discussion with the Project Steering Committee and UNDP Country Office.

3 Legislation and Institutional Frameworks for environmental and social matters

3.1 National Legislation, Policies and Regulations

3.1.1 The Constitution of the Republic of Namibia

Namibia has a progressive constitution and national laws, though limitations remain in terms of the extent of implementation.

Within the Constitution, under Chapter 3, on Fundamental Human Rights and Freedoms, there is a guarantee of equality and freedom from discrimination (Article 10), rights to culture, language, tradition (Article 19) and the right to education (Article 20).

Other relevant articles to indigenous peoples and communities, albeit under specific circumstances include: Article 15 – Children’s Rights; Article 17 - Political Activity; Article 23 - Apartheid and Affirmative Action. Additionally, Article 66 upholds the validity of customary and common law where they do not conflict with statutory law and the Constitution, hence customary law in Namibia is recognised under the Constitution as having the same status as statutory law, as long as it does not conflict with the Constitution or statutory laws.

Article 95, the Promotion of the Welfare of the People, promotes the wellbeing of people of the environment, as does Article 91 on the functions of the Ombudsman.

Article 100 of Namibia’s Constitution states that “Land, water and natural resources below the surface of the land...shall belong to the State if they are not otherwise lawfully owned”. Therefore, the Government largely views communal land as state land. However, Article 124 and Schedule 5 of Namibia’s Constitution (which deal with the transfer of State’s immovable property upon Independence), and Section 17 of the Communal Land Reform Act, support alternative legal opinions that communal land is indeed owned by the Namibia’s traditional communities.

Namibia follows a monist approach, meaning that ratified international law can be applied directly within Namibia without transformation (especially without the need for corresponding national legislation), and Article 144 provides that “Unless otherwise provided by this Constitution or Act of Parliament, the general rules of public international law and international agreements binding upon Namibia under this Constitution shall form part of the law of Namibia”. The Ministry of Justice considers international law to which Namibia is party to be binding, with further domestic legislation development only required for non-self-executing treaties.

3.1.2 National Planning Commission (NPC)

The Ministry of Economic Planning and National Planning Commission is responsible for national priorities and the direction of national development. The NPC formulates National Development Plans, periodic overarching national planning frameworks currently in phase 5 (NDP 5), which interlink with other national development policies and objectives, including the Harambee Prosperity Plan (adopted under the current President in 2016), and Vision 2030(adopted in 2004 under the previous President). These are guiding documents on targets and policies, and therefore do not make detailed recommendations, but have broader social, economic and environmental targets, with National Development Plans including a range of specific measures.

3.1.3 Ministry of Environment, Forestry and Tourism (MEFT)

As of March 2020, the Forestry Division on the Ministry of Agriculture, Water and Forestry (MAWF) has been merged into the Ministry of Environment and Tourism (MET) to become the Ministry of Environment, Forestry and Tourism (MEFT).

MEFT is responsible for safeguarding Namibia's environmental resources and its mission is "to promote biodiversity conservation in the Namibian environment through the sustainable utilisation of natural resources and tourism development for the maximum social and economic benefit of its citizens".

The Nature Conservation Amendment Act of 1996 (amended 2017) sets out rights in terms of local sustainable management and utilization of game within conservancies. The long-standing Namibian Community Conservancy programme has provided for considerable devolution of rights and management of land and natural resources to local communities. The Project landscapes in the North West (including the border of Etosha National Park), and North East, include a number of conservancies. By region, there are 38 registered Conservancies in Kunene, three in Omusati, one in each of Oshana, Omusati, Ohangwena, Oshikoto and Kavango West, five in Kavango East and 15 in Zambezi (66 in total). Conservancies develop management and utilisation plans in regard to wildlife and a range of natural resources within their gazetted area.

As the government ministry responsible for the management of national parks, MET is a key institution in cases where indigenous peoples and local communities border on or live inside protected areas, which includes the Etosha and Bwabwata National Parks in the case of this project.

MET implements a range of policies, including:

- Namibia's Second National Biodiversity Strategy and Action Plan 2013-2022 (NBSAP)

This plan provides details national strategies and programmes for the conservation and sustainable use of biological diversity under the Convention on Biological Diversity (CBD)

- Revised National Policy on Human Wildlife Conflict Management (2018)

The policy covers both the protection of wildlife and the prevention of, or compensation for, human deaths, injuries, livestock losses and crop damages by wildlife, and includes an implementation action plan (annex 4).

- National Policy on Protected Areas' Neighbours and Residents (2013)

The policy aims improve conservation management and benefits from conservation through the participation of park residents and neighbours.

- National Policy on Community Based Natural Resource Management (2013)

The policy applies to communal land outside of protected areas, and promotes the sustainable use of natural resources as well as the promotion of integrated natural resource planning and management.

- Policy on Tourism and Wildlife Concessions on State Land (2007)

The policy deals with the granting of concessions, including benefits to communities, avoiding negative environmental impacts or management conflicts, and transparent processes in awarding and operations of concessions.

In addition to these policies, a Protected Areas and Wildlife Management Bill is being finalised.

Provisions for Environmental Impact Assessments (EIAs) fall under the Environmental Management Act 7 of 2007, which requires an Environmental Clearance Certificate to be issued by the Environmental Commissioner within MET for activities which will have an environmental impact, and prescribes a public consultation process. This is unlikely to be a direct requirement of any Project activity, though it should be noted that some tourism developments are likely to require EIAs, and,

borehole-drilling may require clearance certificates.⁸ An ESIA will be carried out for project activities that have a physical footprint.

The Forest Act 12 of 2001 (previous to March 2020 under the then Ministry of Agriculture, Water and Forestry) confers rights upon communities to manage declared community forests and a range of resources, including timber and grazing. The establishment of community forests, within conservancies or in other communal areas, can strengthen land rights by providing increased management of resource use and associated penalties, as well as supporting traditional livelihoods. Community Forests are likely only of relevance in the North East.

Community Forests have been successfully established in many communal areas, though the sustainability of timber harvesting and quality of monitoring of permits has been problematic. Currently, due to excessive hardwood exports from Namibia and lack of harvesting controls, there is a temporary ban on all commercial timber harvesting in Namibia.

As of March 2020, the Ministry has been merged with the Ministry of Land Reform to become the Ministry of Agriculture, Water and Land Reform, with Forestry moving to MET.

3.1.4 Ministry of Agriculture, Water and Land Reform (MAWLR)

As of March 2020, the Ministry of Land Reform has been merged with the Ministry of Agriculture, Water and Forestry (MAWF) to become the Ministry of Agriculture, Water and Land Reform, with Forestry now under MEFT.

The Communal Land Reform Act (2002) provides for the allocation of customary land rights to communities for farming and residential units (and “any other form of customary tenure that may be recognised and described by the Minister”), also including limited leaseholds,⁹ with decision-making powers vested in communal land boards on which the community should be represented, and with the agreement of the Traditional Authority in the area. The Act provides that “all communal land areas vest in the state in trust for the benefit of the traditional communities residing in those areas”, though whether this confers tenure rights to communities is not well tested.

In 2018 the Second National Land Conference, a follow up to the 1991 National Land Conference, was held, which reaffirmed support to local communities regarding devolved land rights and land management, and support for resettlement, principally on commercial farmland. In addition, a significant shift in government consideration of the subject ancestral claims emerged with the formation of a Commission into Claims on Ancestral Land Rights and Restitution, with findings and recommendations to be released in 2020. A number of topics discussed in the Second National Land Conference are relevant to the Project¹⁰. These include the following “topical issues”, each of which has a number of resolutions (numbered as per the conference proceedings):

- 11) Land allocation & administration by traditional authorities & communal land boards;
- 14) Illegal fencing in communal areas;
- 15) Access to communal land;

⁸ Under the Environmental Management Act (Act No. 7 of 2007), water abstraction is a listed activity and may not be undertaken without an Environmental Clearance Certificate (ECC). Although the regulations are not yet gazetted, Section 44 of the Water Resources Management Act (Act No. 11 of 2013), stipulates that a water abstraction license is required for water abstraction further to ECC requirements.

⁹ The Communal Land Reform Act recognises Conservancy management and utilisation plans, in that land allocations should not be allowed that “would defeat the objects of such management and utilisation plan”, though in practice adherence is variable.

¹⁰ Office of the President (2018). *Resolutions Of The Second National Land Conference, 1st-5th October 2018*
<http://www.mlr.gov.na/documents/20541/638917/Second+National+Land+Conference+Resolutions+2018.pdf/15b498fd-fdc6-4898-aeda-91fecbc74319>

18) Wildlife conservation and utilisation rights;

20) Residential land within national parks;

38) Ancestral land rights and claims.

The relevance of these subjects to the Project's activities is difficult to measure as analyses of and implementation plans for the resolutions have not yet been published.

3.1.5 Ministry of Regional and Local Government, Housing and Rural Development (MRLGHRD)

The Traditional Authorities Act (2000) and operations of recognised Traditional Authorities fall under MRLGHRD's remit. Traditional leadership structures can apply for recognition by the Government, after which a designated chief, secretary and councillors act as representatives of the given community to Government, and can ensure the observance of customary law in their communities where it does not conflict with national law. Traditional Authorities receive limited salaries from the state for their positions, including provision of an office and vehicle. Through the Communal Land Reform Act, Traditional Authorities play an important role in allotting and applying for leaseholds in communal land under their jurisdiction.

Examples of potential limitations to the Traditional Authority system of community representation may include variable levels of consultation and participation within communities by their Traditional Authority, and limited inclusion of minority groups who lack a Traditional Authority of their own, and who are outnumbered by representatives of other groupings that do have Traditional Authorities. The latter should be noted in regard to the small San communities in the North West project area, and also on the western and northern borders of Etosha National Park. The Khwe of Kavango East, including within Bwabwata National Park, officially fall under the neighbouring Mbukushu Traditional Authority, though this gives rise to disputes. The small groups of Khwe to the east of Bwabwata National Park appear to have better relations with traditional authorities.

3.2 Indigenous Peoples in Namibia

The UNDP SES Principle 3: Standard 6, respecting the UN Declaration on the Rights of Indigenous Peoples, describes the following criteria for identifying indigenous peoples:

"... distinct collectives, regardless of the local, national and regional terms applied to them, who satisfy any of the more commonly accepted definitions of indigenous peoples. These definitions include, among other factors, consideration of whether the collective: has pursued its own concept and way of human development in a given socio-economic, political and historical context; has tried to maintain its distinct group identity, languages, traditional beliefs, customs, laws and institutions, worldviews and ways of life; has exercised control and management of the lands, natural resources, and territories that it has historically used and occupied, with which it has a special connection, and upon which its physical and cultural survival as indigenous peoples typically depends; self-identifies as indigenous peoples; and whether its existence pre-dates those that colonized the lands within which it was originally found or of which it was then dispossessed. When considering the factors above, no single one shall be dispositive."¹¹

The Government of the Republic Namibia (GRN) does not recognise the term "indigenous peoples" as commonly defined in international law. In common with a number of African states, GRN considers all "formerly disadvantaged" Namibians, i.e. those of non-European descent, to be

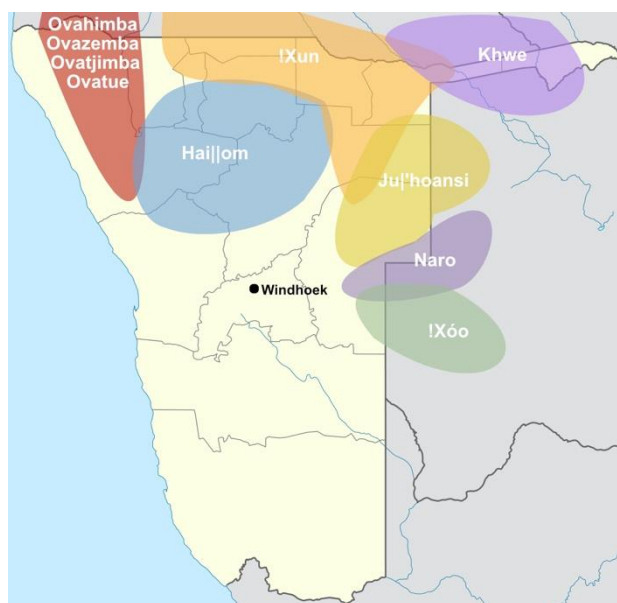
¹¹ UNDP Social and Environmental Standards (SES), p.37

indigenous and uses the term “marginalised communities” for groups that may be considered indigenous in international law.

However, the term “marginalised communities” is in practice used to identify those Namibian groups with significant economic and social inequalities (currently the San, Ovatie and Ovatjimba) and hence in need of focused government support, and hence is not analogous with the international context “indigenous peoples”. While “marginalised communities” is preferentially used by Government, the two terms are applied somewhat interchangeably in official documents, and the current President, H.E.Hage Geingob, has alluded to “marginalised” being a ‘disagreeable label’.

Using GEF and UN guidelines¹², or the GRN-preferred context provided by the African Commission on Human and Peoples’ Rights (ACHPR)¹³, Namibia’s indigenous people include Namibia’s seven key San groups who were formerly hunter-gatherers; the (Hai||om, Khwe, !Kung, Ju’|hoansi, ǀAu||eisi, Naro and !Xóo), of which the Hai||om, Khwe and !Kung (also written as !Xun) are present in Project implementation landscapes.

Pastoralist groups, who may meet criteria of identification as ‘indigenous peoples’ in the international context, include the Ovatie (also known as Ovatwa), and may include the Ovatjimba, Ovahimba and Ovazemba. Some of these pastoralist groups may be present in small numbers in the Project implementation areas in the North West.



Map illustrating approximate locations of marginalized communities/indigenous peoples

A Division of Marginalised Communities has been established in the Office of the Vice President, and provides support in terms of food and livelihoods projects to Namibia’s marginalised communities. It is also spearheading the draft “White Paper on the Rights of Indigenous Peoples in Namibia”, which has been reviewed by the Attorney General’s Office and is awaiting presentation to Cabinet for approval. An overview of existing legal frameworks, policies, and programmes, including both national and international law, the draft White Paper illustrates the core problems faced by the indigenous peoples, international recommendations, and national recommendations to address these problems.

The process for developing the White Paper on the Rights of Indigenous Peoples in Namibia was initiated by Namibia’s National Human Rights Institution, the Office of the Ombudsman, after a Universal Periodic Review (UPR) recommendation to Namibia. The Ombudsman has also published a “Guide to Indigenous Peoples’ Rights in Namibia” (2012).

¹² For example, Study of the problem of discrimination against indigenous populations, volume 1, Cobo, J.M. E/CN.4/Sub.2/476 (1981); ILO Convention 169, art. 1.

¹³ African Commission on Human and Peoples' Rights (ACHPR) and International Work Group for Indigenous Affairs (IWGIA) (2005), Report of the African's Commission's Working Group of Experts on Indigenous Populations/Communities: 89

3.3 International Agreements and Treaties

Namibia is party to several treaties, conventions and other multilateral agreements relevant to conservation, environmental sustainability, indigenous peoples and local communities. As mentioned above, Namibia has a monist approach to international law.

The international agreements most relevant to this Project are:

- Convention on Biological Diversity (CBD) including the Nagoya Protocol
- Convention on the International Trade in Endangered Species of Wild Flora and Fauna (CITES)
- UN Framework Convention on Climate Change (UNFCCC)
- UN Convention to Combat Desertification (UNCCD)
- Convention for the Protection of World Cultural and Natural Heritage
- International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)
- International Covenant on Economic, Social and Cultural Rights (ICESCR)
- International Covenant on Civil and Political Rights (ICCPR)
- Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW)
- United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)

Additionally, Namibia takes part in various international standards, reviews and processes including:

- United Nations Sustainable Development Goals (SDGs)
- African Charter on Human and Peoples' Rights (ACHPR)
- Universal Periodic Review (UPR)

3.4 UNDP's Social and Environmental Standards

This ESMF has been prepared in line with UNDP's Social and Environmental Standards (SES) Policy, which came into effect 1 January 2015. These standards underpin UNDP's commitment to mainstream social and environmental sustainability in its programs and projects to support sustainable development and are an integral component of UNDP's quality assurance and risk management approach to programming. Through the SES, UNDP meets the requirements of the GEF's Environmental and Social Safeguards Policy.

The objectives of the UNDP SES are to:

- Strengthen the social and environmental outcomes of Programs and Projects
- Avoid adverse impacts to people and the environment
- Minimize, mitigate, and manage adverse impacts where avoidance is not possible
- Strengthen UNDP and partner capacities for managing social and environmental risks
- Ensure full and effective stakeholder engagement, including through a mechanism to respond to complaints from project-affected people

In accordance with UNDP SES policy, the Social and Environmental Screening Procedure (SESP) has been applied to the Project during the project development phase (both at PIF and PPG stages). In accordance with UNDP SES policy, a SES principle or standard is 'triggered' when a potential risk is

identified and assessed as having either a 'moderate' or 'high' risk-rating based on its probability of occurrence and extent of impact. Risks that are assessed as 'low' if they do not trigger the related principle or standard.

The screenings conducted during project development indicate that seven of the nine social and environmental principles and standards have been triggered across the Project due to 'high' and 'moderate' risks:

- Principle 1: Human Rights – to ensure the participation, benefit and mitigation of potential negative consequences of all communities targeted within the project activities.
- Principle 2: Gender Equality and Women's Empowerment – to ensure the full participation of women in the project and counter any discrimination or patriarchal systems in target communities.
- Standard 1: Biodiversity Conservation and Sustainable Natural Resource Management – as the focal area of the project.
- Standard 2: Climate Change Mitigation and Adaptation – due to the arid environment and climate associated risks.
- Standard 3: Community Health, Safety and Working Conditions – due to risks association with HWC and WC.
- Standard 5: Displacement and Resettlement – due the limited risk of changes to land management and access due to project activities and the inclusion of national parks, where land rights are limited.
- Standard 6: Indigenous Peoples – due to the presence of indigenous peoples within target landscapes.

4 Procedures for Screening, Assessing and Managing Social and Environmental Impacts

4.1 Procedures for Assessments and Management Plans

This ESMF has been developed as part of UNDP's due diligence process in the project cycle, following the screening of the UNDP-supported *Integrated approach to proactive management of human-wildlife conflict and wildlife crime in hotspot landscapes in Namibia* Project with the SESP template. Based on the project risk categorization and the specific risks, the following procedures for screening, assessing and managing those risks must be undertaken during implementation, as follows.

- a) **Environmental and Social Impact Assessment (ESIA):** In accordance with UNDP's SES policy, High Risk projects require an ESIA to be carried out by independent experts in a participatory manner with stakeholders during the inception phase. The ESIA will further identify and assess social and environmental impacts of the project and design appropriate avoidance, mitigation, management, and monitoring measures. It will address all relevant issues related to the SES Overarching Principles and Project-level Standards, providing input into the ESMP. The ESIA will also assess the ongoing situation and impacts of the Coronavirus (COVID-19) pandemic (see below).
- b) **Environmental and Social Management Plan (ESMP):** The output of the ESIA will provide a set of avoidance, mitigation, monitoring and institutional measures with an implementation plan to achieve the desired social and environmental sustainability outcomes. **High risk project activities cannot take place until the relevant mitigation measures defined in the ESMP are approved and put in place.** Additionally, together with information assessed within the ESIA, the ESMP will provide recommendations for Project activities that require activity-specific risk assessment, including reducing or mitigating risks associated with anti-poaching activities. The measures will be adopted and integrated into the project activities, monitoring and reporting framework and budget, and captured in a revised SESP. The ESMP will take into account the Stakeholder Engagement Plan, Gender Action Plan and be linked with the Indigenous Peoples Plan, including FPIC as required. Additionally, the ESMP will make operational recommendations regarding the Coronavirus (COVID-19) pandemic, including alignment of the Project with government guidelines and policies, and review cycles within the Project regarding those recommendations.
- c) **Indigenous Peoples Plan (IPP):** The IPP will form a sub-component of the ESMP and overall actions, may require input from a different specialist to the ESMP, though may also be a stand-alone document linked to the ESMP if exceptional circumstances demand it. The IPP will include an assessment of the current status of indigenous peoples with project landscapes, a summary of potential adverse social and environmental risks and impacts to those communities with mitigation measures, including the requirements for FPIC consultations, recommendations for additional capacity or expertise within the project framework, monitoring and reporting plan, implementation schedule, cost estimates and funding sources. The IPP will be formulated with the participation of indigenous peoples with documented consultations, and will be guided by the IPPF which has been developed during the project development phase.

Further information on stand-alone management plans can be found on the UNDP website at: https://info.undp.org/sites/bpps/SES_Toolkit/SitePages/Guidance%20and%20Templates.aspx, and the annexes of this framework include sample terms of references for the Project-level Grievance Redress Mechanism (Annex II) and Social and Environmental Safeguards Officer (Annex VI), as well as an outlines of the ESIA (Annex III), ESMP (Annex IV) and Indigenous People's Plan (Annex V).

The above assessments and management plans must be prepared and mitigation measures in place, per those plans, prior to the initiation of any project activity that may cause any impacts, in particular any actions that may lead to or cause physical or economic displacement, and impacts on indigenous peoples.

4.2 Procedures for Screening

During implementation, this Project will be re-screened using the UNDP SESP at regular intervals during project implementation, when determined necessary by the Project Manager, the Project's Social and Environment Safeguards Officer, the Project Steering Committee, or UNDP; as outlined in the resulting management plan(s); and/or when project circumstances change in a substantive or relevant way. Ideally, the SESP (and associated project's Risk Log) should be reviewed ahead of each PIR, and at least ahead of the Midterm Review and Terminal Evaluations. Re-screening may also be required the course of carrying out required risk assessments or development of stand-alone management plans.

4.3 Procedures for Unidentified/Emerging Risks

Due to pilot activities (for example Output 3.3) that will be defined during project implementation, and with COVID-19 global pandemic related economic, health and travel impacts, Project risks may emerge during implementation after the ESIA and ESMP are completed.

The Emergent Risk section of annual project implementation reports (PIRs) will highlights these risks and mitigation and monitoring measures, but quarterly reports and the mid-term review (MTR) will also screen for risks that develop during project. Any additional risks identified will be added to monitoring, and mitigation measures designed by the Project Management Unit (PMU) and consultants as required, in discussion with the Project Steering Committee and UNDP Country Office.

4.4 Coronavirus (COVID-19) Pandemic Response Integration

The rapidly developing Coronavirus (COVID-19) global pandemic will affect Project, operations and activities during 2020 and 2021.

As mentioned elsewhere, the pandemic will continue to have significant effects on Namibia's economy, including direct and indirect income from tourism and trophy hunting, as well as freedom of movement and levels and types rural service provision. It will also continue to divert capacity and other resources from government, civil society and rural communities to the prevention and effects of the pandemic.

Furthermore, the pandemic will have health, economic and social impacts the lives of staff, communities and government partners, and is likely to change the donor landscape in the short- to medium-term.

While Namibia may benefit from the geographic isolation of many rural communities, with a comparatively low national population and low population density, the country's limited health services capacity presents a potentially high risk should the infection rate rise in the country. At the same time, the financial implications of the pandemic will increase the importance of employment opportunities and income for rural communities, as within Project Outcome 3.

While the pandemic remains a risk, the Project must ensure preparedness, including assessing transmission risks during the course of work and potential direct impacts from the pandemic, and develop management plans for COVID-19.

Measures may include reducing exposure and transmission by reducing travel, adhering to safety protocols, increasing remote working practices, and limiting direct Project interventions in communities while risks remain high.

Additionally, the Project should:

- Align and coordinate with government and civil society actions related to the COVID-19 pandemic where appropriate;
- Assist in communicating official information regarding the pandemic to communities and partners;
- Ensure staff are prepared and trained to carry out their work safely in the Project office(s), with partners and communities, including provision of equipment where it can reduce risks, increasing opportunities for remote work where required and ensuring national quarantine and isolation recommendations are adhered to;
- Ensure all community engagement should follow minimum protocols to curtail risk of infection within and between communities;
- Regularly monitor the implementation and effectiveness of measures undertaken by the Project.

Due to the fluid situation around the pandemic, risks and recommendations will be assessed under the ESIA and detailed in the ESMP, and reviewed by the Project Steering Committee on a bi-monthly basis during the pandemic.

5 Institutional arrangements and capacity building

5.1 Roles and responsibilities ESMF and subsequent management plan implementation

The roles and responsibilities of project staff, project partners and associated groups in implementation of this ESMF are described below.

The Implementing Partner for this Project is the Ministry of Environment, Forestry and Tourism (MEFT). The role of the Implementing Partner in the implementation of the SES management plans is to:

- Ensure that the required assessments (targeted assessments, as above) and assessment report and the required management plan(s) (stand-alone management plan, as above) are developed, disclosed for public consultation and approved, and management measures are adopted and integrated during project implementation;
- Report, fairly and accurately, on project progress against agreed work plans in accordance with the reporting schedule and required formats;
- Maintain documentation and evidence that describes the proper and prudent use of project resources in conformity to the signed Project Document and in accordance with applicable regulations and procedures (e.g. SES);
- Ensure all requirements of UNDP's SES and national regulatory/policy frameworks and relevant international standards have been addressed (e.g. mitigation of voluntary resettlement impacts);
- Hold responsibility and accountability to UNDP for overall management of the project, including compliance with UNDP SES.

Project Board:

- Monitor implementation of this ESMF and compliance with national and international regulations, and UNDP social and environmental standards;
- Decision-making for the adoption of necessary measures including full integration of management measures within project Outputs and annual work plans.

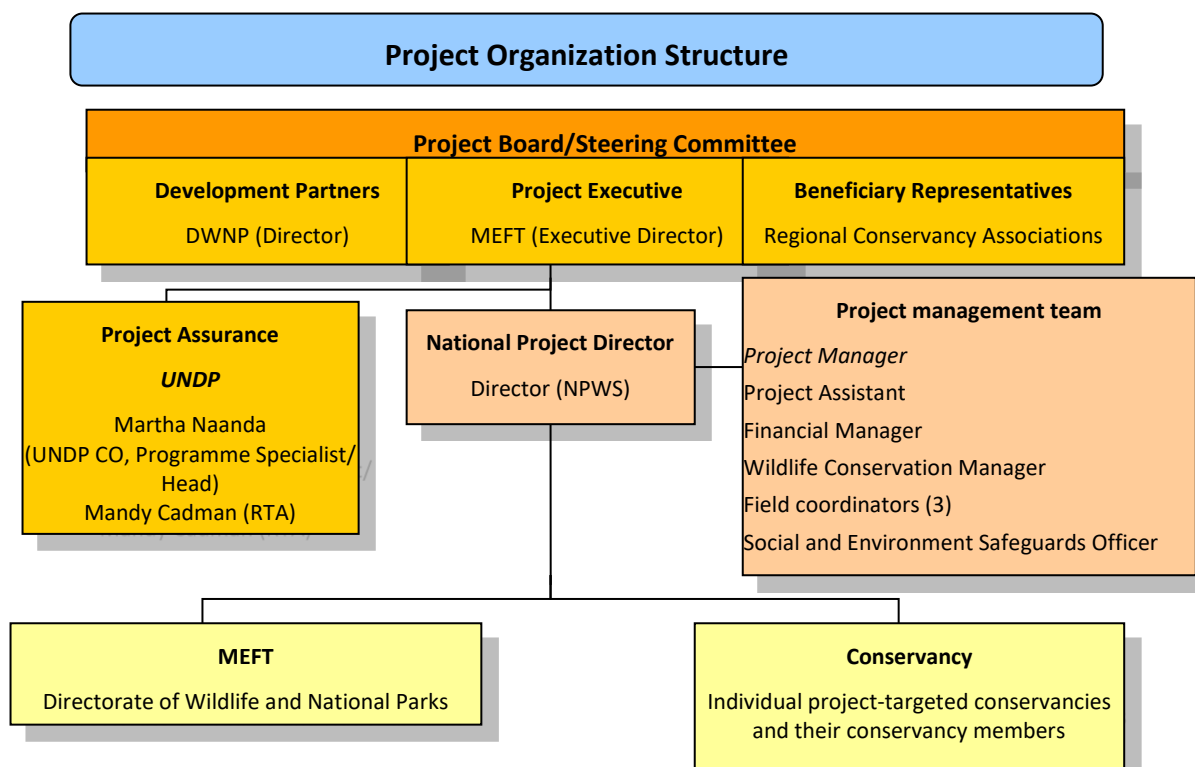
- Establish and support the GRM mechanism to address any grievances.
- Provide strategic guidance to implementation of the Project including oversight for safeguards and the implementation of this ESMF.

UNDP:

- Provide oversight on all matters related to safeguards.
- Inform all the stakeholders and right-holders involved in, or potentially impacted, positively or negatively, by the GEF-financed projects, about the UNDP's corporate Accountability Mechanism (described below);
- Ensure that the Compliance Review and the Stakeholder Response Mechanisms are operational during the lifetime of the projects;
- Ensure adhere to the SES for project activities implemented using funds channelled through UNDP's accounts, and undertake appropriate measures to address any shortcomings;
- Verify and document that all UNDP SES requirements have been addressed;
- Provide technical guidance on implementation of this ESMF and administrative assistance in recruiting and contracting expert safeguards services (as required), and monitor adherence of each project to the ESMF and UNDP policies and procedures.

Project Management Unit:

- Supervise and manage implementation of measures defined in this ESMF;
- Assign specific responsibilities for implementation of this ESMF, including monitoring, and community consultations on the draft management plan(s) to the Social and Environment Safeguards Officer (SESO) of the PMU;
- Maintain relevant records associated with management of environmental and social risks, including updated SESP, impact assessments, evidence of consultations and FPIC, a log of grievances together with documentation of management measures implemented;
- Report to the Implementing Partner, the Project Board on the implementation of the ESMF;
- Ensure that all service providers are informed of their responsibilities for the day to day compliance with the ESMF.



As noted above, the subsequent management plan(s) will describe the roles and responsibilities in the implementation of the plan(s). Those new roles and responsibilities will be assessed and integrated, as appropriate, as part of the participatory decision-making and implementation arrangements of the project.

5.2 Capacity Building

Individual independent consultants with relevant expertise in social and environmental safeguards will be engaged to support the completion of the ESIA and the ESMP. These experts will provide an induction session for the Project Management Unit and all relevant project partners, as needed, on safeguards responsibilities and approaches.

The UNDP's Vertical Fund Unit will provide advice to project teams as needed to support the implementation of this ESMF and the preparation, implementation and monitoring of social and environmental management plans/measures that it specifies.

The Project Board will have final responsibility for the integration of the management plans into the execution of the project. The integration of those plans will need to be considered, particularly the institutional needs within the implementation framework for application of the management plan(s), including a review of the required budget allocations for each measure, as well as the authority and capability of institutions at different administrative levels (e.g. local, regional, and national), and their capacity to manage and monitor management plan implementation. Where necessary, capacity building and technical assistance activities will be included to enable proper implementation of the management plan(s).

6 Stakeholder engagement and information disclosure

Discussions with project stakeholders, including local communities at project sites, commenced during the project development phase. The Project Document has an annexed Stakeholder Engagement Plan (ProDoc Annex 7, which will be followed to ensure that stakeholders are appropriately engaged during project implementation, and particularly in the further assessment of social and environmental impacts and the development of appropriate management measures. The Stakeholder Engagement Plan will be updated during project implementation based on the assessments and management plans conducted in line with this ESMF, as needed.

Potentially-affected stakeholders will be engaged during the implementation of this ESMF, and following FPIC requirements.

As part of the stakeholder engagement process, UNDP's SES require that project stakeholders have access to relevant information. Specifically, the SES (SES, Policy Delivery Process, para. 21) stipulates that, among other disclosures specified by UNDP's policies and procedures, UNDP will ensure that the following information be made available:

- Stakeholder engagement plans and summary reports of stakeholder consultations
- Social and environmental screening reports with project documentation
- Draft and final ESIA and ESMP, including the IPP and any other stand-alone plans
- Any required social and environmental monitoring reports.

The ESIA and ESMP including IPP should be completed in the first 6 months of project implementation.

This ESMF (and project SESP) will be disclosed via the UNDP Namibia website in accordance with UNDP SES policy. The subsequent management plan(s) will also be publicly disclosed via the UNDP Namibia website once drafted, and finalized and adopted only after the required time period for disclosure has elapsed.

These requirements for stakeholder engagement and disclosure will be adhered to during the implementation of this ESMF, and the subsequent implementation of the resulting management plans.

7 Accountability and Grievance Redress Mechanisms

7.1 UNDP's Accountability Mechanisms

UNDP's SES recognize that even with strong planning and stakeholder engagement, unanticipated issues can still arise. Therefore, the SES are underpinned by an Accountability Mechanism with two key components:

1. A Social and Environmental Compliance Review Unit (SECU) to respond to claims that UNDP is not in compliance with applicable environmental and social policies; and
2. A Stakeholder Response Mechanism (SRM) that ensures individuals, peoples, and communities affected by projects have access to appropriate grievance resolution procedures for hearing and addressing project-related complaints and disputes.

UNDP's Accountability Mechanism is available to all of UNDP's project stakeholders.

The Social and Environmental Compliance Unit (SECU) investigates concerns about non-compliance with UNDP's Social and Environmental Standards and Screening Procedure raised by project-affected stakeholders and recommends measures to address findings of non-compliance.

The Stakeholder Response Mechanism helps project-affected stakeholders, UNDP's partners (governments, NGOs, businesses) and others jointly address grievances or disputes related to the social and/or environmental impacts of UNDP-supported projects.

Further information, including how to submit a request to SECU or SRM, is found on the UNDP website at: <http://www.undp.org/content/undp/en/home/operations/accountability/secu-srm/>.

7.2 Project-level Grievance Redress Mechanisms

As described in the Project Document, the Project will establish a project-level Grievance Redress Mechanism (GRM) during the first year of implementation. The GRM is a way to provide an effective avenue for expressing concerns and achieving remedies for complaints by communities, to promote a mutually constructive relationship and to enhance the achievement of project development objectives. A community grievance is an issue, concern, problem, or claim (perceived or actual) associated with the Project that an individual, or group, or representative wants to address and resolve.

The following principles should govern the grievance redress system to be implemented by the project:

- **Legitimate, accountable, without reprisal.**
- **Accessible**
- **Predictable and timebound**
- **Equitable**
- **Transparent**

- **Rights compatible**
- **Used to improve policies, procedures, and practices to improve performance and prevent future harm.**
- **Based on engagement and dialogue**

The full details of these GRMs will be agreed upon during the Inception Phase, a process that will be overseen by the Project Manager with the Project Safeguards Officer (SESO).

The grievance redress mechanism helps all stakeholders involved in the project – be it the affected groups and or UNDP's partners in particular governments and others to jointly address grievances or disputes related to the social and/or environmental impacts of UNDP supported projects. While grievance redress mechanism is important for all project stakeholders, it is particularly key for the indigenous people, who are often marginalised. The proposed project will be implemented in areas which are home to indigenous/marginalized people hence it is critical that there is a transparent grievance redress mechanism for any eventualities. Aggrieved stakeholders can approach the Project Management Unit and the Implementing Partner, the Ministry of Environment and Tourism to register their grievances. In cases when the agencies are not able to address the grievances, or in cases when the grievances have not been addressed successfully, the aggrieved stakeholders have recourse on other national grievance mechanisms.

At a local level, due to barriers of language, access to communications, potential issues of discrimination, and perceived issues of safety where protection of the identity of complainants may be required, it is essential to provide a local point of contact for community grievances. This may be a local NGO, trusted community members in various locations, trusted person of authority, community association, or other point of contact agreed through consultations with community members, and particularly with indigenous peoples where included in project activities. It is critical that this point of contact understands the need for community complaints to be anonymous where issues of individual or group safety are perceived, and that the point of contact has direct access to the PMU staff. In the case of a complaint where anonymity is requested, the PMU and any resulting grievance process must respect this condition.

Those able to access and communicate with national grievance mechanisms have established options in Namibia. These include the Office Ombudsman, which promotes and protects human rights of all Namibians. The office can be reached at:

Office of the Ombudsman

Corner of Feld and Lossen Streets

Private Bag 13211, Windhoek

Tel 061-2073111 (All sections)

Fax 061-220550 (Ombudsman)

Email: office@ombudsman.org.na

Fax 061-226838 (Director and Investigations)

Other grievance mechanisms that stakeholders can access – for example in relation to land rights and/or land related disputes, stakeholders can approach the regional Communal Land Boards in their respective regions. In all the regions, the Communal Land Boards are housed in the regional offices of the Ministry of Land Reform. Similarly, in each region there are Community Courts, which stakeholders can approach for recourse of their grievances. For the needs of the indigenous and marginalised communities in particular, the stakeholders can approach the Office of the Vice President of the Namibia under the Office of Veterans Affairs, Disability Affairs and Marginalized Communities. The contact details are:

Division Marginalised Communities

Deputy Minister: Marginalised Communities Hon. Royal /Ui/o/oo

Office of the Vice President

Kenya House
Private Bag 13407
Tel: +264 61 296 3110

Fax: +264 61 305 935

The Office of the Regional Councils in the respective regions are other grievance mechanisms that stakeholders can approach. It should be noted that these established options do not replace the need for accessible local and project grievance mechanisms within the Project.

All the identified institutions will consult with the Project Management Unit and other staff and officials of the Implementing Partner, the Ministry of Environment, Forestry and Tourism to find solution to the grievances raised. Interested stakeholders may raise a grievance at any time with the Project Management Unit, the Executing Agency (UNDP), Implementing Partner (MEFT), or the GEF.

In the case of serious allegations of fraud, misconduct or safety issues, complainants may choose to access the UNDP Office of Audit and Investigation (OAI) via email (reportmisconduct@undp.org) or reverse charge telephone call (+1-844-595-5206).

8 Budget for ESMF Implementation

Implementation of ESMF is included in the support budget for the Project with an estimated cost shown below. Costs associated with the coordination of ESMF implementation by the PMU or UNDP are not fully costed. Further detail is found in the budget of the Project Document.

Breakdown of costs for ESIA and ESMP Preparation (Year 1 only)

Item	Number	Cost USD	Total USD	Budget code
International and national consultants	1	24000	24000	71205/ 71305
Travel expense for consultations: vehicle costs	2	5000	10000	71635
Travel expense for consultations	25	120	3000	71620
Print production expenses	1	900	900	74210
Total:			37900	

Indicative costs for ESMP Implementation (all years)

Item	Number	Cost USD	Total USD	Budget code
Social and Environment Safeguards Officer/M&E officer: 72 days per year	6	17280	103680	71405
Project travel: vehicle costs (14 trips to project sites over project duration)	18	2200	39600	71635
Project travel: S&T, accommodation	18	900	16200	71620
Participation in one regional conference	1	1400	1400	71635

Grand Total			160880	
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9 Monitoring and evaluation arrangements

Reporting on progress and issues in the ESMF implementation will be documented in the project quarterly reports and annual project implementation reports (PIRs). The management plan(s) will specify their own monitoring and evaluation parameters. The PMU Social and Environment Safeguards Officer (SESO) and Project Manager will be responsible for implementation and compiling reports on the ESMF and ESMP implementation, until the subsequent management plan(s) is in place. Key issues will be presented to the respective Project Board during each meeting, as required.

The ESMF monitoring and evaluation plan is outlined below.

9.1 ESMF Monitoring & Evaluation Plan and Estimated Budget

Monitoring Activity & Relevant Projects	Description	Frequency / Timeframe	Expected Action	Roles and Responsibilities	Cost
Track progress of ESMF implementation	Monitoring and reporting of ESMF implementation, with key results and issues presented to the Project Board on a regular basis	Quarterly, first year only	ESMF requirements are completed for this Project	Project Manager and Social and Environment Safeguards Officer (SESO)	None
Development of targeted assessments and report, and management plan(s) (IPP, other stand-alone management plan, and/or ESMP)	Carried out in a participatory manner, targeted analysis of potential impacts, as well as identification and validation of management measures, drafted in participatory manner.	In the 6 months following the Inception workshop	Potential impacts are assessed with support of external consultants and participation of project team and stakeholders; targeted assessment report completed; an Indigenous Peoples Plan and, as determined by the targeted assessments, other management plans will be developed; management actions will be identified and incorporated into project implementation strategies.	International and national consultants (environmental and social) Project Manager and SESO with guidance from UNDP	USD 13,000
Implementation of management measures and monitoring of potential impacts identified in targeted assessments, in line with the subsequent management plans.	Permanent and participatory implementation and monitoring of management measures, in accordance with findings of targeted assessments.	Annual, pre-PIR and then pre-MTR and pre-TE	Implementation of stand-alone management plans; participatory monitoring; integration of management plans into project implementation strategies	Project Manager, Social and Environment Safeguards, oversight by UNDP CO, PB	TBD, based on the result of assessment
Learning	Knowledge, good practices and lessons learned regarding social and environmental risk management will be captured regularly, as well as actively sourced from other projects and partners and integrated back	Annual	Relevant lessons are captured by the project teams and used to inform management decisions, and compared against the SESP and ESMP.	Project Manager and SESO	None

Monitoring Activity & Relevant Projects	Description	Frequency / Timeframe	Expected Action	Roles and Responsibilities	Cost
	into the project, including updating management plans and training the PMU.				
Annual project quality assurance	The quality of the project will be assessed against UNDP's quality standards to identify project strengths and weaknesses and to inform management decision making to improve the project	Annual	Areas of strength and weakness will be reviewed and used to inform decisions to improve project performance, including adjustments to management plans and activities.	UNDP CO, UNDP-GEF RTA, Project Manager and Project SESO	None
Review and make course corrections	Internal review of data and evidence from all monitoring actions to inform decision making	Annual	Performance data, risks, lessons and quality will be discussed by the project steering committee and used to make course corrections	Project and/or Program Steering Committees (considering stakeholders' opinions)	None
Annual project implementation reports	As part of progress report to be presented to the Project Steering Committee and key stakeholders, analysis, updating and recommendations for risk management will be included	Annual	Updates on progress of ESMF and/or ESMP will be reported in the project's annual PIRs. A summary of the avoidance and mitigation of potential social and environmental impacts will be included in the program annual report, sharing best practices and lessons learned across the program.	UNDP CO, UNDP-GEF RTA and Project Manager	None
Project review	The Project Steering Committee will consider updated analysis of risks and recommended risk mitigation measures at all meetings	Annual	Any risks and/ or impacts that are not adequately addressed by national mechanisms or project team will be discussed in project steering committee. Recommendations will be made, discussed and agreed upon.	Program Steering Committees , UNDP-GEF RTA, Project Manager, SESO	None

Annex I: Indigenous Peoples Planning Framework



Empowered lives.
Resilient nations.

Indigenous Peoples Planning Framework

Integrated approach to proactive management of human-wildlife conflict and wildlife crime in hotspot landscapes in Namibia

Comments on this Indigenous Peoples Planning Framework should be sent by email to:

maano.shimanda@undp.org

Comments should be submitted before 30 November 2020.

GEF Project ID:	10200		
Country/Region:	Namibia		
Project Title:	Integrated approach to proactive management of human-wildlife conflict and wildlife crime in hotspot landscapes in Namibia		
GEF Agency:	UNDP	GEF-UNDP PIMS ID:	6303
Type of Trust Fund:	GEF Trust Fund	GEF 7 Focal Area (s):	Biodiversity
GEF-7 GWP Component (s):	1. Preventing the Extinction of Known Threatened Species 2. Wildlife for Sustainable Development		
Anticipated Financing PPG:		Project Grant:	USD 6,247,018
Co-financing:		Total Project Cost:	
PIF Approval:		Council Approval/Expected:	
CEO Endorsement/Approval	Pending	Expected Project Start Date:	

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Executive Summary

Namibia's relatively small population of 2.3 million people is remarkably diverse, with at least 26 languages spoken over the country. Within its population are a number of groups who are considered indigenous peoples under the UNDP's Social and Environmental Safeguards (SES) Standard 6 criteria.¹⁴ These include the San, made up of 6 key groups in Namibia sharing common history, culture and livelihood patterns, along with related languages, and small related pastoralist groups of Namibia's north west, including the Ovahimba, Ovatjimba, Ovazemba and the Ovatie. In total, these groups represent less than 8% of Namibia's total population.

In common with a number of African states, the Government does not recognise the term "indigenous peoples" as commonly defined in international law, but the San and Ovatie are recognised as "marginalised communities" by the Government of the Republic of Namibia (GRN), in that they require additional support to reduce inequality. These groups are catered for under a Division: Marginalised Communities within the Office of the Vice President.

UNDP SES Standard 6 requires that, in cases where indigenous peoples are found within project sites, an Indigenous Peoples Plan (IPP) must be developed with the purpose of promoting participation of those groups in the project, mitigating risks from the project and ensuring equal and relevant benefits from the project alongside other participants. This Indigenous Peoples Planning Framework (IPPF) is a precursor to that plan, and sets out the frameworks, issues and requirements for IPP development during the first 6 months of project implementation.

The IPPF has been prepared by UNDP in collaboration with the Namibian Ministry of Environment, Forestry and Tourism (MEFT)¹⁵ for the UNDP-supported, GEF-financed project: *"Integrated approach to proactive management of human-wildlife conflict and wildlife crime in hotspot landscapes in Namibia"*, which will incentivise wildlife conservation through proactive management of human-wildlife conflict and wildlife crime, and delivery of wildlife-based benefits to rural communities in selected hotspot landscapes. This is a child project under the World Bank-led Global Wildlife Programme.

The target landscapes for this project – the North-Central Region (including Etosha National Park), the North-West Region, and the North-East Region (including Bwabwata National Park) – have indigenous peoples within their resident populations. The North-West target areas have small groups of pastoralists, in particular the Ovahimba, and all three landscapes have varying populations of San. Within the North-East Region, various small settlements are found within Bwabwata National Park, with San (Khwe) people being the majority population.

This IPPF highlights risks, identified in the Social and Environmental Screening Procedure (SESP) and Environmental and Social Management Framework (ESMF), that are of particular relevance to indigenous peoples, alongside risks identified in preliminary interviews with the Khwe. It also makes recommendations for further assessments and management measures, and for free, prior and informed consent (FPIC) consultation procedures, monitoring, and options for grievance redress.

¹⁴

https://info.undp.org/sites/bpps/SES_Toolkit/SES%20Document%20Library/Uploaded%20October%202016/Final%20UNDP%20SES%20Indigenous%20Peoples%20GN_Jan2017.pdf

¹⁵ In March 2020, the Directorate of Forestry in the Ministry of Agriculture, Water and Forestry (MAWF) was relocated to the Ministry of Environment and Tourism (MET), creating the Ministry of Environment, Forestry and Tourism (MEFT)

Abbreviations and Acronyms

APU	Anti-Poaching Units
EIA	Environmental Impact Assessment
ESIA	Environmental and Social Impact Assessment
ESMF	Environmental and Social Management Framework
ESMP	Environmental and Social Management Plan
FPIC	Free, prior and informed consent
GEF	Global Environment Facility
GRM	Grievance Redress Mechanism
GRN	Government of the Republic of Namibia
GWP	Global Wildlife Programme
HWC	Human-Wildlife Conflict
IIED	International Institute for International Development
IPP	Indigenous Peoples Plan
IUCN	International Union for the Conservation of Nature
MEFT	Ministry of Environment, Forestry and Tourism
M&E	Monitoring and Evaluation
NAMPOL	Namibian Police Force
NDF	Namibian Defence Force
PA	Protected Area
PIF	Project Identification Form (GEF)
PIR	GEF Project Implementation Report
POPP	Programme and Operations Policies and Procedures (UNDP)
PPG	Project Preparation Grant (GEF)
PMU	Project Management Unit
SECU	Social and Environmental Compliance Review Unit (UNDP)
SES	Social and Environmental Standards (UNDP)
SESP	Social and Environmental Screening Procedure (UNDP)
SRM	Stakeholder Response Mechanism (UNDP)
UNDP	United Nations Development Programme
UNDP-GEF	UNDP Global Environmental Finance Unit
WC	Wildlife Crime

1. Project Description

This Indigenous Peoples Planning Framework (IPPF) has been prepared for the UNDP, working in collaboration with the Namibian Ministry of Environment, Forestry and Tourism (MEFT) for the GEF-financed, UNDP-supported project: “Integrated approach to proactive management of human-wildlife conflict and wildlife crime in hotspot landscapes in Namibia” (hereafter referred to as ‘the Project’). This is a child project under the World Bank-led Global Wildlife programme.

The Project focuses on three hotspot landscapes: the North-Central Region, including Etosha National Park; the North-West (or Kunene) Region; and the North-East Region including Bwabwata National Park. These three broad landscapes have a high incidence of Human Wildlife Conflict (HWC) and risk of Wildlife Crime (WC), but hold good potential to build rural livelihoods based on a vibrant wildlife-based economy.

The project objective is “to incentivise wildlife conservation through proactive management of human-wildlife conflict and wildlife crime, and delivery of wildlife-based benefits to rural communities in selected hotspot landscapes”.

To achieve this objective, the project will implement four complementary **strategic approaches**¹⁶ to collectively address the twin challenges of human wildlife conflict and wildlife crime in more pro-active and integrated ways that seek to generate benefits for rural communities from wildlife-based value chains

The **first approach** is centred on reducing, mitigating and preventing human wildlife conflict (HWC). The project will strengthen the capacities of conservancies, communal farmers and MEFT to more effectively plan for, manage and monitor HWC in the targeted hotspot landscapes. It will specifically build the individual, community and institutional capacities to implement key elements of the Revised National Policy on HWC (2018-2027) in the hotspot landscapes.

The **second approach** is centred on combating wildlife crime (WC) and protecting wildlife populations. The project will strengthen the capacity for law enforcement, and for the science-based management and monitoring of populations of high-risk/high-value species. It will specifically assist in operationalising and coordinating the deployment of anti-poaching units in the hotspot landscapes.

The **third approach** is centred on generating economic benefits for communities from wildlife-related enterprises. The project will support the development and operationalisation of wildlife-based Joint Venture (JV) enterprises in community conservancies, and strengthen the capacities of local communities to support, service and obtain employment in these JVs, in the hotspot landscapes. It will also support the diversification of income streams in community conservancies to help offset the ‘costs’ of living with wildlife.

The **fourth approach** is centred on enhancing local and national coordination, cooperation and knowledge sharing in HWC and WC. The project will specifically help to build the HWC-WC community of practice, both locally and regionally.

The Project strategy is centred on socially-inclusive multi-stakeholder collaboration at national, regional and local scales; evidence-driven decision-making and management approaches, based on integrated social, economic and ecological research; implementation of innovative, fit-for-purpose technologies and best-practices that enhance capacity for prevention and management of wildlife crime and human-wildlife conflict; and entrepreneurship and sustainable business models that enable rural communities to gain greater benefits from wildlife conservation through diversified value chains.

Project Implementing Partner: Ministry of Environment, Forestry and Tourism.

Project Duration: Six years, 2020-2026.

¹⁶ These approaches, or solutions pathways, correspond with the four Components under which the project is structured.

UNDP Social and Environmental Standards (SES) Standard 6 requires that, in cases where indigenous peoples are found within project implementation areas, an Indigenous Peoples Plan (IPP) must be developed with the purpose of achieving the full, effective and meaningful participation of indigenous peoples, in a manner which aligns with their distinct vision and development priorities, and building sustainable partnerships with indigenous peoples as companions in development and conservation efforts. Through implementation of Standard 6, UNDP aims to avoid adverse impacts on indigenous peoples, their rights, lands, territories and resources; mitigate and remedy impacts that cannot be avoided; support countries to implement human rights obligations; and ensure equitable and culturally appropriate benefit sharing with indigenous peoples.

This Indigenous Peoples Planning Framework (IPPF) is a precursor to that plan, and sets out the frameworks, issues and requirements for IPP development during the first 6 months of project implementation. The IPPF has been prepared by UNDP in collaboration with the Namibian Ministry of Environment, Forestry and Tourism (MEFT), which is the Implementing Partner for this project. The IPPF highlights risks, identified in the Social and Environmental Screening Procedure (SESP) and Environmental and Social Management Framework (ESMF), that are of particular relevance to indigenous peoples, alongside risks identified in preliminary interviews with indigenous peoples (the Khwe in Bwabwata National Park). It also makes recommendations regarding free, prior and informed consent (FPIC) consultation procedures, monitoring and options for grievance redress.

2. Description of Indigenous Peoples

In broad terms, indigenous peoples in Namibia could refer to Khoesan groups (the groups defined as San and the Nama) and various, interrelated Otjiherero-speaking pastoralist groups in northwest Namibia (namely, the Ovahimba, Ovatjimba, Ovazemba and the Ovatue – the latter being hunter-gathers historically, and also known as Ovatwa). In combination, these groups represent less than 8% of Namibia's total population. Namibia rarely disaggregates data by ethnicity and disaggregation by language tends to focus only on larger language groups, hence population estimates for all these communities are limited.

The Government of the Republic Namibia (GRN) does not recognise the term “indigenous peoples” as commonly defined in international law. In common with a number of African states, GRN considers all “formerly disadvantaged” Namibians, i.e. those of non-European descent, to be indigenous and uses the preferred term, “marginalised communities” for groups that may be considered indigenous in international law.¹⁷

In public documents, the Government of Namibia principally refers to the San, Ovatue and Ovatjimba groups as marginalised communities. The latter two groups, though distinct from one another, are related and share a common language, geographic area and aspects of their heritage, while the term “San” is a collective name for groups with comparable hunter-gatherer heritages and languages utilising ‘click’ consonants, but with their own group names, customs, culture, history and language. In Namibia, the 6 key San groups include the Hai||om¹⁸, Khwe, !Kung, Ju’|hoansi (including ǀAu||eisi or “Omaheke Ju’|hoansi”), Naro and !Xoo. The estimated number of San is approximately 38,000, comprising about 1.6% of Namibia’s 2.3 million people.

For groups in the northwest, the populous Ovahimba (or Himba) peoples have self-identified as indigenous peoples in international meetings, one of the key criteria in the UNDP SES definition of indigenous peoples, but are less frequently included in the marginalised communities grouping used by the GRN, perhaps due to their somewhat greater social and economic mobility. The Ovahimba, Ovatue, Ovatjimba and Ovazemba number approximately 25,000 people in total.

The groups specifically relevant to this project include the Khwe found in and neighbouring Bwabwata National Park, Hai||om populations found in areas bordering Etosha National Park, !Kung populations found north and east of Etosha National Park and in limited numbers in Bwabwata National Park, and Ovahimba groups in the North West landscape area. The approximate extent of the populations of these groups is represented as an overlay on a map of Namibian Conservancies (Figure 1) on page 5.

Each of these four groups has differing situations with regard to land and resources. All of them live in what may be considered traditional territories, however Namibia does not currently recognise ancestral land rights.¹⁹

The Khwe (North East Hotspot Landscape)

Perhaps the most complicated situation of the groups mentioned is the Khwe, who were the first known inhabitants of an area now included within the Bwabwata National Park (BNP), and who retain a strong concept of rights over the area. Before the onset of colonialism, the BNP area was part of a larger Khwe territory which included parts of Angola, south-western Zambia, the Zambezi Region and north-western Botswana. The area was first proclaimed as a Nature Reserve in 1937, and later as a Game Park. In the 1970s the park was occupied by the South African Defence Force (SADF) and, until shortly before Namibian independence from South Africa in 1990, was used by the SADF to launch raids into Angola against the People's Liberation Army of Namibia (PLAN) (the

¹⁷ While “marginalised communities” is more widely used by Government, the two terms are applied somewhat interchangeably in various documents, with “indigenous peoples” becoming more common in recent years in documents referring to international processes and law. Additionally, the current head of state, H.E. President Hage Geingob, has alluded to the use of “marginalised communities” as being disagreeable in terms of both development goals and perceptions.

¹⁸ Clicks in Khoesan languages are denoted by the symbols: |, ||, !, ǀ, ǁ, ǂ, ǃ, Ǆ, ǅ, ǆ, Ǉ, ǈ, ǉ, Ǌ, ǋ, ǌ, Ǎ, ǎ, Ǐ, ǐ, Ǒ, ǒ, Ǔ, ǔ, Ǖ, ǖ, Ǘ, Ǚ, ǚ, Ǜ, ǜ, ǝ, Ǟ, ǟ, Ǡ, ǡ, Ǣ, ǣ, Ǥ, ǥ, Ǧ, ǧ, Ǩ, ǩ, Ǫ, ǫ, Ǭ, ǭ, Ǯ, ǯ, ǻ, Ǽ, ǽ, ǿ, Ǿ, ǿ̊, ǿ̋, ǿ̌, ǿ̍, ǿ̎, ǿ̏, ǿ̐, ǿ̑, ǿ̒, ǿ̓, ǿ̔, ǿ̕, ǿ̖, ǿ̗, ǿ̘, ǿ̙, ǿ̚, ǿ̜, ǿ̝, ǿ̞, ǿ̟, ǿ̠, ǿ̡, ǿ̢, ǿ̣, ǿ̤, ǿ̥, ǿ̦, ǿ̧, ǿ̨, ǿ̩, ǿ̪, ǿ̫, ǿ̬, ǿ̭, ǿ̮, ǿ̯, ǿ̰, ǿ̱, ǿ̲, ǿ̳, ǿ̴, ǿ̵, ǿ̶, ǿ̷, ǿ̸, ǿ̹, ǿ̺, ǿ̻, ǿ̼, ǿ̽, ǿ̾, ǿ̿, ǿ̸̹, ǿ̸̺, ǿ̸̻, ǿ̸̼, ǿ̸̽, ǿ̸̾, ǿ̸̿, ǿ̹̈, ǿ̹̉, ǿ̹̊, ǿ̹̋, ǿ̹̌, ǿ̹̍, ǿ̹̎, ǿ̹̏, ǿ̹̐, ǿ̹̑, ǿ̹̒, ǿ̹̓, ǿ̹̔, ǿ̹̕, ǿ̹̖, ǿ̹̗, ǿ̹̘, ǿ̹̙, ǿ̹̚, ǿ̹̜, ǿ̹̝, ǿ̹̞, ǿ̹̟, ǿ̹̠, ǿ̡̹, ǿ̢̹, ǿ̹̣, ǿ̹̤, ǿ̹̥, ǿ̹̦, ǿ̧̹, ǿ̨̹, ǿ̹̩, ǿ̹̪, ǿ̹̫, ǿ̹̬, ǿ̹̭, ǿ̹̮, ǿ̹̯, ǿ̹̰, ǿ̹̱, ǿ̹̲, ǿ̹̳, ǿ̴̹, ǿ̵̹, ǿ̶̹, ǿ̷̹, ǿ̸̹, ǿ̹̹, ǿ̹̺, ǿ̹̻, ǿ̹̼, ǿ̹̽, ǿ̹̾, ǿ̹̿, ǿ̺̈, ǿ̺̉, ǿ̺̊, ǿ̺̋, ǿ̺̌, ǿ̺̍, ǿ̺̎, ǿ̺̏, ǿ̺̐, ǿ̺̑, ǿ̺̒, ǿ̺̓, ǿ̺̔, ǿ̺̕, ǿ̺̖, ǿ̺̗, ǿ̺̘, ǿ̺̙, ǿ̺̚, ǿ̺̜, ǿ̺̝, ǿ̺̞, ǿ̺̟, ǿ̺̠, ǿ̡̺, ǿ̢̺, ǿ̺̣, ǿ̺̤, ǿ̺̥, ǿ̺̦, ǿ̧̺, ǿ̨̺, ǿ̺̩, ǿ̺̪, ǿ̺̫, ǿ̺̬, ǿ̺̭, ǿ̺̮, ǿ̺̯, ǿ̺̰, ǿ̺̱, ǿ̺̲, ǿ̺̳, ǿ̴̺, ǿ̵̺, ǿ̶̺, ǿ̷̺, ǿ̸̺, ǿ̺̹, ǿ̺̺, 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military wing of the South West Africa People's Organisation, or SWAPO) insurgents and to support the Angolan rebel movement, UNITA (National Union for the Total Independence of Angola). The Khwe participated in the conflict primarily as trackers for the SADF. After Independence the area was proclaimed as a National Park in 2007.

The population of Khwe in the BNP has fluctuated, but is likely approximately 5,000-6,000 people. A number of Mbukushu, a larger and politically-dominant agropastoral group found to the west of Bwabwata, and smaller numbers of other groups, also live within the western area of park, predominantly as cattle herders and/or with small cropping activities. While other key San groups have leaders recognised by the government under the Traditional Authorities Act, the Khwe fall under the neighbouring Mbukushu Traditional Authority, which is the product of a largely subordinate relationship to that group over the last 200 years. This is a point of contention for many Khwe in BNP. Compounding governance issues, BNP is split between two administrative regions, Kavango East and Zambezi, which complicates service delivery to people living within the National Park.

The Khwe were traditionally hunters and gatherers, but also cultivated land and kept livestock, including cattle. Because of veterinary restrictions, few Khwe are now cattle owners and, beyond the limited resources of the Khwe, restrictions on livelihoods options exist due to park policies, zonation and human-wildlife conflict. The Khwe still gather veld food as an important part of their diet and hunting of small game may still occur in isolated areas. The government does not formally acknowledge the land rights of the Khwe in the park, but their presence on the land and rights to live there are implicitly acknowledged through government recognition of their representative body - the Kyaramacan Association (KA) - engagement in joint management activities between park residents and park officials, and through government awarding hunting and photographic tourism concessions to the San residents.

Kyaramacan Association

MEFT activities and work with the Khwe community by the NGO Integrated Rural Development and Nature Conservation (IRDNC) led to the establishment of Kyaramacan Association in 2006.

The KA manages, in partnership with the MEFT, the designated 'multiple-use area' within the park where people live, and employs community game guards who, in the past, played a major role in stopping poaching including through the confiscation of weapons. The game guards are meant to carry out joint anti-poaching patrols and game monitoring with MEFT personnel, however KA and community activities have been severely curtailed in recent years due to the presence of anti-poaching units of the Namibian Defence Force (NDF), Namibian Police Force (NAMPOL) and MEFT in response to heightened elephant poaching; this has also resulted in restrictions on movement of people and access to land and other resources. Additionally, several non-fatal, accidental shooting incidents of Khwe community members by APUs have occurred in past years.

The security clampdown also meant people could not leave their villages to collect veld food and harvest Devil's Claw, a medicinal plant which provided a major source of cash income for many residents. MEFT has subsequently initiated a process whereby people may be accompanied by security forces to gather food and harvest Devil's Claw at specific times, but this is limited and viewed by local people as impractical.

The KA shares substantial income from two hunting concession, with approximately N\$5,000,000 (five million Namibian Dollars) in benefits accruing from trophy hunting in 2019. Hunting is the only major source of income for the KA, despite some existing tourism concessions for non-resident communities to the east of the BNP, though tourism concessions are in the process of being developed for members of the KA.

Twelve villages in BNP fall under the ambit of the KA constitution, including the major settlements of Mashambo, Omega III, Chetto, Omega and Mut'icku, and currently approximately 70 people are employed by KA on a full or part-time basis. In 2019, approximately N\$3,900,000 (three and a half million Namibian Dollars) from KA's income was spent on five boreholes for settlements within BNP, and for electrification of some areas. KA is trying to phase out cash payments to members (approximately between N\$135 and N\$230 per person each year between 2014 and 2017), and is trying to focus more on delivery of benefits from development, rather than small cash handouts.

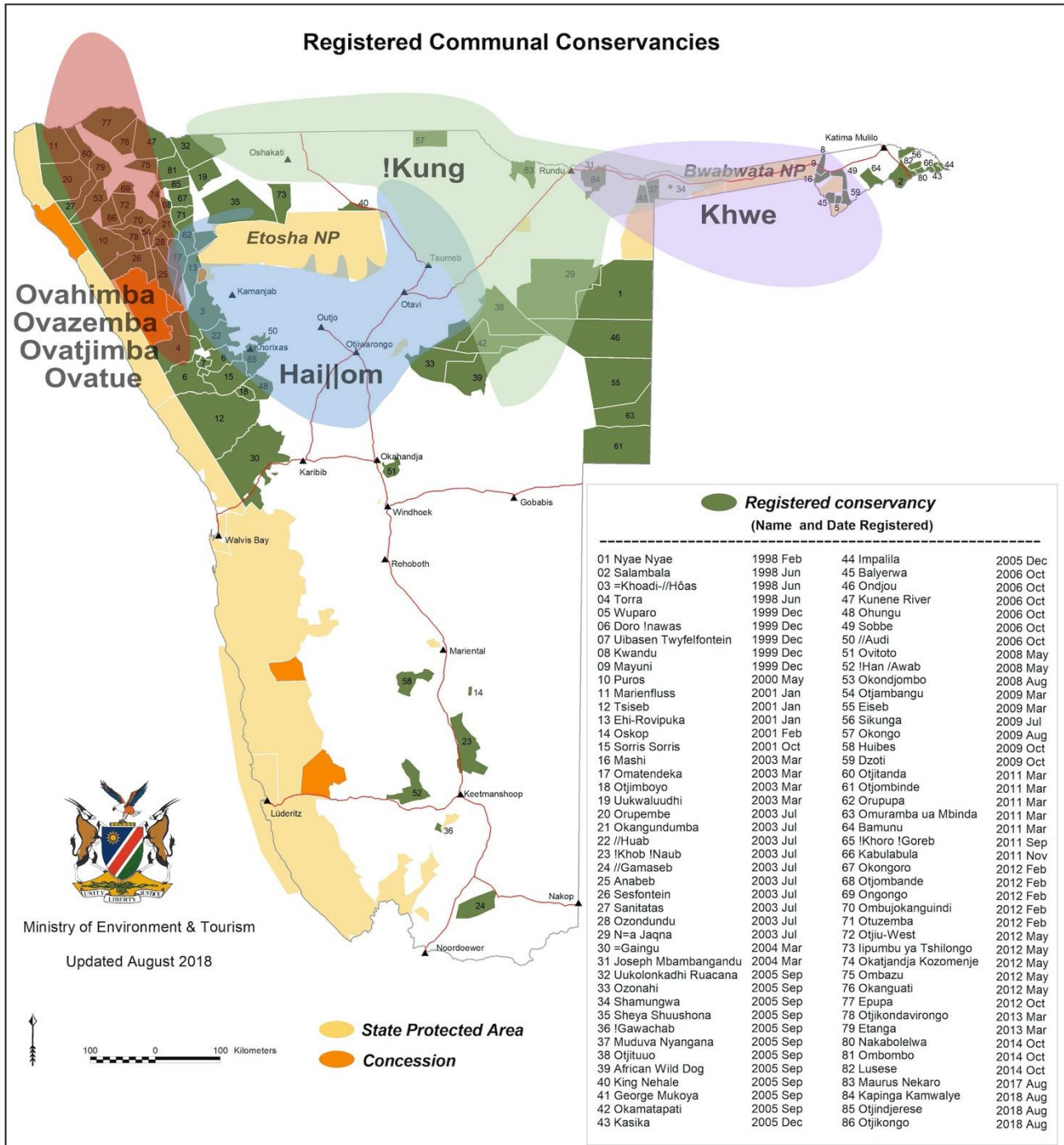


Figure 1: A map of Namibia reflecting the approximate distribution of potential indigenous peoples relevant to the project, overlaid on a NACSO map of protected areas and conservancies

The !Kung (North East and North Central Hotspot Landscapes)

The !Kung (also !Xun, !Xung) are perhaps the most widespread of Namibia's San. Hence, while having a common identity as !Kung, there are several distinct groups, and the situation of !Kung varies from place to place. Among the main dialects, many !Kung living in northern Namibia are referred to as Vasekele !Kung (or Northern !Kung), though variants or sub-dialects exist such as Ekoka !Kung in Ohangwena Region, and Mpungu !Kung in Kavango West Region. As with many Namibian groups, a sizeable number of !Kung fled the 25-year civil war in Angola, and a proportion of these migrants and Namibian !Kung ended up serving in the SADF, as did the Khwe. Some were subsequently relocated to join other !Kung several hundred kilometres south to Tsumkwe West in Otjozondjupa Region, where a substantial population of !Kung now exists, with a recognised Traditional Authority.

However, the !Kung Traditional Authority has few dealings with !Kung in the North East and Central areas of Namibia, where they are mainly found as small populations, and fall under other (non-!Kung) Traditional Authorities, often resulting in inadequate representation. Hence the small population of !Kung in BNP - numbering only several hundred, mainly in the western area of the park - are considered more marginalised than the majority Khwe population.

The Vasekela, Ekoka and Mpungu !Kung traditionally occupied a wide wedge of land stretching southwards from the Angolan border towards Tsumeb (see Figure 1). This area was split and incorporated into Kavango and Owamboland respectively under the colonial government, and later became the regions of Kavango East and West, Ohangwena, Omusati, Oshana, and Oshikoto. While low population densities and small numbers of migrants meant that the !Kung retained a degree of autonomy in the southern parts of this region, in the northern parts they largely ended up working as cheap labourers attached to Kavango and Ovambo households, and lived on the peripheries of larger settlements.

This situation has largely continued, and !Kung in these regions tend to comprise small populations living within areas dominated by more numerous groups. In common with many San, the !Kung largely survive through income from informal labour, government grants, government food relief and subsistence agriculture, and the levels of representation and socioeconomic conditions are especially poor in a number of areas. !Kung found in regions such as Omusati and Oshana have widely adopted the Oshivambo language, and are somewhat but certainly far from fully integrated with their neighbours.

Most !Kung settlements in North Central Namibia are characterised by insecure land tenure, high levels of poverty in comparison with neighbouring groups, poor labour relations with neighbouring groups, and a lack of representation. Small numbers of !Kung may be found in the North West hotspot landscape, but information about these groups is limited. In similarity to the Hai||om, Ovahimba and Ovatie, the degree to which the !Kung are involved in conservancy management and CBRNM decision-making is questionable, and likely limited.

The Hai||om (North Central and North West Hotspot Landscape)

The Hai||om are a widespread group, historically living in and around the area that is now Etosha National Park (ENP) and east of the park towards Tsumeb, and now numbering approximately 10,000 people, though data is scarce. Those living north of ENP were largely displaced to the south by the expansion of majority groups, though limited numbers remain in the area. The removal of most Hai||om from ENP in the 1950s and 1960s led many Hai||om to become itinerant farm labourers, or both landless and unemployed, and subsequent generations have largely remained landless and with reduced livelihood opportunities.

The Hai||om have a recognised Traditional Authority, with whom the government enacted the purchase of resettlement farms south and south-east of the ENP border to provide land. Sizable numbers of Hai||om have moved to this area, though the productivity of the purchased farms, limited service provision, limited technical assistance and current lack of tenure (it remains state land), pose challenges to the success of this resettlement programme. The Traditional Authority did not support the more than 2,000 adult Hai||om who indicated support

for a land claim against the government for their loss of ENP as ancestral land, and the claim was dismissed by the High Court in 2019(though is subject to appeal in 2020).

It is worth noting that several arrests for rhino poaching incidents in 2015 were reportedly traced back to Hai||om who come from remote villages north-west of Etosha, south of Okahao, and who had been paid by wealthy individuals from outside of their immediate communities to engage in poaching activities. As with the !Kung in the North-Central area, the small number of Hai||om north-west of Etosha have partially assimilated with their Oshivambo-speaking neighbours. On the other hand, the Hai||om resettlement farms south and south east of Etosha have not shown evidence of poaching activities, and form a buffer zone between the ENP and commercial farms; these resettlement farms hold significant potential for conservation efforts.

The Ovahimba and Ovatie (North West Hotspot Landscape)

The Ovahimba²⁰, Ovatjimba, Ovazemba and Ovatie (Ovatwa) are Oshierero-speaking pastoralist groups inhabiting North West Namibia (see Figure 1). These groups are well known in Namibia and abroad for their appearance, including the application of red ochre to the skin by women. The Ovahimba, Ovatjimba and Ovazemba are pastoralists who share a similar cultural and livelihoods heritage. Historically, the Ovatie were hunter-gatherers as well as cattle owners, and appear to be viewed as subordinate by the other groups. These groups are descendants of early Bantu migrants into southern Africa and are related to the Ovaherero. Many Ovahimba, Ovatjimba, Ovazemba and Ovatie still wear traditional dress and have few material possessions because of their semi-nomadic lifestyle. The Ovatie remain poor and with limited cattle ownership in comparison to other groups.

The more populous Ovahimba (or Himba) people self-identify as indigenous peoples, but are rarely included in the “marginalised communities” grouping used by the GRN, perhaps due to their somewhat greater social and economic mobility. In contrast, the Ovatie are a focus of the GRN programme and the Ovatjimba are frequently included. Information on Namibia’s small population of Ovazemba is limited, but they are generally regarded as separate from, but comparable to, the Ovahimba, and these groups cooperate politically at times. Traditional Authorities within the Ovahimba, Ovatjimba, Ovazemba and Ovatie remain contentious, with complaints of poor representation made at various times over previous years by interest groups within their communities. This included the High Court setting aside of recognition of the Traditional Chief of the Ovahimba in 2018 by the then Minister of Urban and Rural Development, after members of Ovahimba community complained about the recognition process, and of the chief’s decision to support the contentious Baynes Dam development.²¹

These semi-nomadic pastoralists in the past maintained biodiversity and largely undisturbed landscapes through their traditional range management systems. However, the provision of artificial water points, socio-economic and population changes have considerably disrupted the traditional grazing systems of these pastoralists, resulting in overstocking and widespread overgrazing in the vicinity of natural and artificial water points. This has led to groups grazing further south on the communal land of other communities, including within conservancies, which, of course, leads to local conflict. Groups of Ovahimba can also be seen in areas west of Etosha – some are resident there, others come in small groups to attempt to earn money from tourists, for example from crafts and photographs, in popular locations.

While, in general, populations of San found in local project areas are likely to be residents, the project will have to assess whether the pastoralist groups within these areas are resident through consultation with them, other local stakeholders and authorities.

²⁰ The “Ova” prefix indicates plural

²¹ See <https://www.nampower.com.na/Page.aspx?p=222> and <https://www.internationalrivers.org/blogs/1259/with-a-new-dam-proposed-on-the-kunene-river-the-himba-people-mobilize-to-permanently>

3. Summary of Substantive Rights and Legal Framework

There are numerous government institutions, policies and laws that are relevant to Namibia's indigenous peoples. Namibia has a progressive constitution and many national policies are inclusive in nature – however, this is not always reflected in implementation and decision-making. Namibia's reporting on international conventions has improved in recent years, though, similarly, the implementation of resolutions and recommendations made under these agreements can be limited.

3.1 Domestic Law and the rights of indigenous peoples in Namibia

- **The Constitution**

Within the Constitution of Namibia, under *Chapter 3: Fundamental Human Rights and Freedoms*, there is a guarantee of equality and freedom from discrimination (Article 10), rights to culture, language, tradition (Article 19) and the right to education (Article 20), deemed as compulsory until the age of 16, with Article 3 providing the right to use mediums of instruction other than English, to “ensure proficiency in the official language, or for pedagogic reasons”.

Other areas of the Constitution specifically relevant to indigenous peoples in Namibia include: Article 15 – Children's Rights; Article 17 - Political Activity; Article 23 - Apartheid and Affirmative Action. Additionally, Article 66 upholds the validity of customary and common law where this does not conflict with statutory law and the Constitution.

Of particular interest in the Constitution is Article 144 – International Law, which states that: “Unless otherwise provided by this Constitution or Act of Parliament, the general rules of public international law and international agreements binding upon Namibia under this Constitution shall form part of the law of Namibia”. Some debate exists regarding the extent to which this implies Namibia has a truly monist system, meaning that ratified international law can be applied directly within Namibia without transformation (especially without the need for corresponding national legislation). However, the Ministry of Justice accepts this concept does apply, meaning that binding international law to which Namibia is party does apply directly to the country, with further domestic legislation development needed only when required (for non-self-executing treaties).

- **Division: Marginalised Communities (DMC), Ministry of Veteran Affairs and Marginalized People, Office of the Vice-President**

Formed in 2005 under the Office of the Deputy Prime Minister, the Division was moved to the Office of the Vice-President under the Government of H.E. President Hage Geingob in 2015. A San former member of parliament, Royal |Ui|o|oo, was appointed as Deputy Minister of Marginalised Communities. He is the only San representative in the Government besides the current regional councillor in Tsumkwe.

Projects implemented under the division from 2005 up to this time have included: resettlement through the purchase of commercial farms (particularly for Hai|om); vocational training including in construction skills and coffin-making, women's needlework and bread-making projects, beekeeping, aquaculture, small-scale gardens; and support to early childhood development and tertiary education sponsorship. In addition, the Division has been responsible for 'drought relief' to San and Ovaherero communities—the distribution of maize and other items of food to insecure communities.

The DMC has overseen considerable improvements in the level of engagement with and attitudes towards marginalised communities by national and local government. These have included greater participation of marginalised communities in programmes, increased focus and awareness of civil servants regarding such groups, as well as improvements in the language to describe such groups within the Government sphere. In the case of other projects - including resettlement -, some important gains have been seen, but questions have also been raised regarding levels of impact, consultation and self-determination. The lack of an overarching strategy for indigenous peoples/marginalised communities remains a challenge for the GRN at large.

The DMC and Office of the Ombudsman were instrumental in formulating a draft *White Paper on the Rights of Indigenous Peoples in Namibia* as recommended by the Committee on the Elimination of Racial Discrimination

(CERD), the International Labour Organization (ILO) and the African Commission's Working Group on Indigenous Populations/Communities in 2012.

The White Paper was drafted in 2014 with the support of the ILO, but in 2016 it was decided that an updated draft was required, which was supported by United Nations Department of Economic and Social Affairs (UNDESA). After a series of consultations with government and communities, the draft was adopted and later approved by the Office of Attorney General in 2019. At the time of writing this Framework, it awaits presentation to Parliament for final approval.

The primary focus of the White Paper is on the San and Ovahimba. Though some sections are more detailed than others, the coverage of issues faced by indigenous peoples is comprehensive, and international recommendations are particularly emphasised.

- **Office of the Ombudsman**

Formed in 1990, the Office of the Ombudsman is Namibia's National Human Rights Institution (NHRI), with a mandate to investigate complaints against the Government and officials and those related to fundamental rights and freedoms, as well as to promote and protect human rights. The four areas of interest are defined as administration, human rights, corruption and the environment.

The Ombudsman, Advocate John Walters, has been active in issues concerning the rights of indigenous peoples, as well as relevant aspects of international law, and has been an important champion in recent years. Alongside their work on the White Paper, the Office of the Ombudsman has produced a *Guide to Indigenous Peoples' Rights in Namibia* (2012), which is a summary of national and international law relevant to indigenous peoples in Namibia, including observations and recommendations of treaty bodies. Additionally, the Office of the Ombudsman has produced a *Compendium of International Human Rights Law for Parliamentarians* (2015) and *National Human Rights Action Plan 2015-2019* (2015) which includes targets for government ministries. The latter includes the following summary on indigenous peoples:

"Indigenous Peoples (IPs) - Key concerns included the fact that many IPs do not have recognized traditional authorities (i.e. some San and Ovahimba), continued discrimination faced by IPs, challenges related to participation and consultation of IPs on national development issues as well as programme and projects that target their own development, challenges experienced with IPs to own, develop and control communal land (including conservancies), continued marginalization of IPs in terms of access to education (especially women and girls), absence of health facilities where IPs live or are resettled (esp. the San) and the fact that only few IPs practice their traditional way of life. Also of concern is the prevailing discrimination against indigenous populations, impacting their access to health care, income, education and basic services. The lack of representation of IP's in Parliament, LAs and RCs is also a concern."

- **National Planning Commission (NPC)**

The Ministry of Economic Planning and National Planning Commission, under the Office of the President, is responsible for planning national priorities and national development through National Development Plans. The NPC developed a draft strategy entitled *"Mainstreaming Marginalised Communities in Namibia"* in September 2015.

- **Ministry of Environment, Forestry and Tourism (MEFT)**

As of March 2020, the Forestry Division on the Ministry of Agriculture, Water and Forestry (MAWF) has been merged into the Ministry of Environment and Tourism (MET) to become the Ministry of Environment, Forestry and Tourism (MEFT).

The MEFT is responsible for safeguarding Namibia's environmental resources and its mission is "to promote biodiversity conservation in the Namibian environment through the sustainable utilisation of natural resources and tourism development for the maximum social and economic benefit of its citizens." It works in a number of areas relevant to indigenous peoples.

While not directed specifically at indigenous groups, the *Nature Conservation Amendment Act of 1996* sets out rights in terms of sustainable management and utilization of game within community conservancies. The Namibian conservancy programme has brought about considerable improvements in local rights and management of land and the natural resources it supports. In the case of the San, there are two majority San conservancies, Nyae Nyae and Nǀa Jaqna – managed by the Ju|'hoansi and !Kung respectively, which constitute a large part of the traditional lands of the San in Namibia. In spite of protections, threats from illegal grazing, poaching and unlawful land distribution remain a challenge.

As the government ministry responsible for the management of national parks, MEFT is a key institution in cases where communities border on or live inside protected areas, as well the few cases of historical eviction of communities from protected areas in Namibia.

Namibia's *Second National Biodiversity Strategy and Action Plan 2013-2022* (NBSAP) uses the term 'indigenous and local communities'. This term is not defined in the strategy, and on the NBSAP Steering Committee these groups are represented by the ǀAodaman Traditional Authority, a Damara-speaking group. The document expresses the need for "biocultural protocols and practices of local communities documented according to mutually agreed terms", "systems in place to protect and document traditional knowledge as a basis for research and development of commercial biodiversity products" and the promotion of the "role of traditional knowledge, innovations and practices in the management and use of biodiversity".

Of a similar character to MEFT's Nature Conservation Amendment Act, the Forest Act 12 (2001) is not specific to indigenous peoples but confers rights upon communities to manage "community forests" and a range of resources, including grazing.

- **Ministry of Land Reform (MLR)**

As of March 2020, the Ministry of Land Reform has been merged with the Ministry of Agriculture, Water and Forestry (MAWF) to become the Ministry of Agriculture, Water and Land Reform, with Forestry now under MEFT.

The Communal Land Reform Act (2002) allows for the allocation of customary land rights to communities for farming and residential units (and "any other form of customary tenure that may be recognised and described by the Minister"), with decision-making powers vested in communal land boards on which the community should be represented, and with the agreement of the Traditional Authority in the area. It does not, however, confer communal land rights in terms of customary practice, hence the group tenure systems practiced by the San and other groups are not well represented.

The National Resettlement Policy (2001) identifies the San as one of the principal group who should benefit from the resettlement process, and that the "San Community have endured exploitation and discrimination at the hands of their fellow citizens throughout history...are marginalized and subjected to unfair labour practices and inadequate shelter".

- **Ministry of Regional and Local Government, Housing and Rural Development (MRLGHRD)**

While the MRLGHRD, as with most Namibian line ministries, does not have a specific national approach to indigenous peoples or marginalised communities, some relevant areas of work fall under its remit, and in particular the Traditional Authorities Act (2000) and operations of recognised Traditional Authorities (TAs). Through the Communal Land Reform Act, TAs play an important role in allocating and applying for leaseholds in communal land under their jurisdiction.

- **Ministry of Education, Arts and Culture (MEAC)**

Namibia has a progressive policy regarding aspects of inclusive education, especially language, and now provides both free primary and secondary education. However, the Government acknowledges that limited gains have been made with marginalised communities, due to a variety of socioeconomic factors, elements of discrimination, and a lack of capacity in terms of teaching staff. The following policies are particularly relevant to indigenous peoples: *Language Policy for Schools in Namibia* (1991 and revised 2003), *2002 Education-For-*

All (EFA) National Plan of Action 2002-2015, National Policy Options for Educationally Marginalised Children (2000), Sector Policy on Inclusive Education (2013), and the Education Sector Policy for Orphans and Vulnerable Children (August 2008).

3.2 International Law and the rights of indigenous peoples in Namibia

Namibia is party to a number of treaties and processes relevant to indigenous peoples and local communities, and generally reports in a timely manner to treaty bodies. Namibia is monist in approach to international law.

- **United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)**

Namibia was initially part of the African contingent opposing aspects of the UNDRIP, but did become a signatory to the Declaration in 2007. While the Office of the Ombudsman has promoted and use the UNDRIP (though it is non-binding), other spheres of government, including the DMC, lack significant analysis and uptake of the Declaration, at least in public documents.

- **Permanent Forum on Indigenous Issues (PFII)**

Namibia has attended most sessions of the PFII since 2007 and reports briefly to it on the DMC programme achievements. It is notable that San representation from civil society has been poor in recent years. Currently, a San staff member of the DMC is a member of the Permanent Forum (2020-2022) as an African representative.

- **International Labour Organization (ILO) Convention 169**

Namibia showed interest in ratifying the ILO's Indigenous and Tribal Peoples Convention 169 (C169) as far back as 2005. Subsequently, Namibia was a part of the PRO169 programme, and received funding and support from the ILO to move towards Convention 169 standards. However, activities have diminished in scope, and the programme ceased to operate in Namibia in 2012.

- **United Nations Special Rapporteur on the rights of indigenous peoples**

The Special Rapporteur on the rights of indigenous peoples (then James Anaya) was invited to Namibia in 2012. The resulting report, *The Situation of Indigenous Peoples in Namibia* (2013), provides a comprehensive overview of indigenous peoples' issues in the country, and specific recommendations for Government and other stakeholders. The majority of these recommendations have not been taken up by Government or other stakeholders.

- **African Charter on Human and Peoples' Rights (ACHPR)**

The African Commission on Human and Peoples' Rights Working Group on the Rights of Indigenous Populations/Communities conducted an assessment of Namibia in 2005, with the support of International Working Group of Indigenous Affairs (IWGIA). While the assessment is now outdated, the report makes a range of recommendations for education, leadership, health, poverty, land and stigmatization.

- **Universal Periodic Review (UPR)**

The UPR process has provided substantive inputs to the Government with regard to Namibia's indigenous peoples, including in relation to human rights and policies.

- **International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)**

The concluding observations in Namibia's the thirteenth to fifteenth periodic reports under this Convention (2016) make a number of strong recommendations regarding indigenous peoples. These include: monitor the

impact of measures taken to improve realization of rights for indigenous peoples; implement a range of recommendations made by the Special Rapporteur on the rights of indigenous peoples; give particular importance to recommendations on education and land, and disaggregated data for ethnic groups on the enjoyment of social and economic rights.

- **International Covenant on Economic, Social and Cultural Rights (ICESCR)**

Under this Covenant, the 2016 concluding observations by the CESCR Committee on the initial report of Namibia includes a section on the rights of indigenous peoples. It recommends that Namibia adopt legislation that recognizes indigenous peoples, including land tenure, livelihoods and FPIC, and ILO 169. It goes on to specifically mention FPIC in light of the Baynes dam project, which affects Ovahimba, Ovatjimba, Ovazemba and Ovavue communities and recommendations of the Special Rapporteur's report.

- **International Covenant on Civil and Political Rights (ICCPR)**

The concluding observations of the Human Rights Committee on the second report of Namibia (2016) highlighted the continuing discrimination against indigenous peoples, with recommendations aimed at the broad reduction of discrimination in Namibian society. In terms of the rights of minorities, the committee recommends that Namibia ensures that indigenous peoples have "titles over lands and territories that they traditionally occupied or resources they owned". The recommendation also refers to free, prior and informed consent (FPIC)²² practices, especially in regard to extractive industries, which gives indigenous peoples the right give or withhold consent to a project that may affect them or their territories.

- **Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW)**

No specific recommendations were given regarding indigenous women in the last session of 2015, though questions were raised concerning San women's access to health care, employment, education and agricultural land.

- **Convention on Biological Diversity (CBD)**

Namibia submits periodic national reports to the CBD. With relevance to indigenous peoples, articles of the Convention cover the protection of traditional cultural practices that are compatible with conservation and sustainable use, traditional knowledge and genetic resources. Little reference in Namibia's report is given to indigenous peoples, with the exception of developing a "Bill on Access to Genetic Resources and Associated Traditional Knowledge in 2011" where the consultative process incorporated "indigenous and local communities". The MEFT NBSAP plans also fall under the CBD.

- **United Nations Sustainable Development Goals (SDGs):**

Namibia is an active partner with local and global UN offices regarding the 2030 Agenda for the Sustainable Development, and the Sustainable Development Goals (SDGs) to eliminate poverty, diminish inequalities and injustices and reduce climate change. Country-specific targets have not yet been defined.

²² **Free:** consent given voluntarily and without coercion, intimidation or manipulation. A process that is self-directed by the community from whom consent is being sought, unencumbered by coercion, expectations or timelines that are externally imposed; **Prior:** consent is sought sufficiently in advance of any authorization or commencement of activities; **Informed:** nature of the engagement and type of information that should be provided prior to seeking consent and also as part of the ongoing consent process; **Consent:** collective decision made by the right holders and reached through a customary decision-making processes of the communities.

<http://www.fao.org/indigenous-peoples/our-pillars/fpic/en/>

3.3 Project relevance to the legal recognition of rights to lands, resources, or territories

The Project activities do not require additional legal recognition of rights to lands, resources, or territories, beyond those rights already afforded through devolved CBNRM and land management policies in Namibia, specifically regarding Conservancies, Protected Areas and Traditional Authorities.

3.4 Project relevance to the recognition of the juridical personality of Indigenous Peoples

In terms of indigenous peoples, recognition of the juridical personality is the recognition of a group, association or organisation of indigenous peoples within the legal system, giving that indigenous peoples' group, association or organisation certain rights, protections, privileges, responsibilities, and liabilities in law, similar to those of an individual human being (e.g. recognising a group in a similar manner to an individual, for reasons of legal standing and collective recognition).

The Project activities do not rely on issues of recognition of indigenous peoples. The Project will observe additional measures as required to address consultations, concerns, complaints and project benefits of indigenous peoples who are not represented in existing formal structures at local level.

4. Summary of Social and Environmental Screening, Environmental and Social Management Framework Recommendations and Community Consultations

4.1 Social and Environmental Risk Ratings under the UNDP SES

The UNDP Social and Environmental Screening Procedure (SESP) was used to identify potential social and environmental risks associated with this Project (refer to Annex 4 of the UNDP PRODOC). The screening highlighted the Project intentions as they related to mainstreaming human rights, gender equality and women's empowerment, and environmental sustainability.

An impact risk assessment was undertaken using the UNDP Social and Environmental Screening Procedure to assess the probability and the impact of the risk. From the scoring of probability and impact, a significance value of low, medium or high was attributed to the potential impact of these risks.

The SESP identified a total of 11 potential risks, of which one has been assessed as low risk, seven as moderate and three as high risk, with the overall SESP risk categorization rating as "High". The risks apply only to project components 1, 2 and 3. Only risks that are directly relevant to indigenous peoples are detailed within this IPPF – please refer to the Project's Environmental and Social Management Framework (ESMF) for further detail on risks.

4.2 A summary of the findings and recommendations of the SESP and ESMF

The Project SESP identifies and ESMF details the following risks as specific to indigenous peoples:

Risk 1: Indigenous peoples including vulnerable groups might not engage in, support, or benefit from project activities. (Standard 6)

Referring to SES Standard 6: Indigenous Peoples, the policy and operating environment of Namibia in relation to indigenous peoples is relatively progressive and stable, in comparison to a number of other countries in sub-Saharan Africa. Namibia has a well-defined rule of law and democratic principles, low levels of unjustified detention, and GRN has established an office within the Vice Presidency assigned to "marginalised communities" including the San and Ovahimba, and is currently awaiting approval of a broad policy guidance entitled "White Paper on the rights of indigenous peoples in Namibia". The Ovahimba, Ovazemba and Ovatjimba in northern Kunene may also meet international criteria that identify indigenous peoples.

However, a number implementation risks to the Project remain due to the minority and marginalised position of Namibia's indigenous peoples/marginalised communities. These include but are not limited to:

- i) Representation and participation – San and Ovahimba are both minority populations, and lack strong political and institutional representation in the project landscapes. The Ovahimba, Ovazemba and Ovatjimba have limited representation. In general, levels of formal education and technical experience are also lower within San and Ovahimba communities compared with national averages, and, in the case of the San, cultural approaches to disagreements have traditionally leaned towards avoiding direct disputes and therefore a historical erosion of land, resource and livelihood rights ensued.

These factors, among other issues, often result in weaker representation and limited established rights in comparison to neighbouring groups. This can be compounded by the lack of Traditional Authority leaders for such groups within the Project landscapes: in the North West the small populations of San and Ovahimba fall under various Traditional Chiefs in their locality; in Bwabwata National Park the larger Khwe San community fall under the neighbouring Mbukushu Chief, but the relationship is marked by a lack of agreement and cohesion.

Therefore, special attention should be paid to ensuring that consultation systems within the project are comprehensive and monitored, following SES and FPIC principles. This should include identification of such communities through document review, consultation with GRN and civil society, Traditional Authorities, Conservancies and communities, and subsequently ensuring the participation of San, Ovahimba and other marginalised groups in wider community meetings or, where not possible, targeted consultations and dissemination to that effect. Such approaches must also take into account balanced gender and youth participation.

- ii) Potential for limited benefits from wildlife and natural resources – in the North West project area, the limitations highlighted above can potentially result in reduced participation and access to wider community benefits from wildlife and natural resources, where introduced or strengthened through the Project's components. Therefore, principles of consultation and inclusion should be established within the project's framework when planning and implementing activities around increasing benefits from wildlife and natural resources. For example, this might include ensuring that a San or Ovaherero community-nominated representative is included in Conservancy decision-making processes where activities may involve San Conservancy members, with an overall focus on ensuring participation of San community members where relevant and that any benefits are equitable and appropriate.
- iii) Language – consultation and dissemination within the project with all local communities should take into account language barriers, and utilise translation as required, with increased attention given to minority languages such as those spoken by San communities, especially where secondary language use is limited.
- iv) Bwabwata National Park represents an unusual situation of an estimated 5,000 or more indigenous peoples, principally the Khwe but also the !Kung, living within the park alongside a smaller number of other groups, including the Mbukushu. With respect to the planning, consultation and implementation of project activities within Bwabwata National Park, special attention should be paid to issues such as representation, community access to resources and benefits, livelihoods, and traditional knowledge skills, including the controlled gathering of plants for sale, medicine and nutrition.

As detailed in the Indigenous Peoples Planning Framework (IPPF), preliminary FPIC consultation has been carried out. Further consultations are required to mitigate risk and engage indigenous peoples in the Project.

Required Action to address points (i) to (iv), above: In order to safeguard indigenous peoples within project activities an Indigenous Peoples Plan must be formulated for the project, within the first 6 months of implementation. The Project's Stakeholder Engagement Plan will also take account of factors noted above, including the use of appropriate language, engagement of youth and use of consultation. FPIC consultations must be carried out for certain project activities (refer to the Project IPPF for more detail).

In addition, the following identified risks, while relevant to all communities, are of particular relevance to indigenous peoples:

Risk 5: Anti-poaching patrols could pose safety risks to local communities if they are not properly trained, managed or overseen. (SES Principle 1, Standard 3)

The experiences of international organisations in other sub-Saharan African countries have highlighted the importance of clear policies, transparency, monitoring, complaints mechanisms and communication between anti-poaching units and community members, in order to avoid disruption to communities, minimise the chances of mistaken or unwarranted use of force, ensure community participation in the preventing of poaching, and cooperation in intelligence gathering from communities.

This project seeks to employ lessons from previous GEF and UNDP projects in Namibia and internationally, including expanding economic opportunities and livelihoods options, and involving communities in anti-poaching activities. This includes support for activities under current Community-Based Natural Resource Management approaches, including community game guards within Conservancies, and focused approaches such as the IUCN/IIED supported "First Line of Defence against illegal wildlife trade" (FLoD) .

The project will ensure that a risk assessment for the specific activities related to anti-poaching units, for example training, funding of patrol costs, and the provision of equipment to anti-poaching units under MEFT, the Namibian Police Force (NAMPOL) and Namibian Defence Force (NDF) and others, is carried out during development of the ESMP to mitigate any risks to community members. To this end, consultations with community members during the ESIA process regarding anti-poaching risks and community engagement with anti-poaching activities will be included. The ESMP will include an activity for the sensitisation of regional anti-poaching leadership on indigenous peoples and local community support and concerns for anti-poaching activities.

Other measures to be further elaborated within the ESIA and ESMP may include, for example: supporting periodic joint patrols between anti-poaching units and community game guards (potentially including within

national parks), ensuring annual or bi-annual consultations between a wide range of community members and anti-poaching unit representatives to ensure information sharing and feedback. A measure which must be included within the ESMP is the establishment by the Project of a transparent and accessible complaints procedure for community members, taking into account gender issues, safety and protection of the identity of complainants.

Required Action: Consultations with communities on the potential risks of anti-poaching patrols and engagement with anti-poaching activities must be included in the ESIA consultations, and will inform the ESMP with regard to sensitisation, and any additional project activities required to mitigate risks to communities and strengthen anti-poaching outcomes.

Additionally, the project will put in place a Grievance Redress Mechanism (that meets the requirements of the UNDP SES Policy), the design of which will take into account accessibility, protection and participation for community members.

Risk 7: Increased enforcement and new approaches to HWC/WC could change current access to PAs, buffer zones and resources, potentially leading to economic displacement and/or changes to property rights. (SES Principle 1, Standard 1 and Standard 5).

This risk stems from the continued competition for land between conservation and agricultural livelihoods, though the current status quo in Namibia leans towards reduction in buffer zones and encroachment on PAs, rather than exclusion (see Risk 3). The potential exception is in Bwabwata National Park, where substantial encroachment exists but enforcement is more likely given its classification as State land, as opposed to communal land in other project landscapes.

Required Action: The ESIA and ESMP must define processes through which the Project, with the support of MEFT and other stakeholders, will monitor and consult on any likely changes to land use and enforcement resulting from project activities, before they are implemented, incorporating suitable mitigation measures wherever possible.

4.3 Relocation of indigenous peoples from their lands and territories (SES Standard and Standard 6)

The Project will not engage in activities that will cause the relocation of indigenous peoples from their lands and territories. Relocations of communities from and within game reserves and national parks have occurred pre-Independence under rule of colonial-era and the former South African government. The risk of relocation has been discussed with the GRN, who state there is no intention of carrying out relocation through the project or related activities.

Furthermore, in the unlikely event that relocations are deemed necessary by the GRN in landscapes within which the project is active and within the implementation time frame of the project, the Project will cease any activities in the affected areas or activities that are in any way impacted by relocation processes.

4.4 Protecting traditional knowledge and cultural heritage (SES Standard 4)

The Project will not engage in activities that document or appropriate traditional knowledge and cultural heritage from indigenous peoples. The Project will seek to engage wherever possible and respect the practices of indigenous peoples in utilising traditional knowledge in the management of lands and resources where community management rights exist, and reducing human-wildlife conflict.

This will be achieved through consultation with communities in regard to wildlife corridors and management practices, enabling traditional uses of plants where not in conflict with other activities within the Project, and enabling access to areas of cultural importance where not in conflict with other activities within the Project.

5. Participation, Consultation, and FPIC Processes

5.1 A summary of results of the culturally appropriate consultation and, where required, FPIC processes undertaken with the affected peoples' which led to the indigenous peoples' support for the Project.

SES Standard 6 contains specific requirements regarding participation of and agreement with indigenous peoples throughout the Project cycle. Specifically, free, prior and informed consent (FPIC) must be carried out for any matters within a project that may affect the rights and interests, lands, resources, territories (whether titled or untitled to the people in question) and traditional livelihoods of the indigenous peoples concerned.

Limited FPIC consultations were carried out with relevant indigenous peoples. Limitations occurred due to:

- Initial field consultations were carried out before project landscapes were clearly defined.
- The small and remote populations of indigenous peoples in the north-west project landscape present challenges to locate and access.
- Time limitations in the second phase of consultations due to the large geographic area in which the project will work
- Restrictions on travel due to the emergence of COVID-19 in Namibia in March 2020.

Hence, FPIC consultations with indigenous peoples were confined to a community consultation in Omega III, a majority Khwe settlement within Bwabwata National Park, and a meeting with the Kyaramacan Association, the local community's representative organisation for CBNRM within the park. These consultations largely indicated the relevance of project activities to the Khwe community.

5.2 Relevant issues, potential risks and impacts identified by indigenous peoples during community consultations in Bwabwata National Park

Broadly speaking, discussions with Kyaramacan staff and other community members indicated that the Khwe community in Bwabwata National Park are supportive of investment in BNP that seeks to improve livelihood opportunities for people living with the park, increase the involvement of the Khwe in conservation management and anti-poaching activities and reduce human-wildlife conflict, including this proposed Project.

The following issues were raised by community members during the course of the limited FPIC consultations outlined above, grouped here by thematic area:

Human Wildlife Conflict

- Human wildlife conflict is a major challenge for the community. In late 2019 people were ploughing land to plant crops, but elephants came to the fields to feed when it was close to harvest during the rainy season, so people benefitted very little from small-scale agriculture (mainly maize, mahangu, millet and sorghum).
- This affects local income, due to the reduction in sales of excess harvest at markets. This loss of income has a range of effects for families - for example, it can make it difficult for households to pay school fees and purchase school uniforms.
- Predation by hyena is also a problem, with mainly goats and donkeys killed by these predators. Donkeys are important for the community as they are used for the collection of Devils Claw²³, transporting water and for ploughing.
- The local community uses various approaches to ward off elephants, including beating drums to scare elephants away from fields. They also use dogs to help chase hyaenas from their villages.
- The local communities use fires for safety when lions are in the areas around villages, and inform each other of lion sightings.
- Respondents felt that MEFT response to HWC was limited. Most felt that the compensation measures for livestock predation and loss of produce were inadequate.
- They also stated the need for improved housing where predators are commonly found.

²³ *Harpagophytum zeyheri*, a traditional medicinal plant sustainably harvested within the park and sold to the European market for the treatment of arthritis and related conditions, remains an important income for the community. Devils claw fetched approximately N\$40/kg in 2019, with estimated incomes of N\$1000-N\$2500 per person.

Poaching

- Incidence of poaching was previously very high in eastern Bwabwata, and mainly carried by people from outside of the area, but has now reduced. It is an issue of great concern to the local community due to wildlife-related income and as ongoing inhabitants of the land.
- Poaching has reduced trophy quality and the number of bull elephants, hence it has impacted on activities related to trophy-hunting.
- The respondents stated that few poachers come from the local community.
- Local community members inform each other when someone finds an unknown footprint in their area, and they normally report their findings to the Kyaramacan game guards, who in turn report it to MEFT and track the footprints.
- Buffalo and kudu are commonly poached, so hunting for meat is commonly the objective, not only ivory for sale via the illegal wildlife trade.
- Relations between the community and anti-poaching units vary. The local community appreciates the important role played by the APUs and do not ask for restrictions on patrols. However, the restrictions on the community livelihoods and movement are viewed as problematic, and some allegations of unjustified targeting of community members were reported.
- Respondents reported a maximum limit to movement of between 3km to 5km from a village because of APU activities, which severely limits the collection of bush-food.
- The lack of involvement of community game guards in APU activities, and hence their inactivity, was also raised.
- The previous ban by MEFT on Devils Claw collection was seen as draconian by the local community, but now there is a system of using colourful printed T-shirts to identify Devils Claw collectors to APUs.
- The community members stated the local community should be better-integrated into APU's activities, especially given local knowledge of waterholes, wildlife corridors and human activity.

Other issues

- Kyaramacan has undertaken a Biocultural Community Protocol (BCP) process with MEFT, supported by the South African international NGO Natural Justice. This aimed to create clear terms and conditions regarding co-management of the park, traditional knowledge and use of natural resources.²⁴
- Respondents stated that communities bordering the park are given tourism concessions within Bwabwata, but the awarding of concessions to the community in the park has been extremely slow.
- Respondents also stated that some government officials keep cattle within the park, which is at odds with community members being informed they are not allowed cattle. There should be one rule for all cattle.

Required Action: These issues form a basis for further FPIC consultation under the IPP and ESIA processes, where they (and any additional issues raised) should be explored in detail, and relevant actions within the Project formulated with the participation of indigenous peoples. Priorities for the IPP process should include obtaining formal consent for the Project's activities through the Kyaramacan Association and consulting with !Kung community members within BNP.

The issues raised above should also act as a basis for further discussions with MEFT on how to improve the participation of indigenous peoples within the Project's activities, with a view to the community's long-term participation in conservation management beyond the lifespan of the Project.

5.3 Mechanisms to conduct consultation and consent processes throughout implementation of the Project (also see section 4 of the UNDP-SES Standard 6 Guidance Note)²⁵

²⁴ <https://naturaljustice.org/publication/biocultural-community-protocols/>

²⁵ https://info.undp.org/sites/bpps/SES_Toolkit/SitePages/Standard%206.aspx

Consultations with indigenous peoples during Project planning and activities will be undertaken using internationally-recognised guidelines for Free, Prior and Informed Consent (FPIC), as reflected in the UNDP-SES Policy and following best practice, for example procedures developed through UN-REDD.²⁶ FPIC consultations must be made in good faith along the following principles:

Free - consent given voluntarily and absent of coercion, intimidation or manipulation, using languages and locations agreed with the community in question.

Prior - consent is sought a period of time in advance of an activity or process.

Informed - the nature of the engagement and type of information that should be accessible, clear, consistent, accurate, constant, and transparent, in appropriate language, location and format.

Consent - the freely given collective decision made by the rights-holders and reached through the customary decision-making processes of the affected peoples or communities.

No activities requiring FPIC should be initiated until the outcomes of the FPIC process are validated and any required mitigation measures are in place. The indigenous peoples who may be affected by the Project will have a central role in defining the FPIC process. A facilitator should support this process, a person who will be available throughout the Project, who speaks the necessary languages and is aware of the project context, and is culturally and gender-sensitive. While the objective of the FPIC process is to reach an agreement (consent) between the relevant parties – be it a signed agreement or an otherwise-formalized oral contract – this does not mean that all FPIC processes will lead to the consent of and approval by the rights-holders in question.

5.4 Project activities and circumstances that require consultation and FPIC during ESMP/IPP preparation

Project Outputs	Requirement(s)
Component 1: Management, prevention and mitigation of human-wildlife conflict in the hotspot landscapes	
Outcome 1: Improved capacities to prevent, mitigate and respond to HWC incidents, leading to a reduction in the number of reported HWC incidents and an improved response to reported incidents of HWC.	
Output 1.2: Human-elephant conflict preventative measures are implemented in local conservancies in the hotspot landscapes to prevent or mitigate damage to infrastructure	Consultation if implemented in local sites with indigenous peoples. FPIC, if HWC activities are implemented with indigenous peoples, or in their current settlements, or on land and with resources utilised by indigenous peoples.
Output 1.3: Human-lion conflict preventative measures are implemented in local conservancies in the hotspot landscapes to prevent or mitigate stock losses and injury/loss of human lives	Consultation if implemented in local sites with indigenous peoples. FPIC if HWC activities are implemented with indigenous peoples, or in their current settlements, or on land and with resources utilised by indigenous peoples.
Component 2: Combating wildlife crime and protecting wildlife populations in the hotspot landscapes	
Outcome 2: Strengthened anti-poaching capacities, and science-based management and monitoring of high-value/ high-risk species, leading to a reduction in number of wildlife crime incidents.	
Output 2.1: Operational capacities of the Wildlife Protection Service (WPS) anti-poaching staff and anti-poaching units (APUs) are enhanced in the hotspot landscapes	Consultation if implemented in local sites with indigenous peoples. FPIC if WPS and APU activities are

²⁶ <https://www.unredd.net/documents/un-redd-partner-countries-181/templates-forms-and-guidance-89/un-redd-fpic-guidelines-2648/8717-un-redd-fpic-guidelines-working-final-8717.html?path=un-redd-partner-countries-181/templates-forms-and-guidance-89/un-redd-fpic-guidelines-2648>

	implemented with indigenous peoples, or in their current settlements, or on land and with resources utilised by indigenous peoples.
Component 3: Building the wildlife-based economy to promote co-existence in the hotspot landscapes	
Outcome 3: Growth in the wildlife-based economy of local conservancies in the hotspot landscapes, leading to an increase in income and benefits to conservancy member	
Output 3.1: Improved community benefits from wildlife-based tourism, and related business enterprises, in conservancies in the hotspot landscapes	<p>Consultation if implemented in local sites with indigenous peoples.</p> <p>FPIC if tourism activities are implemented with indigenous peoples, or in their current settlements, or on land and with resources utilised by indigenous peoples</p>
Output 3.2: Improved individual skills of conservancy members to obtain employment in wildlife-based tourism and related business enterprises in conservancies in the hotspot landscapes	Consultation if implemented in local sites with indigenous peoples
Output 3.3: Opportunities to diversify income streams are developed and piloted in conservancies across the hotspot landscapes	<p>Consultation if implemented in local sites with indigenous peoples.</p> <p>FPIC if income-generating activities are implemented with indigenous peoples, or in their current settlements, or on land and with resources utilised by indigenous peoples.</p>
Component 4: Knowledge management, stakeholder coordination and monitoring and evaluation	
Outcome 4: Enhanced knowledge sharing in addressing HWC and WC in the hotspot landscapes, leading to improved cooperation and coordination of effort between stakeholders	
Output 4.2: A project-based monitoring and evaluation system, incorporating gender mainstreaming and social safeguards, is maintained	Consultation and participation in monitoring if monitored activities occur with indigenous peoples.

6 Appropriate Benefits

Guided by this Indigenous Peoples Planning Framework, the project will develop an Indigenous Peoples Plan (IPP) that will detail the agreements with the indigenous peoples concerned regarding the equitable sharing of benefits arising from the delivery of the Project's outputs, in a manner that is culturally appropriate and inclusive. These benefits must not impede land rights or equal access to basic services including health services, clean water, energy, education, safe and decent working conditions, and housing (Standard 6: 6.11).

These arrangements should be detailed in the ESIA, including consultation and consent processes undertaken. Indigenous peoples should be provided with full information on the scope of potential income streams, services and benefits that the Project may generate for all potential beneficiaries. In determining what constitutes fair and equitable benefit sharing – particularly where traditional knowledge, cultural heritage, lands, resources, and territories are involved – indigenous peoples should be treated not only as stakeholders, but appropriately as rights-holders.

It should be noted that in the case of Conservancies with populations of indigenous peoples, and in the case of the Kyaramacan Association, benefit-sharing arrangements may already be established with the local community. In such cases, the ESIA must confirm that equitable sharing arrangements are established through consultations with both Conservancies or the KA, and the communities concerned, and any additional

measures recommended should be made with consent of both parties, hence not undermine currently established local agreements and relations.

7 Capacity support for implementation of the Indigenous Peoples Plan

The IPP will detail actions to be taken within the Project to ensure that sufficient capacity is allocated to meet the objectives of the SES Standard 6 and the specific measures agreed within the IPP. Where capacity may be limited, the IPP will include additional actions to increase capacity in the short- or long-term to the same ends. As with other activities under the IPP, it is important to maximise the participation of indigenous peoples in capacity support measures.

At minimum, the IPP will provide:

- i. A description of Project activities aimed at increasing capacity within the government and/or the affected indigenous peoples, and facilitating exchanges, awareness, and cooperation between the two.
- ii. A description of measures to support social, legal, technical capabilities of indigenous peoples' organizations in the project area to enable them to better represent the affected indigenous peoples more effectively
- iii. Where appropriate and requested, a description of steps to support technical and legal capabilities of relevant government institutions to strengthen compliance with the country's duties and obligations under international law with respect to the rights of indigenous peoples.

8 Grievance Redress

As described in the ESMF, the Project will establish a project-level Grievance Redress Mechanism (GRM) during the first year of implementation. The GRM is a way to provide an effective avenue for expressing concerns and achieving remedies for complaints by communities, to promote a mutually constructive relationship and to enhance the achievement of project development objectives. A community grievance is an issue, concern, problem, or claim (perceived or actual) associated with the Project that an individual, or group, or representative wants to address and resolve.

The following principles should govern the grievance redress system to be implemented by the project:

- Legitimate, accountable, without reprisal.
- Accessible
- Predictable and timebound
- Equitable
- Transparent
- Rights compatible
- Used to improve policies, procedures, and practices to improve performance and prevent future harm.
- Based on engagement and dialogue

The full details of these GRMs will be agreed upon during the Inception Phase, a process that will be overseen by the Project Manager with the Project Safeguards Officer (SESO).

The grievance and response mechanism helps all stakeholders involved in the project – be it the affected groups and or UNDP's partners in particular governments and others to jointly address grievances or disputes related to the social and/or environmental impacts of UNDP supported projects. While grievance and response mechanism is important for all project stakeholders, it is particularly key for the indigenous people, who are often marginalised. The proposed project will be implemented in areas which are home to indigenous people hence it is critical that there is a transparent grievance redress mechanism for any eventualities. Aggrieved stakeholders can approach the Project Management Unit and the Implementing Partner, the Ministry of Environment and Tourism to register their grievances. In cases when the agencies are not able to address the

grievances, or in cases when the grievances have not been addressed successfully, the aggrieved stakeholders have recourse on other national grievance mechanisms.

At a local level, due to barriers of language, access to communications, potential issues of discrimination, and perceived issues of safety where protection of the identity of complainants may be required, it is essential to provide a local point of contact for community grievances. This may be a local NGO, trusted community members in various locations, trusted person of authority, community association, or other point of contact agreed through consultations with community members, and particularly with indigenous peoples where included in project activities. It is critical that this point of contact understands the need for community complaints to be anonymous where issues of individual or group safety are perceived, and that the point of contact has direct access to the PMU staff. In the case of a complaint where anonymity is requested, the PMU and any resulting grievance process must respect this condition.

Those able to access and communicate with national grievance mechanisms have established options in Namibia. These include the Office Ombudsman, which promotes and protects human rights of all Namibians. The office can be reached at:

Office of the Ombudsman

Corner of Feld and Lossen Streets

Private Bag 13211, Windhoek

Tel 061-2073111 (All sections)

Fax 061-220550 (Ombudsman)

Email: office@ombudsman.org.na

Fax 061-226838 (Director and Investigations)

Other grievance mechanisms that stakeholders can access - for example in relation to land rights and/or land related disputes, stakeholders can approach the regional Communal Land Boards in their respective regions. In all the regions, the Communal Land Boards are housed in the regional offices of the Ministry of Land Reform. Similarly, in each region there are Community Courts, which stakeholders can approach for recourse of their grievances. For the needs of the indigenous and marginalised communities in particular, the stakeholders can approach the Office of the Vice President of the Namibia under the Office of Veterans Affairs, Disability Affairs and Marginalized Communities. The contact details are

Division Marginalised Communities

Deputy Minister: Marginalised Communities Hon. Royal /Ui/o/oo

Office of the Vice President

Kenya House

Private Bag 13407

Tel: +264 61 296 3110

Fax: +264 61 305 935

The Office of the Regional Councils in the respective regions are other grievance mechanisms that stakeholders can approach. It should be noted that these established options do not replace the need for accessible local and project grievance mechanisms within the Project.

All the identified institutions will consult with the Project Management Unit and other staff and officials of the Implementing Partner, the Ministry of Environment, Forestry and Tourism to find solution to the grievances raised. Interested stakeholders may raise a grievance at any time to the Project Management Unit, the Executing Agency (UNDP), Implementing Agency (MEFT), or the GEF.

In the case of serious allegations of fraud, misconduct or safety issues, complaints may choose to access the UNDP Office of Audit and Investigation (OAI)²⁷ via email (reportmisconduct@undp.org) or reverse charge telephone call (+1-844-595-5206).

9 Monitoring, Reporting, Evaluation of the Indigenous Peoples Plan

- i. Mechanisms and benchmarks appropriate to the Project for transparent, participatory joint monitoring, evaluating, and reporting.**

²⁷ <https://www.undp.org/content/undp/en/home/accountability/audit/office-of-audit-and-investigation.html#oai>

Project-level monitoring and evaluation will be undertaken in compliance with UNDP requirements as outlined in the UNDP POPP and UNDP Evaluation Policy. The UNDP Country Office is responsible for ensuring full compliance with all UNDP project monitoring, quality assurance, risk management, and evaluation requirements.

Additional mandatory GEF-specific M&E requirements will be undertaken in accordance with the GEF Monitoring Policy and the GEF Evaluation Policy and other relevant GEF policies. The costed M&E plan included below, and the Monitoring plan in Annex, will guide the GEF-specific M&E activities to be undertaken by this project. In addition to these mandatory UNDP and GEF M&E requirements, other M&E activities deemed necessary to support project-level adaptive management will be agreed during the Project Inception Workshop and will be detailed in the Inception Report.

Further to this, SES Standard 6 requires that transparent participatory monitoring arrangements be put in place wherein the indigenous peoples concerned will jointly monitor Project implementation (Standard 6: 6.15). The IPP will define the methods of information disclosure from the Project to indigenous peoples, taking into account appropriate language, mechanisms and format, and allowing for the participation of indigenous peoples (both women and men), consultations and feedback for corrective actions within the Project where necessary. These duties are recommended to be periodically carried out by the SESO throughout the project duration, though may require indigenous peoples' specialists for certain activities. This requirement should be defined after community consultations related to the ESIA and IPP formulation.

In order to ensure participation of indigenous peoples in the monitoring process, the IPP should detail, at a minimum:

- the manner in which indigenous peoples will participate in monitoring activities
- progress indicators and an estimated budget to ensure robust monitoring
- the participatory selection and involvement of an independent expert, where needed
- schedules for monitoring activities
- the mechanism for redress and corrective action

Additionally, the Independent Mid-term Review (MTR) and Terminal Evaluation (TE) will both provide analysis of the Project's engagement with indigenous peoples.

ii. Mechanisms to allow for periodic review and revision of the IPP in the event that new Project circumstances warrant modifications developed through consultation and consent processes with the affected indigenous peoples.

IPP review and modification due to changes in the project would be undertaken after one of the periodic consultations and monitoring activities undertaken by the SESO or any indigenous peoples specialists, or ad hoc consultations and consent with indigenous peoples should the need arise. Any changes should reflect the needs, concerns and benefits to indigenous peoples, and be agreed by the PMU, UNDP and MET.

10 Institutional Arrangements

As described in the ESMF, Project document and above, the IPP, ESIA and ESMP will take into account the needs and concerns of indigenous peoples involved in project activities, with direct consultations within the IPP and ESIA processes.

Monitoring activities will involve the participation of indigenous peoples where defined within the IPP and/or ESIA and ESMP, and the Independent Mid-term Review (MTR) and Terminal Evaluation (TE) will include sections on the Project's engagement with indigenous peoples.

11 Budget for Preparation of the Indigenous Peoples Plan

The costs below are only related to the preparation of the IPP. This may be carried out under the ESMP preparation activities, as a sub-contract or a standalone contract. In all cases the PMU and specifically the

SESO will ensure a coordinated approach to ESMP and IPP development. Implementation costs of the IPP during the Project, for example a proportion of SESO costs, are included under the ESMF implementation budget. Additionally, costs associated with the coordination of IPP implementation by the PMU or UNDP are not fully costed. Hence refer to the budget of the ESMF and Project Document in regard to implementation costs.

Breakdown of costs for IPP Preparation

Item	Budget Cost (USD)
International or national consultants (IPP preparation 25 days, plus 5 days for additional inputs for within project duration for IP specialist)	\$16,500
International travel expense and Windhoek accommodation costs for consultant (if required)	\$1,400
National travel expense for consultations (transport and accommodation)	\$2,600
Print production expenses	\$750
Dissemination costs to indigenous peoples	\$500
SESO implementation costs (see ESMF/ESMP)	-
Total:	\$21,750

Note: The **IPP** will be implemented as part of Project implementation. However, in no case shall Project activities that may adversely affect indigenous peoples – including the existence, value, use or enjoyment of their lands, resources or territories – take place before the corresponding activities in the **IPP** are implemented. The relationship between the implementation of specific **IPP** measures and the permitted commencement of distinct Project activities shall be detailed within the **IPP** to allow for transparent benchmarks and accountability.

Where other Project documents already develop and address issues listed in the above sections, citation to the relevant document(s) shall suffice.

Annex II: Sample Terms of Reference: Project-level Grievance Redress Mechanism

Please refer to the [Supplemental Guidance on Grievance Redress Mechanism](#) for additional information.

I. Mandate

The mandate of the GRM will be to:

- (i) receive and address any concerns, complaints, notices of emerging conflicts, or grievances (collectively “*Grievance*”) alleging actual or potential harm to affected person(s) (the “*Claimant(s)*”) arising from Project;
- (ii) assist in resolution of Grievances between and among Project Stakeholders; as well as the various government ministries, agencies and commissions, CSOs and NGOs, and others (collectively, the “*Stakeholders*”) in the context of the Project;
- (iii) Conduct itself at all times in a flexible, collaborative, and transparent manner aimed at problem solving and consensus building.

II. Functions

The functions of the GRM will be to:

- (i) Receive, Log and Track all Grievances received;
- (ii) Provide regular status updates on Grievances to Claimants, Project Board (PB) members and other relevant Stakeholders, as applicable;
- (iii) Engage the PB members, Government institutions and other relevant Stakeholders in Grievance resolution;
- (iv) Process and propose solutions and ways forward related to specific Grievances *within a period not to exceed sixty (60) days* from receipt of the Grievance;
- (v) Identify growing trends in Grievances and recommend possible measures to avoid the same;
- (vi) Receive and service requests for, and suggest the use of, mediation or facilitation;
- (vii) Elaborate bi-annual reports, make said reports available to the public, and more generally work to maximize the disclosure of its work (including its reports, findings and outcomes);
- (viii) Ensure increased awareness, accessibility, predictability, transparency, legitimacy, and credibility of the GRM process;
- (ix) Collaborate with Partner Institutions and other NGOs, CSOs and other entities to conduct outreach initiatives to increase awareness among Stakeholders as to the existence of the GRM and how its services can be accessed;
- (x) Ensure continuing education of PB members and their respective institutions about the relevant laws and policies that they will need to be aware of to participate in the development of effective resolutions to Grievances likely to come before the GRM;
- (xi) Monitor follow up to Grievance resolutions, as appropriate.

III. Composition

The GRM will be composed of:

[Name of Implementing Partner] as the Secretariat and either:

- (a) A standing GRM Sub-Committee [made up of x, y, z PB members]

and/or

- (b) Ad hoc GRM Task Teams in response to specific requests for grievance

The GRM Sub-Committee will be balanced in composition (government and non-government) and should not include any PB members with a direct interest or role in the grievance/dispute.

IV. [Name of Implementing Partner]

In its role as GRM Secretariat, [Name of Implementing Partner] will perform the following core functions:

- Publicize the existence of the GRM and the procedure for using it;
- Receive and log requests for dispute resolution;
- Acknowledge receipt to the requestor;
- Determine eligibility;
- Forward eligible requests to the PB for review and action, and
- Track and document efforts at grievance/dispute resolution and their outcomes.

V. Project Board/GRM Sub-Committee/GRM Task Team

The Project Board/GRM Sub-Committee and/or GRM Task Team will perform the following core functions:

- Take direct action to resolve the grievance/dispute (e.g. bring the relevant parties together to discuss and resolve the issue themselves with oversight by the PB);
- Request further information to clarify the issue, and share that information with all relevant parties, or ensure that a government agency represented on the PB took an appropriate administrative action to deal with a complaint;
- Refer the grievance/dispute to independent mediation, while maintaining oversight; or
- Determine that the request was outside the scope and mandate of the PB and refer it elsewhere (e.g. Ministry of Justice and Police or to the courts).

VI. Communicating a Grievance

(i) Who can Submit a Grievance?

A Grievance can be sent by any individual or group of individuals that believes it has been or will be harmed by the Project.

If a Grievance is to be lodged by a different individual or organization on behalf of those said to be affected, the Claimant must identify the individual and/or people on behalf of who the Grievance is submitted and provide written confirmation by the individual and/or people represented that they are giving the Claimant the authority to present the Grievance on their behalf. The GRM will take reasonable steps to verify this authority.

(ii) How is the Grievance Communicated?

The GRM shall maintain a flexible approach with respect to receiving Grievances in light of known local constraints with respect to communications and access to resources for some Stakeholders. A Grievance can be transmitted to the GRM by any means available (i.e. by email, letter, phone call, meeting, SMS, etc.). The contact information is the following:

[Implementing Partner to add address, phone number, fax, etc.]

To facilitate communications with and between the GRM and potential Claimants, the GRM will receive support from the PB members' institutions, local government and civil society organizations

(iii) What information should be included in a Grievance?

The Grievance should include the following information:

- (a) the name of the individual or individuals making the Complaint (the "Claimant");
- (b) a means for contacting the Claimant (email, phone, address, other);
- (c) if the submission is on behalf of those alleging a potential or actual harm, the identity of those on whose behalf the Grievance is made, and written confirmation by those represented of the Claimant's authority to lodge the Grievance on their behalf;
- (d) the description of the potential or actual harm;
- (e) Claimant's statement of the risk of harm or actual harm (description of the risk/harm and those affected, names of the individual(s) or institutions responsible for the risk/harm, the location(s) and date(s) of harmful activity);
- (f) what has been done by Claimant thus far to resolve the matter;
- (g) whether the Claimant wishes that their identity is kept confidential; and
- (h) the specific help requested from the GRM.

However, complainants are not required to provide all of the information listed above. Initially, the complainant need only provide enough information to determine eligibility. If insufficient information is provided, the GRM has an obligation to make a substantial, good faith effort to contact the complainant to request whatever additional information is needed to determine eligibility, and if eligible, to develop a proposed response.

VII. Logging, Acknowledgment, and Tracking

All Grievances and reports of conflict will be received, assigned a tracking number, acknowledged to Claimant, recorded electronically, and subject to periodic updates to the Claimant as well as the office file.

Within one (1) week from the receipt of a Grievance, the GRM will send a *written* acknowledgement to Claimant of the Grievance received with the assigned tracking number.²⁸

Each Grievance file will contain, at a minimum:

- i. the date of the request as received;
- ii. the date the written acknowledgment was sent (and oral acknowledgment if also done);
- iii. the dates and nature of all other communications or meetings with the Claimant and other relevant Stakeholders;
- iv. any requests, offers of, or engagements of a Mediator or Facilitator;
- v. the date and records related to the proposed solution/way forward;

²⁸ Oral acknowledgments can be used for expediency (and also recorded), but must be followed by a written acknowledgment.

- vi. the acceptance or objections of the Claimant (or other Stakeholders);
- vii. the proposed next steps if objections arose;
- viii. the alternative solution if renewed dialogues were pursued;
- ix. notes regarding implementation; and
- x. any conclusions and recommendations arising from monitoring and follow up.

IX. Maintaining Communication and Status Updates

Files for each Grievance will be available for review by the Claimant and other Stakeholders involved in the Grievance, or their designated representative(s). Appropriate steps will be taken to maintain the confidentiality of the Claimant if previously requested.

The GRM will provide periodic updates to the Claimant regarding the status and current actions to resolve the Grievance. Not including the acknowledgment of receipt of the Grievance, such updates will occur within reasonable intervals (not greater than every thirty (30) days).

X. Investigation and Consensus Building

Within one (1) week of receiving a Grievance, [Implementing Partner] will notify the **PB/GRM Sub-Committee (GRM SC)/GRM Task Team (GRM TT)** and any other relevant institutions of the receipt of the Grievance.

[IF THE PB, RATHER THAN A PRE-DESIGNATED GRM SC OR GRM TT IS THE PRIMARY BODY RECEIVING COMPLAINTS: The PB will identify a specific team of individuals drawn from the PB and/or their respective institutions to develop a response to the Grievance. The names of these individuals will be made available to the Claimant.]

The designated PB members/GRM SC/GRM TT will promptly engage the Claimant and any other relevant Stakeholders deemed appropriate, to gather all necessary information regarding the Grievance.

Through the PB members/GRM SC/GRM TT, the GRM will have the authority to request from relevant Government institutions any information (documents or otherwise) relevant to resolving the Grievance and avoiding future Grievances of the same nature.

As necessary, the PB members/GRM SC/GRM TT will convene one or more meetings with relevant individuals and institutions in [national capital], or elsewhere in [name of country] as needed.

The objective of all investigative activities is to develop a thorough understanding of the issues and concerns raised in the Grievance and facilitate consensus around a proposed solution and way forward.

The PB members/GRM SC/GRM TT will procure the cooperation of their respective staff with the investigation.

At any point during the investigation, the PB members/GRM SC/GRM TT may determine that an onsite field investigation is necessary to properly understand the Grievance and develop an effective proposed solution and way forward.

XI. Seeking Advisory Opinion and/or Technical Assistance

At any point after receiving a Grievance and through to implementation of the proposed solution and way forward, the PB members/GRM SC/GRM TT may seek the technical assistance and/or an advisory opinion from any entity or individual in [country] or internationally which may reasonably be believed to be of assistance.

XII. Making Proposed Actions and Solutions Public and Overseeing Implementation

The PB members/GRM SC/GRM TT will communicate to the Claimant one or more proposed actions or resolutions and clearly articulate the reasons and basis for proposed way forward.

If the Claimant does not accept the resolution, the PB members/GRM SC/GRM TT will engage with the Claimant to provide alternative options.

If the Claimant accepts the proposed solution and way forward, the GRM will continue to monitor the implementation directly and through the receipt of communications from the Claimant and other relevant parties. As necessary, the GRM may solicit information from the relevant parties and initiate renewed dialogue where appropriate.

In all communications with the Claimant and other stakeholders, the GRM will be guided by its problem-solving role, non-coercive principles and process, and the voluntary, good faith nature of the interaction with the Claimant and other stakeholders.

XII. Monitoring and Evaluation

Bi-annually, the GRM will make available to the public, a report describing the work of the GRM, listing the number and nature of the Grievances received and processed in the past six months, a date and description of the Grievances received, resolutions, referrals and ongoing efforts at resolution, and status of implementation of ongoing resolutions. The level of detail provided with regard to any individual Grievance will depend on the sensitivity of the issues and Stakeholder concerns about confidentiality, while providing appropriate transparency about the activities of the GRM. The report will also highlight key trends in emerging conflicts, Grievances, and dispute resolution, and make recommendations regarding:

- (i) measures that can be taken by the Government to avoid future harms and Grievances; and
- (ii) improvements to the GRM that would enhance its effectiveness, accessibility, predictability, transparency, legitimacy, credibility, and capacity.

XIII. Mediation

For the option of independent mediation, mediators on the roster/panel should have at least the following qualifications:

- professional experience and expertise in impartial mediation;
- knowledge of [project type and activities in the country] and the region, including an understanding of indigenous and tribal culture and practices;
- [national and local language, as appropriate] proficiency;
- availability in principle for assignments of up to 20 days; and
- willingness to declare all relationships and interests that may affect their ability to act as impartial mediators in particular cases.

If mediation succeeded in resolving the dispute or grievance, the outcome will be documented by [Implementing Partner] and reviewed by the Task Team. If it is unsuccessful, stakeholders will have the option to return to the PB members/GRM SC/GRM TT for assistance.

XIV. Without Prejudice

The existence and use of this GRM is without prejudice to any existing rights under any other complaint mechanisms that an individual or group of individuals may otherwise have access to under national or international law or the rules and regulations of other institutions, agencies or commissions.

Annex III: Indicative Outline of ESIA Report

An ESIA report should include the following major elements (not necessarily in the following order):

(1) Executive summary: Concisely discusses significant findings and recommended actions.

(2) Legal and institutional framework: Summarizes the analysis of the legal and institutional framework for the project, within which the social and environmental assessment is carried out, including (a) the country's applicable policy framework, national laws and regulations, and institutional capabilities (including implementation) relating to social and environmental issues; obligations of the country directly applicable to the project under relevant international treaties and agreements; (b) applicable requirements under UNDP's SES; and (c) and other relevant social and environmental standards and/or requirements, including those of any other donors and development partners. Compares the existing social and environmental framework and applicable requirements of UNDP's SES (and those of other donors/development partners) and identifies any potential gaps that will need to be addressed.

(3) Project description: Concisely describes the proposed project and its geographic, social, environmental, and temporal context, including any offsite activities that may be required (e.g., dedicated pipelines, access roads, power supply, water supply, housing, and raw material and product storage facilities), as well as the project's primary supply chain. Includes a map of sufficient detail, showing the project site and the area that may be affected by the project's direct, indirect, and cumulative impacts. (i.e. area of influence).

(4) Baseline data: Summarizes the baseline data that is relevant to decisions about project location, design, operation, or mitigation measures; identifies and estimates the extent and quality of available data, key data gaps, and uncertainties associated with predictions; assesses the scope of the area to be studied and describes relevant physical, biological, and socioeconomic conditions, including any changes anticipated before the project commences; and takes into account current and proposed development activities within the project area but not directly connected to the project.

(5) Social and environmental risks and impacts: Predicts and takes into account all relevant social and environmental risks and impacts of the project, including those related to UNDP's SES (Overarching Policy and Principles and Project-level Standards). These will include, but are not limited to, the following:

(a) Environmental risks and impacts, including: any material threat to the protection, conservation, maintenance and rehabilitation of natural habitats, biodiversity, and ecosystems; those related to climate change and other transboundary or global impacts; those related to community health and safety; those related to pollution and discharges of waste; those related to the use of living natural resources, such as fisheries and forests; and those related to other applicable standards.²⁹

(b) Social risks and impacts, including: any project-related threats to human rights of affected communities and individuals; threats to human security through the escalation of personal, communal or inter-state conflict, crime or violence; risks of gender discrimination; risks that adverse project impacts fall disproportionately on disadvantaged or marginalized groups; any prejudice or discrimination toward individuals or groups in providing access to development resources and project benefits, particularly in the case of disadvantaged or marginalized groups; negative economic and social impacts relating to physical displacement (i.e. relocation or loss of shelter) or economic displacement (i.e. loss of assets or

19 For example, the Environmental, Health, and Safety Guidelines (EHSs), which are technical reference documents with general and industry-specific statements of Good International Industry Practice. The EHSs contain information on industry- specific risks and impacts and the performance levels and measures that are generally considered to be achievable in new facilities by existing technology at reasonable cost. Available at www.ifc.org/ehsguidelines.

²⁹ For example, the Environmental, Health, and Safety Guidelines (EHSs), which are technical reference documents with general and industry-specific statements of Good International Industry Practice. The EHSs contain information on industry- specific risks and impacts and the performance levels and measures that are generally considered to be achievable in new facilities by existing technology at reasonable cost. Available at www.ifc.org/ehsguidelines.

access to assets that leads to loss of income sources or means of livelihood) as a result of project-related land or resource acquisition or restrictions on land use or access to resources; impacts on the health, safety and well-being of workers and project-affected communities; and risks to cultural heritage.

(6) Analysis of alternatives: systematically compares feasible alternatives to the proposed project site, technology, design, and operation – including the "without project" situation – in terms of their potential social and environmental impacts; assesses the alternatives' feasibility of mitigating the adverse social and environmental impacts; the capital and recurrent costs of alternative mitigation measures, and their suitability under local conditions; the institutional, training, and monitoring requirements for the alternative mitigation measures; for each of the alternatives, quantifies the social and environmental impacts to the extent possible, and attaches economic values where feasible. Sets out the basis for selecting the particular project design.

(7) Mitigation Measures: Inclusion or summary of (with attachment of full) Environmental and Social Management Plan (ESMP) (see indicative outline of ESMP below.) The ESMP identifies mitigation measures required to address identified social and environmental risks and impacts, as well as measures related to monitoring, capacity development, stakeholder engagement, and implementation action plan.

(8) Conclusions and Recommendations: Succinctly describes conclusion drawn from the assessment and provides recommendations.

(9) Appendices: (i) List of the individuals or organisations that prepared or contributed to the social and environmental assessment; (ii) References – setting out the written materials both published and unpublished, that have been used; (iii) Record of meetings, consultations and surveys with stakeholders, including those with affected people and local NGOs. The record specifies the means of such stakeholder engagement that were used to obtain the views of affected groups and local NGOs, summarizes key concerns and how these concerns addressed in project design and mitigation measures; (iv) Tables presenting the relevant data referred to or summarized in the main text; (v) Attachment of any other mitigation plans; (vi) List of associated reports or plans.

Annex IV: Indicative Outline of an ESMP

An ESMP may be prepared as part of the Environmental and Social Impact Assessment (ESIA) or as a stand-alone document.³⁰ The content of the ESMP should address the following sections:

(1) Mitigation: Identifies measures and actions in accordance with the mitigation hierarchy that avoid, or if avoidance not possible, reduce potentially significant adverse social and environmental impacts to acceptable levels. Specifically, the ESMP: (a) identifies and summarizes all anticipated significant adverse social and environmental impacts; (b) describes – with technical details – each mitigation measure, including the type of impact to which it relates and the conditions under which it is required (e.g., continuously or in the event of contingencies), together with designs, equipment descriptions, and operating procedures, as appropriate; (c) estimates any potential social and environmental impacts of these measures and any residual impacts following mitigation; and (d) takes into account, and is consistent with, other required mitigation plans (e.g. for displacement, indigenous peoples).

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

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

(4) Stakeholder Engagement: Outlines plan to engage in meaningful, effective and informed consultations with affected stakeholders. Includes information on (a) means used to inform and involve affected people in the assessment process; (b) summary of stakeholder engagement plan for meaningful, effective consultations during project implementation, including identification of milestones for consultations, information disclosure, and periodic reporting on progress on project implementation; and (c) description of effective processes for receiving and addressing stakeholder concerns and grievances regarding the project's social and environmental performance.

(5) Implementation action plan (schedule and cost estimates): For all four above aspects (mitigation, monitoring, capacity development, and stakeholder engagement), ESMP provides (a) an implementation schedule for measures that must be carried out as part of the project, showing phasing and coordination with overall project implementation plans; and (b) the capital and recurrent cost estimates and sources of funds for implementing the ESMP. These figures are also integrated into the total project cost tables. Each of the measures and actions to be implemented will be clearly specified and the costs of so doing will be integrated into the project's overall planning, design, budget, and implementation.

³⁰ This may be particularly relevant where contractors are being engaged to carry out the project, or parts thereof, and the ESMP sets out the requirements to be followed by contractors. In this case the ESMP should be incorporated as part of the contract with the contractor, together with appropriate monitoring and enforcement provisions.

Annex V: Indicative Outline of an Indigenous People's Plan

This outline guides the preparation of an Indigenous Peoples Plan, although not necessarily in the order shown.

Executive Summary of the Indigenous Peoples Plan

This section concisely describes the critical facts, significant findings, and recommended actions.

Project Description

This section provides a general description of the project; discusses project components and activities that may bring impacts on Indigenous Peoples/Ethnic Minorities; and identify project area.

Social Impact Assessment

This section:

- a. Reviews the legal and institutional framework applicable to Indigenous Peoples/Ethnic Minorities in project context;
- b. Provides baseline information on the demographic, social, cultural, and political characteristics of the affected Indigenous Peoples/Ethnic Minorities; the land and territories that they have traditionally owned or customarily used or occupied; and the natural resources on which they depend;
- c. Identifies key project stakeholders and elaborate a culturally appropriate and gender-sensitive process for meaningful consultation with Indigenous Peoples/Ethnic Minorities at each stage of project preparation and implementation, taking the review and baseline information into account;
- d. Assesses, based on meaningful consultation with the affected Indigenous Peoples/Ethnic Minority communities, and the potential adverse and positive effects of the project. Critical to the determination of potential adverse impacts is a gender-sensitive analysis of the relative vulnerability of, and risks to, the affected Indigenous Peoples/Ethnic Minority communities given their particular circumstances and close ties to land and natural resources, as well as their lack of access to opportunities relative to those available to other social groups in the communities, regions, or national societies in which they live;
- e. Includes a gender-sensitive assessment of the affected Indigenous Peoples/Ethnic Minorities' perceptions about the project and its impact on their social, economic, and cultural status; and
- f. Identifies and recommends, based on meaningful consultation with the affected Indigenous Peoples/Ethnic Minorities communities, the measures necessary to avoid adverse effects or, if such measures are not possible, identifies measures to minimize, mitigate, and/or compensate for such effects and to ensure that Indigenous Peoples/Ethnic Minorities receive culturally appropriate benefits under the project.

Information Disclosure, Consultation and Participation

This section:

- a. Describes the information disclosure, consultation and participation process with the affected Indigenous Peoples/Ethnic Minority communities that can be carried out during project preparation;
- b. Summarizes their comments on the results of the social impact assessment and identifies concerns raised during consultation and how these have been addressed in project design;
- c. In the case of project activities requiring broad community support, documents the process and outcome of consultations with affected Indigenous Peoples/Ethnic Minority communities and any agreement resulting from such consultations for the project activities and safeguard measures addressing the impacts of such activities;
- d. describes consultation and participation mechanisms to be used during implementation to ensure Indigenous Peoples/Ethnic Minorities participation during implementation; and
- e. Confirms disclosure of the draft and final to the affected Indigenous Peoples/Ethnic Minority communities.

Beneficial Measures

This section specifies the measures to ensure that Indigenous Peoples/Ethnic Minorities receive social and economic benefits that are culturally appropriate, and gender responsive.

Mitigative Measures

This section specifies the measures to avoid adverse impacts on Indigenous Peoples/Ethnic Minorities; and where the avoidance is impossible, specifies the measures to minimize, mitigate and compensate for identified unavoidable adverse impacts for each affected Indigenous Peoples/Ethnic Minorities.

Capacity Building

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

Grievance Redress Mechanism

This section describes the procedures to redress grievances by affected Indigenous Peoples/Ethnic Minority communities. It also explains how the procedures are accessible to Indigenous Peoples/Ethnic Minorities and culturally appropriate and gender sensitive. It is anticipated this would utilize the already developed Grievance Redress Mechanism established under the Indigenous Peoples Planning Framework.

Monitoring, Reporting and Evaluation

This section describes the mechanisms and benchmarks appropriate to the project for monitoring and evaluating the implementation of the Indigenous Peoples Plan. It also specifies arrangements for participation of affected Indigenous Peoples/Ethnic Minorities in the preparation and validation of monitoring, and evaluation reports.

Institutional Arrangement

This section describes institutional arrangement responsibilities and mechanisms for carrying out the various measures of the Indigenous Peoples Plan. It also describes the process of including relevant local organizations and/or NGOs in carrying out the measures of the Indigenous Peoples Plan.

Budget and Financing

This section provides an itemized budget for all activities described in the Indigenous Peoples Plan.

Annex VI: Social and Environmental Safeguards Officer – Example Terms of Reference

Objective of the consultancy:

1. to ensure compliance with Namibian and UNDP Social and Environmental Standards (SES);
2. to carry out monitoring and evaluation activities on behalf of the Project;
3. to update the ESMP as per MEFT and UNDP requirements;
4. update, engage and consult with all stakeholders and as necessary, obtain their consent to any activities that may affect them; and
5. (v) ensure compliance with the ESMPs and management plans throughout the project implementation.

In order to achieve this objective, a Social and Environmental Safeguards Officer (SESO) is required to provide specialized safeguards technical input to the PMU prior to commencement of the implementation of project activities.

The SESO will also provide necessary inputs throughout the project implementation to ensure all involved in any form in the project (Governments at all levels, partners, contractors, etc) have a full understanding of the ESMPs and that there is timely implementation of ESMP measures by the PMU; and where there is non-compliance, to work with the PMU and others to rectify the problems quickly. The SESO will work with the PMU, MEFT and UNDP Country Office.

Reporting and coordination line:

- The SESO will report directly to the head of the PMU, with co-supervision by the UNDP Country Office;
- The SESO will need to work closely with PMU and UNDP Country Office for all the technical requirements of the UNDP SES policy and in close coordination with UNDP's RTA
- The SESO will respond timely (within 24 hours, preferably) to technical requirements of key stakeholders, MEFT, UNDP Country Office, UNDP RTA. This input can be where applicable, by email, telephone and as necessary, in person;
- The Safeguards Specialist will coordinate with PMU members, relevant government and non-government counterparts and UNDP to ensure that risks are identified, avoided, mitigated and managed throughout project implementation.

Tasks/Responsibilities:

Under the overall supervision and guidance of the Project Manager, the SESO will have the responsibility for updating and implementing the ESMP; carrying out M&E activities, undertaking audits to ensure compliance; and providing input and/or preparing reports as required for the implementation of the project.

Specific responsibilities will include:

- Review the current ESMP and make amendments as necessary (including but not limited to the inclusion of a grievance redress mechanism) based on the UNDP SES;
- Review the SESP annually, and update and revise corresponding risk log; mitigation/management plans as necessary;
- Ensure environmental and social risks are identified, avoided, mitigated and managed throughout project implementation;
- Oversee/develop/coordinate implementation of all safeguard related plans;
- Ensure FPIC and full disclosure with concerned stakeholders;

- Monitor progress in development/implementation of the project ESMP ensuring that UNDP's SES policy is fully complied with and the reporting requirements are fulfilled;
- Ensure social and environmental grievances are managed effectively and transparently through the grievance redress mechanism;
- Participate in public consultations during project implementation;
- Ensure training of project staff and community institutions in environmental management and
- Develop guidelines for community participation in Project activities and consultations.

Expected deliverables:

The SESO will be required to submit the following deliverables:

- Updated SESP (as necessary) and ESMP including a grievance redress mechanism and budget;
- Monitoring templates;
- Quarterly audits of compliance;
- Annual SESP and Compliance Monitoring Reports;
- Field Mission Reports;
- Input into other reports as necessary