

**ENVIRONMENT AND SOCIAL MANAGEMENT FRAMEWORK
(ESMF)**

Guidance Pack

NUMBER	SAFEGUARD	IMPACT	ACTION PLAN
1	<p>Compliance with the Law This safeguard requires that all projects/programmes funded by the Adaptation Fund (AF) abide to the relevant domestic and international laws</p>	<p>Kenya’s NIE programmes thematic areas are food security, water management, coastal management, disaster risk reduction and knowledge management. As such, based on the thematic focus of the NIE programme, various laws and regulations shall apply in the programme implementation process. Some of these laws are:</p> <ul style="list-style-type: none"> i. The Constitution of the Republic of Kenya, 2010 ii. Environment Management & Coordination Act (EMCA), 1999 iii. Water Act, 2002 iv. Water Quality Regulations, 2006 v. Waste Management Regulations, 2006 vi. Wildlife and Conservation Management Act, 2013 vii. National Wetlands Conservation and Management Policy, 2014 viii. Employment Act, 2007 ix. Forest (charcoal) Regulations, 2009 x. Public Finance Management Act, 2012 xi. Forest Act, 2005 xii. Include compliance to relevant international laws and regulations that Kenya is a signatory. E.g. the Kyoto protocol. xiii. Meet set standards e.g. Kephis etc. (quality for materials) xiv. Land and Planning Act. 	<p>The NIE program, shall comply with the applicable domestic and international Laws by undertaking the following. During the programme implementation, the executing entities shall screen for applicable Laws in every proposed quarterly work plan. The proposed work plan activities shall inform the EEs, the international, national and even County By laws that must be adhered to. Where applicable Laws are established, compliance activities to these laws shall be spelt out as part of the work plan. The screening checklist shall also be submitted together with the work plan. EEs shall also report on ESMF implementation alongside quarterly progress reporting. NIE shall undertake monitoring of ESMF implementation alongside quarterly monitoring and evaluation activities. Activities like undertaking Environmental Impact assessments were already factored and budgeted for, during the programme design process.</p>

2	<p>Access & Equity Projects/programmes supported by the Fund shall provide fair and equitable access to benefits in a manner that is inclusive and does not impede access to basic health services, clean water and sanitation, energy, education, housing, safe and decent working conditions, and land rights</p>	<p>This programme will involve delivery of public goods, namely free seed distribution, water harvesting structures, irrigation systems, afforestation programmes and mangrove rehabilitation programmes. Some of these public goods are accessed directly by everyone in equal measure. However, programmes like seed distribution that are targeting groups pose a risk of lack of equity and equal access due to group formation dynamics. Other aspects of this programme like flood control/ water structures will need a criteria-based approach to identify the actual points of construction.</p>	<p>For all the activities that will trigger this safeguard, the EEs shall</p> <ul style="list-style-type: none"> ▪ Establish a criterion to ensure fair and equitable distribution of all benefits accrued during program implementation to the project beneficiaries. ▪ Create mechanisms within the project activity design that will promote accessibility to the program structure irrespective of individual gender, race, ethnic and social orientation. ▪ Have regular public forums where project beneficiaries can monitor and give their feedbacks on how the benefits re being accessed. ▪ Ensure that the project executers and beneficiaries are able to address the grievances on access and equity within the agreed GRM.
3	<p>Marginalized and Vulnerable Groups programmes supported by the Fund shall avoid imposing any disproportionate impact on marginalized and vulnerable groups including children; women and girls; the elderly; indigenous people; tribal groups; disabled people; and people at risk of, or affected by, HIV/AIDS.</p>	<p>The KCCAP programme targets selected communities mostly in the Arid and Semi- Arid Lands in Kenya. The rural set ups in these areas comprise of different dynamics of people, the old, sickly, disabled, minority ethnic groups especially in coast, women and children who due to the dominant economic hardships that make them vulnerable are most often isolated or forgotten, this. Marginalization is a likely occurrence in the sharing of program benefits if there is no proper representation of these individuals. Further marginalization is likely to occur if the social context and underlying factors are not analyzed.</p>	<p>Each Executing Entity shall undertake an analysis of various vulnerabilities in each project site. Once the vulnerabilities have been profiled, there will be a deliberate plan to integrate the vulnerable in the project implementation. Mainstreaming of vulnerable and marginalized groups at the various scales of program implementation will be achieved by ensuring their representation at the various established committees for program implementation and their inclusion as target beneficiaries. In actualizing this safeguard, community based organizations, faith based organizations, local NGOs and local administration should be included in screening the various types of vulnerabilities in the various target areas to ensure they are incorporated in the various program sites.</p>
4	<p>Human Rights Projects/programmes supported by the Fund shall respect and where applicable promote international human rights</p>	<p>Human rights are rights inherent to all human beings, whatever the nationality, place of residence, sex, national or ethnic origin, color, religion, language, or any other status (United Nations Human Rights).According to provisions in Chapter four of the Kenyan Constitution – the Bill of Rights- The purpose of recognizing and protecting human rights and fundamental freedoms is to preserve the dignity of individuals</p>	<p>The program implementation will be carried in such a way that the activities do not infringe on human rights. If any activity unprecedentedly infringes on the above, it shall be channeled through Grievance redress mechanism (GRM). Any activity that shall be deemed to cause abuse to human rights shall be discontinued.</p>

		and communities and to promote social justice and the realization of the potential of all human beings. Further, every person shall enjoy the rights and fundamental freedoms in the Bill of Rights to the greatest extent consistent with the nature of the right or fundamental freedom.	
5	Gender Equality and Women's Empowerment programmes supported by the Fund shall be designed and implemented in such a way that both women and men (a) are able to participate fully and equally; (b) receive comparable social and economic benefits; and (c) do not suffer disproportionate adverse effects during the development	These are some of the potential areas where gender disparities are likely to arise. NIE will therefore ensure a systematic consideration of gender dimensions so that both men and women do not suffer disproportionate adverse effects during the implementation process as well as promote gender aggregated benefit sharing from the project activities.	Develop a gender action plan specific to the program that will seek to <ol style="list-style-type: none"> 1. Conduct Gender Analysis and ensure that gender sensitive approaches are used that match local conditions 2. Ensure that project outcomes and benefits are engendered/ gender-aggregated 3. Ensure sex aggregated indicators are used in project monitoring 4. Identify and integrate the different needs, constraints, contributions and priorities of women and men during the programme implementation 5. Ensure no gender inequality in terms of access to, control over resources and the cumulative benefits of KCCAP.
6	Core Labor Rights programmes supported by the Fund shall meet the core labor standards as identified by the International Labor Organization	The program implementation will offer employment opportunities both for casual laborers and employees on contract. All programme employees shall be employed in accordance with Labor Laws of the Country i.e. Kenyan employment Act Cap 226. This act states the fundamental rights of employees, provides basic conditions of employment of employees, regulates employment of children and provides for matters connected with the above-mentioned.	In order to address the impacts under this policy, all employees must produce their national identity cards during recruitment. The hiring process shall be open and transparent and available job openings and specific qualifications advertised via media where necessary or via any other appropriate mode of communication. Newly recruited staff together with those reassigned will be taken through an orientation and induction training. Program staff shall undergo continuous capacity building where necessary. Opportunities can be created for internships and apprenticeship especially for youth.
7	Involuntary Resettlement Projects/programmes supported by the Fund shall be designed and implemented in a way that	According to the UN declaration on the rights of indigenous peoples; A group is considered Indigenous if it defines itself in the following ways: <ul style="list-style-type: none"> ▪ Descend from the pre-colonial/pre-invasion inhabitants of our region. 	It is worthwhile to note that the activities proposed in this area shall enhance the livelihoods of the indigenous people. Activities such as agroforestry, pastoral and agro-pastoral impact directly on the community's way of life and intensive public consultation

	<p>avoids or minimizes the need for involuntary resettlement. When involuntary resettlement is unavoidable, displaced persons shall be informed of their rights, consulted on their options, and offered technically and economically feasible resettlement alternatives or fair and adequate compensation</p>	<ul style="list-style-type: none"> ▪ Maintain a close tie to our land in both our cultural and economic practices. ▪ Suffer from economic and political marginalization as a minority group. <p>Article 26 of the declaration states</p> <ol style="list-style-type: none"> 1. Indigenous peoples have the right to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired. 2. Indigenous peoples have the right to own, use, develop and control the lands, territories and resources that they possess by reason of traditional ownership or other traditional occupation or use, as well as those which they have otherwise acquired. <p>Some of the projects in NIE programme touch on areas that are inhabited by indigenous Kenyan communities. In Loitokitok Kajiado County, one of the programme sites, the region is dominantly inhabited by the Maasai community. The Maasai are mainly pastoralists and have a rich reserved culture.</p>	<p>and consideration of public concern is important. The program's executing entities will;</p> <ul style="list-style-type: none"> • observe all the set rules and regulations as well as any other applicable laws to ensure that the rights and culture of indigenous communities are not undermined during the program implementation; • Consider Indigenous knowledge. • Involve all the relevant stakeholders' inputs during the assessment process and through the entire implementation phases for example, inter alia, on the initial stages of the project implementation.
8	<p>Indigenous People The Fund shall not support projects/programmes that are inconsistent with the rights and responsibilities set forth in the UN Declaration on the Rights of Indigenous Peoples and other applicable international instruments relating to indigenous peoples</p>	<p>This programme does not conceive to displace any persons during its implementation. However, in cases where there may be need to relocate communities in a selected programme, the NIE will discontinue its activities in such an area and search for more viable region within the programme area.</p>	<p>The NIE programme shall not undertake involuntary resettlement of people. Any activity that shall trigger involuntary resettlement shall be discontinued. NIE in consultation with EEs and AFB shall agree on reallocation of funds for that activity</p>

9	<p>Protection of Natural Habitats The Fund shall not support projects/programmes that would involve significant conversion or degradation of critical natural habitats, including those that are (a) legally protected, (b) officially proposed for protection, (c) identified by authoritative sources for their high conservation value, or (d) recognized as protected by traditional local communities</p>	<p>As the selected program areas are diverse with different landscape features and ecological diversities, there is potential threat to these habitats if environmental impact assessment is overlooked and appropriate mitigation measures not established.</p>	<ol style="list-style-type: none"> 1. Establish a holistic screening checklist to be used by the Executing Entities before programme implementation. 2. All projects that qualify (under schedule 2 of EMCA) shall be subjected to an EIA after which we shall have ESMPs (Environmental and Social Management Plans) and the proposed mitigations should be implemented.
10	<p>Conservation of Biological Diversity Projects/programs supported by the Fund shall be designed and implemented in a way that avoids any significant reduction or loss of biological diversity or the introduction of known invasive species</p>	<p>Introduction of drought tolerant and orphaned/high value crops such as sorghum, amaranthus, millet, green grams, cassava, cow peas, pigeon peas, water melons, pumpkins, butter nut in areas of Gwasssi division, Lower Yatta district, Loitoktok district, Nyando Wetlands, Wajir, Garissa, and Waldaa in Kajiado West district may suppress other crops that previously thrived in the selected zones which could mean a threat to the biodiversity of these areas. None of these crops are likely to suppress other plant or animals species; they cannot dominate other crops.</p>	<p>Introduction of new and existing crop species will only aim at improving the biological diversity of these areas. The capacity of the community must be built on importance of biodiversity management, crop husbandry and on ownership through participation for sustainability of the programme. Clearing of dominant and native plants to plant the proposed drought tolerant crops should be discouraged</p>
11	<p>Climate Change Projects/programs supported by the Fund shall not result in any significant increase in greenhouse gas emissions or other drivers of climate change</p>	<p>During the implementation of projects, a lot of activities will take place which are bound to contribute to climate change challenge if mitigation measures are not outlined and observed. Among the activities are:</p> <ul style="list-style-type: none"> ▪ Transportation of materials to the sites by use of vehicles such as lorries and tractors which use fuel and emit pollutant gases, ▪ New offices set up where tree products such as papers and books will be 	<ol style="list-style-type: none"> 1. Regular maintenance of vehicles and machines will be carried out as well as ensuring use of fuel efficient machines. The entire vehicle engines shall remain turned off when not in operation to minimize on fuel consumption and air pollution. 2. Adopt efficient technologies such as reading; sending and storing documents in digital formats to minimize use of paper; print on both sides of the paper, and turning off machines that are not in use and switching off unnecessary lights.

		<p>consumed on a frequent basis and energy in the form of electricity, and</p> <ul style="list-style-type: none"> ▪ Water consumption 	<ol style="list-style-type: none"> 3. Promote use of clean and efficient technologies such as biogas, solar and efficient cook stoves to minimize emissions 4. Tree planting - but proper site matching should be ensured for different tree varieties and Use of water efficiently
12	<p>Pollution Prevention and Resource Efficiency Projects/programmes supported by the Fund shall be designed and implemented in a way that meets applicable local and international standards for maximizing energy efficiency and minimizing material resource use, the production of wastes, and the release of pollutants.</p>	<p>There is a probability that wastes will be generated during program implementation and operation. Exhaust fumes from locomotive and other Machinery that is air polluting, solid wastes from polythene bags used for storage of agriculture inputs, wrapping of human consumption goods and liquid wastes from both agricultural activities and human activities.</p>	<ol style="list-style-type: none"> 1. Waste and pollution management strategies will be designed and used during project implementation. For example, an appropriate disposal site will be identified for disposal of excavated soil in the case of digging water pans. 2. The project will adhere to waste and pollution management practices provided for in EMCA, 1999 Part VIII.
13	<p>Public Health Projects/programmes supported by the Fund shall be designed and implemented in a way that avoids significant</p>	<p>There will be a lot of activities especially during the implementation phase that can impact negatively on the public. Examples: handling of pretreated seeds that are poisonous if ingested, operation of machinery and transportation and site accidents</p>	<p>All program implementers shall apply every lawful, necessary and reasonable measures to safeguard health and safety of the public. Maximum sanitation shall be maintained in the working areas</p>
14	<p>Physical and Cultural Heritage Projects/programmes supported by the Fund shall be designed and implemented in a way that avoids the alteration, damage, or removal of any physical cultural resources, cultural sites, and sites with unique natural values recognized as such at the</p>	<p>Though the proposed program sites include areas of ecological importance some that are already gazette, for example, mangrove forests, and coral reef and sea grass ecosystems and among others, the overall impact of the programme is anticipated to enhance the physical and cultural heritage in the programme implementation areas.</p>	<p>EEs will put in the necessary mitigation measures during the implementation of NIE Programme:</p> <ol style="list-style-type: none"> 1. To protect and manage physical and cultural heritage during its operations 2. To conserve physical and cultural heritage and avoid its alteration, damage or removal.

	community, national or international		
. 15	<p>Agricultural Lands and Soil Conservation Projects/programmes supported by the Fund shall be designed and implemented in a way that promotes soil conservation and avoids degradation or conversion of productive agricultural land</p>	<p>Program activities relate direct to the use of land and soil. It will be therefore important for NIE and the executing entities to screen all the projects to check that they are aimed at improving on the quality of soil and the productivity of land.</p>	<p>As all the projects are targeted at enhancing the productivity and resilience of ASALs, appropriate mitigation measures for any activities that may be a threat to the soil, landscape or productivity and use of the land should be designed prior to program implementation.</p>