Environmental and Social Management Framework (ESMF)

Towards Ending Drought Emergencies: Ecosystem Based Adaptation in Kenya's Arid and Semi-Arid Rangelands

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0. Executive summary

This Environmental and Social Management Framework (EMSF) has been prepared in support of a project proposal "*Towards Ending Drought Emergencies: Ecosystem Based Adaptation in Kenya's Arid and Semi-Arid Rangelands*" (the project) to the Green Climate Fund (GCF). As a GCF Accredited Entity, IUCN has screened the project against IUCN's safeguard system, referred to as Environmental and Social Management System (ESMS). It was classified as Moderate Risk (International Finance Corporation Category B) project and it has therefore triggered the IUCN ESMS Standards.

The ESMF establishes and guides the process of screening the activities on environmental and social impacts. The screening will determine the extent of expected potential impacts and the type of safeguards instrument to use in order to meet the provisions of IUCN ESMS Standards. If risks are identified project alternatives will be considered for avoiding adverse impacts and where avoidance is not possible to minimizing, mitigating or compensate for impacts.

Environmental and social impacts of the project are overall expected to be highly positive given that it is to improve the resilience of the communities and ecosystems in Arid and Semi-Arid Lands (ASALs) in Kenya to future climate shocks and stresses through a participatory and bottom-up approach. The planned vulnerability assessment is expected to appropriately capture and address specific risk experienced by vulnerable segments of the society. Because of the small-scale nature of the restoration and livelihood activities it is considered as very unlikely that project activities will have significant adverse environmental and/or social impacts that are divers, irreversible, or unprecedented (hence no high risk). However, land-use changes, physical restoration measures and value chain and enterprise development might trigger mild social or environmental impacts given the sensitivity of the dryland ecosystem, the complexity of the social fabric and an increasing pressure from resource competition.

Overall the identified impacts are expected to be few in number, generally be site-specific, largely reversible, and readily addressed either through project activities or mitigation measures. The project is therefore classified as moderate risk project. Because the specific on-the ground interventions and their sites will be defined in more detail only during project implementation an Environmental and Social Management Framework (ESMF) is needed that delineates the procedure for screening on potential impacts, undertaking the social and environmental assessment of the likely impacts of the sub-projects before the commencement of their implementation, the mitigation measures for addressing the possible impacts (if any) including the respective institutional arrangements for risk assessment and management. To streamline the operational procedures, individual sub-projects will be aggregated in cluster-projects and then brought forward to the ESMS Screening.

The ESMS Standard on Indigenous Peoples is triggered because of the presence of indigenous groups. However, as these groups are considered the main beneficiaries of the project, there is no need for an Indigenous Peoples Plan. The project's participatory planning approach is generally expected to meet the Standard's requirement in terms of meaningful and effective consultation with these groups. The Cultural Heritage Standard is triggered but risks are considered minor. The Biodiversity Standard is triggered, some of the risk issues require further assessment and mitigation measures, minor issues are expected to be appropriately addressed by good practices guidance. Risk issues related to the Standards will be re-visited as part of the ESMS Screening. In addition, guidance is provided in the ESMF for avoiding and managing risks related to the Standards.

The ESMF will be disclosed on the IUCN website and in-country (government websites as well as appropriate local platforms). In addition, the implementation of the provisions of IUCN's ESMS Grievance Mechanism will provide an additional safety net for ensuring that people will not suffer from any unforeseen negative social or environmental impacts.

1. Project description and rationale for ESMF

1.1. Geographic location of the project and its field interventions

The project will be implemented in two priority landscapes (Fig. 1): 1] Mid Tana River (including Sabarwawa) consisting of 8 Counties – Samburu, Marsabit, Isiolo,, Garissa, Tana River, Meru, Tharaka Nithi and Kitui. This contains two dry season grazing areas for arid lands of northern Kenya, it connects pastoralists and agro-pastoralists along the major watershed of River Tana. It houses Meru and Kora parks, Rahole Game Reserve and Bisan Adhi Conservancy; and 2] Chyulu Hills landscape which consists of 3 counties i.e. Taita Taveta, Makueni, Kajiado and is a dry grazing season reserve for semi-arid southern Kenya. It houses Chyulu National Park and Chyulu Forest Reserve and is part of the wider Amboseli ecosystem, and provides water to Mombasa city. The rationale for selecting mid Tana River/Sabarwawa landscape is that it is a mixed used semi-arid rangeland under a variety of management regimes with a significant amount managed communally. Specifically Sabarwawa is governed under the community conservancy management model, connects 3 of the counties as dry-season grazing area as a convergence zone with a series of permanent springs ("Kisima hamsini"), is one of best -managed grazing reserves, provides opportunity for joint county planning and investment as well as promotion of mutual partnership among diverse communities. The Mid-Tana River part of this landscape is a transition zone between pastoralist and agro-pastoralists and hence the transition between rangelands and croplands. Livelihood systems include crop production, irrigated agriculture, livestock production (camels, small stock and beef cattle) and wildlife conservation. The rationale for selecting Chyulu Hills landscape is that it is a water tower for the 3 counties and beyond. Surrounded by ranches, mixed farming, and pastoralist communities who keep cattle and Dorper Sheep for export and meat, it is an important source of beef for Nairobi and Mobassa cities in Kenya and a home to diverse wildlife.

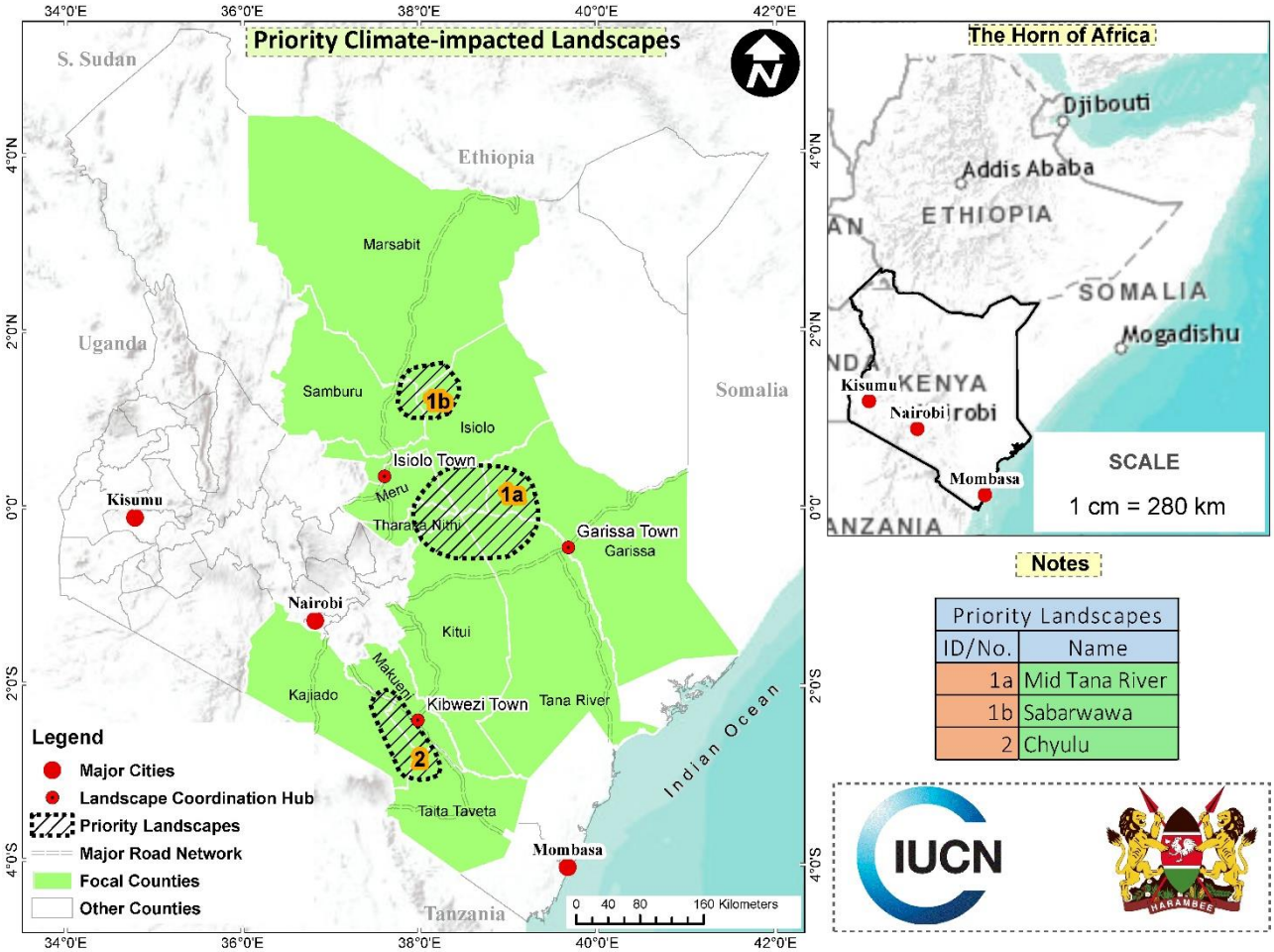


Figure 1: Project Area

1.2. Project objective(s), components and their expected outcomes, project beneficiaries

The overall objective of the project is to reduce the cost of climate change induced drought on Kenya's national economy by increasing resilience of the livestock and other land use sectors in restored and effectively governed rangeland ecosystems. The objective will be delivered through the following three components: 1] Climate change adapted planning for drought resilience; 2] Restoration of rangeland landscapes for ecosystem based adaptation; and 3] Investments and incentives for climate change resilient ecosystem management. These 3 components respond to the priorities raised during consultation with partners and key stakeholders. The components will support sustainable progress in the main domains of interest: sustainable pastoralism, improved water management in anticipation of droughts, and enhanced value-chain production and markets for livestock and other products.

Component 1: Climate change adapted planning for drought resilience
Component 1 will deliver Output 1: "Coordinated transboundary rangeland management decisions are strengthened by enhanced climate change analysis and participatory community and county planning". The component contributes to addressing the barriers of weak capabilities and inadequate governance institutions. Component 1 consists of 5 activities:
1.1 Enhance information systems to inform climate change sensitive landscape planning and vulnerability/ risk management
1.2 Strengthen community institutions to coordinate community planning and to inform and represent stakeholders in landscape planning
1.3 Develop county rangeland restoration plans that build on local community plans combined with enhanced climate change data
1.4 Establish functioning landscape management mechanisms in participating counties for climate change sensitive and accountable decision-making
1.5 Establish participatory monitoring, evaluation and learning systems to support adaptive management

Component 2: Restoration of rangeland landscapes for ecosystem based adaptation
Component 2 will deliver Output 2: "Prioritized rangeland resources including water resources, are brought under restoration, safeguarded and sustainably managed for improved climate change resilience". This primarily address the barriers of rangeland resource degradation and low investment in rangeland restoration, and to a lesser extent barrier around inadequate governance institutions. Component 2 focuses on implementing restoration and sustainable management actions that are (i) prioritized by communities and (ii) informed by improved analysis, as delivered under Component 1. Component 2 consists of 5 activities:
2.1 Implement priority community-based rangeland restoration activities
2.2 Implement priority actions for integrated land/water management in catchments
2.3 Install community-validated strategic water sources for sustainable rangeland utilization
2.4 Assist communities to formulate bylaws and incorporate into county laws
2.5 Build capacity of local institutions to implement climate-sensitive landscape management

Component 3: Investments and incentives for climate change resilient ecosystem management.
Component 3 will deliver Output 3: "Public, private and community investments in natural resources contribute to climate change resilient livelihoods for women and men", addressing barriers related to insufficient investment in rangelands and poor access to markets and financial services. Component 3 provides investment in priority value chains that have been validated by local communities through Component 1 and the activities includes:
3.1 Provide climate resilient investment in priority value chains that have been validated by local communities
3.2 Provide grants to establish restoration enterprises created/led primarily by women's groups
3.3 Establish financial incentive mechanisms for sustainable land management
3.4 Provide grants for private sector enterprises that support ecosystem based adaptation

The **project beneficiaries** will be the total population in the two landscape: Sabarwawa/Mid Tana River has a population of about 400,048 people and Chyulu landscape has a population of about 220,627 people (IUCN, 2017).

1.3. Accredited entity, executing entities and respective roles

Project activities in each of the two/three priority landscape will be coordinated by a Landscape Coordination Hub. These will be located in towns close to the landscapes. At the national level coordination will be through technical staff located in key government agencies and a project steering committee.

IUCN is the accredited entity for this project. It will provide general oversight to the project. This includes:

1. Managing and disbursing GCF funds to the Project Management Unit (PMU).
2. Entering into execution agreements, letters of agreement, with any external entities for provision of services to the Program and Project;
3. Overseeing Project implementation in accordance with the Project document and Annual Work Plans and Budgets, agreements with co-financiers and each executing agency rules and procedures;
4. Providing technical guidance to ensure that the appropriate technical quality is applied to all Project activities;
5. Provide financial reports to the GCF for all Project funds received.

A project steering committee (PSC) will provide strategic-level project guidance, technical and policy advice, and will be the apex decision-making entity. The PSC will provide oversight of the Project Management Unit (PMU). The SC will be composed as follows:

- Principal Secretary of the Ministry of Agriculture and Irrigation (Chair)
- Regional Director IUCN
- Nationally Designated Authority of Kenya
- CEO Council of Governors
- Permanent Secretaries from relevant state departments
- Representatives from participating counties and the ASAL NGO Consortium.

A Project Management Unit (PMU) will be responsible for the coordination of all project activities funded by the project and undertaken by the executing entities on the ground. The PMU will be hosted within the IUCN regional office for Southern and Eastern Africa but will work through three satellites landscapes coordination hubs in Isiolo, Garissa and Kibwezi.

Executing entities are responsible for the execution of the three project components and are therefore accountable for the delivery of the associated outputs. The project lead executing entities are:

1. The State Department of Livestock, Ministry of Agriculture and Irrigation (Directorate of Rangelands),
2. the National Drought Management Agency (NDMA), and
3. Conservation International

At the request of the Government, IUCN will undertake specific and limited activities on the ground. In order to ensure a firewall between oversight and execution of the project, these activities will be the responsibility of IUCN units, which are independent from the units serving the functions of the Accredited Entity. Such activities will be restricted to areas where no other local partners have the required competencies (Refer to budget details). The activities will be delivered under a technical service agreement with the responsible executing entity.

1.4. Rational for the ESMF

This Environmental and Social Management Framework (EMSF) has been prepared following the results from the ESMS Screening. As a GCF Accredited Entity, IUCN has screened the project against IUCN's safeguard system, referred to as Environmental and Social Management System (ESMS). It was classified as Moderate Risk (International Finance Corporation Category B) project and has triggered the IUCN ESMS Standards on Indigenous Peoples, Cultural Heritage and Biodiversity and Sustainable Use of Resources. While it has not triggered the Standard on Involuntary Resettlement and Access Restrictions due to the voluntary nature of the restrictions that might be put in place, precaution will need to be exercised to ensure that the decision making process is considered adequate and reflects voluntary, informed consensus among the community / all users of the resources who have legitimate rights.

As the specific on-the-ground interventions and their location cannot be determined during design stage due to the participatory character of the land use decisions, this ESMF has been prepared for the project. This applies to interventions of the following activities (in the following referred to as sub-projects):

2.1 Implement priority community-based rangeland restoration activities
2.2 Implement priority actions for integrated land/water management in catchments
2.3 Install community-validated strategic water sources for sustainable rangeland utilization
3.1 Provide climate resilient investment in priority value chains that have been validated by local communities
3.2 Provide grants to establish restoration enterprises created/led primarily by women's groups
3.3 Establish financial incentive mechanisms for sustainable land management
3.4 Provide grants for private sector enterprises that support ecosystem based adaptation

Environmental and social impacts of the project are overall expected to be highly positive given that it is the objective to improve resilience of communities and ecosystems in Arid and Semi-Arid Lands (ASALs) in Kenya to future climate shocks and stresses in light of the project's highly participatory and bottom-up approach. The planned vulnerability assessment is expected to appropriately capture and address specific risk experienced by vulnerable segments of the society. Because of the small-scale nature of the restoration and livelihood activities it is considered as very unlikely that project activities will have significant adverse environmental and/or social impacts that are divers, irreversible, or unprecedented (hence no high risk). However, land-use changes, physical restoration measures and value chain and enterprise development might trigger mild social or environmental impacts given the sensitivity of the dryland ecosystem, the complexity of the social fabric and an increasing pressure from resource competition.

The ESMF will be disclosed on the IUCN website and in-country (government websites as well as appropriate local platforms). In addition, the implementation of the provisions of IUCN's ESMS Grievance Mechanism will provide an additional safety net for ensuring that people will not suffer from any unforeseen negative social or environmental impacts (also see chapter 10 for further explanation on the Grievance mechanism).

2. Policy, legal and institutional framework relevant for social and environmental matters

This chapter provides an overview of policies, legal and regulatory framework relevant for the project. Where applicable it described how the project contributes to or complies with the respective policy, legislation or regulation (*to ease the reading this is indicated in italic script*).

2.1. Policy Framework

2.1.1. The Constitution of Kenya 2010

The new Constitution of Kenya adopted in August 2010 acts as the main legal backing of the environmental and social impact assessment in the country and offers a broad framework regulating present and future development aspects of Kenya and along which all national and sectoral legislative documents are drawn. Article 42 of the Kenyan constitution provides that every person has the right to a clean and healthy environment, which includes the right to have the environment protected for the benefit of present and future generations through legislative and other measures.

In Article 10, 42 and 69 the new constitution recognizes public participation as a principle of governance, safeguards the rights to a clean and healthy environment and gives the state responsibilities to encourage participation in management, conservation and protection of the environment. Article 10 stresses on the importance of the participation of people, protection of marginalized lands and sustainable development. It recognizes the harms inflicted by having a centralized governance structure and enables communities in the marginalized rangelands to be the voice in the management and development of their lands. Article 42 recognizes that the people's right to life requires a clean and healthy environment, and obliges the government and people to ensure that this is provided, while preventing environmental degradation and activities that are harmful to human health

2.1.2. The Kenya Vision 2030

Kenya Vision 2030 is the country's development Programme from 2008 to 2030. It was launched on 10 June 2008 and its aim is to help transform Kenya into a newly industrialized, middle-income country with an aimed annual growth of 10 % by 2030. Developed through an all-inclusive and participatory stakeholder consultative process, involving Kenyans from all parts of the country, the Vision is based on three "pillars": Economic, Social, and Political. It calls for promoting environmental conservation and pollution and waste management, through the application of the right economic incentives in development initiatives. *The proposed project is in line with the Vision 2030 by contributing to sustainable development in the respective counties.*

2.1.3. Kenya National Adaptation Plan 2015-2030

The main objective of the Kenya National Adaptation Plan 2015-2030 is to enhance climate resilience towards the attainment of vision 2030 and beyond. It is a critical response to the climate change challenge facing Kenya and is country's first plan on adaptation, and demonstrates Kenya's commitment to operationalize the National Climate Change Action Plan by mainstreaming adaptation across all sectors in the national planning, budgeting and implementation processes. The mainstreaming approach recognizes that climate change is a cross-cutting sustainable development issue with economic, social and environmental impacts.

2.1.4. National Environment Policy, 2013

The goal of this Policy is a better quality of life for present and future generations through sustainable management and use of the environment and natural resources. Its objectives are to: (1) Provide a framework for an integrated approach to planning and sustainable management of Kenya's environment and natural resources; (2) Strengthen the legal and institutional framework for effective coordination and management of the environment and natural resources; (3) Ensure sustainable management of the environment and natural resources, such as unique terrestrial and aquatic ecosystems, for national economic growth and improved livelihoods; (4) Promote and support research and capacity development as well as use of innovative environmental management tools such as incentives, disincentives, total economic valuation, indicators of sustainable development, strategic environmental assessments (SEAs), environmental impact assessments (EIAs), Environmental Audit, and Payment for Environmental Services (PES); (5) Promote and enhance cooperation, collaboration, synergy, partnerships and participation in the protection, conservation, sustainable management of the environment and natural resources; and (6) Ensure inclusion of cross-

cutting issues – such as poverty reduction, gender, disability and HIV&AIDS – in the management of environment and natural resources.

2.1.5. Gender Policy, 2000 and Sessional Paper No. 2 of 2006 on Gender Equality and Development

The National Policy on Gender and Development (January 2000) and the Sessional Paper No. 2 of 2006 on Gender Equality and Development whose overall objective is to ensure women's empowerment and mainstreaming needs of women, men, girls and boys in all sectors of development in Kenya so that they can participate and benefit equally from development initiatives. The policy framework underlines the need to focus on empowerment strategies that demonstrate understanding of essential linkages within sectors. In addition, it recognizes that gender is central and cross-cutting, and therefore programme strategies should incorporate gender equality as a goal. To achieve these, mechanisms aimed at achieving gender balanced development through the removal of disparities between men and women should be put in place.

2.1.6. National Policy on Water Resources Management and Development

The National Policy on Water Resources Management and Development (Sessional Paper No. 1 of 1999) was established with an objective to preserve, conserve and protect available water resources and allocate it in a sustainable rational and economic way. It also desires to supply water of good quality and in sufficient quantities to meet the various water needs while ensuring safe disposal of wastewater and environmental protection. The policy focuses on streamlining provision of water for domestic use, agriculture, livestock development and industrial utilization with a view to realizing the goals of the Sustainable Development Goals (MDGs) as well as Vision 2030. To achieve these goals, water supply (through increased household connections and developing other sources) and improved sanitation is required in addition to interventions in capacity building and institutional reforms.

2.2. Legal and Regulatory Framework

2.2.1. Climate Change Act 2016 and the Draft Climate Change Fund Regulations (under consultation)

The Climate Change Act 2016 is applicable for the development, management, implementation and regulation of mechanisms to enhance climate change resilience and low carbon development or the sustainable development of Kenya. The Act is applicable in all sectors of the economy by the national and county governments. Unlike other Acts that are being oversighted at the highest level of authority by the Cabinet Secretary or the Minister in-charge, the Climate Change Act 2016 is oversighted by the National Climate Change Council, chaired by the President with the Deputy President as the vice-chairperson and the Cabinet Secretary responsible for environment and climate change affairs as the Secretary to the Council. The Climate Change Directorate is serving as the Secretariat of the Council. This institutional set up is necessary because climate change issues are cross-cutting. The objective of the Draft Climate Change Fund Regulations (under consultation) is to provide financing mechanisms to priority climate change actions and interventions

2.2.2. County level climate Change Fund Acts

Some County Governments including those in the project sites such as Garissa, Makueni and Kitui have enacted the County Climate Change Fund Act, whose objective is to create a fund in the County for the purpose of facilitating Climate Finance Mechanism in the County for undertaking the following: 1] facilitating planning for Climate Change Adaptation and Mitigation in the county planning and budgetary framework; 2] seeking and receiving grants from international sources, the National Government, the County Government and other organizations; 3] initiating and coordinating Climate Change Adaptation and Mitigation frameworks at the community level in the County; 4] facilitating community initiated Climate Change Adaptation and Mitigation activities in the County; and 5] co-ordinating support from National Government Climate Change policy and legislative framework. This

creates an excellent environment for the Community Resilience Facilities (CRFs) that the project will provide as grants to cooperatives and private sector actors to support climate change adaptation and mitigation actions on the ground.

2.2.3. The Water Act 2016

The Water Act, 2016 provide the overall governance of the Water Sector including irrigation water, pollution, drainage, flood control and abstraction. It is the main regulation governing the use of water. The regulations and strategies following on from this Act, recognize the climate change implications on health, sanitation and water. *The proposed interventions look to restore water catchments as well as avail water resource for domestic use, agriculture and livestock development. Through the rehabilitation of water conservation structures and development of water harvesting infrastructure, the activities within component 2 are in conformity with this regulation since they look to preserve, conserve and protect available water resources and allocate it in a sustainable rational and economic way. Building on its existing work IUCN will, in the Twende project, support communities to develop land-use plans. The land-use plan model that will be used is the Sub-Catchment Management Plan that governs the operations of Water Resources Users Associations (WRUAs) under the 2002 Water Act. IUCN has been working for over 6 years with the Water Resources Authority to develop the Sub-Catchment Management Plan (SCMP) process for the ASALs. The result of this work is an expanded SCMP that has evolved as an integrated planning approach that includes water catchment planning, range management planning, agriculture and forest management planning.*

2.2.4. The Water Resources Management Rules (2006)

These Rules are described in Legal Notice Number 171 of the Kenya Gazette Supplementary Number 52 of 2006. They apply to all water resources and water bodies in Kenya, including all lakes, water courses, streams and rivers, whether perennial or seasonal, aquifers, and shall include coastal channels leading to territorial waters. The Rules empower the Water Resources Authority to impose management controls on land use falling under riparian land. It also enables any person with a complaint related to any matter covered by these rules to the appropriate office in WRA as per the Tenth Schedule which provides a format for report on complaints.

2.2.5. Environment Management and Coordination Act (EMCA), 1999, revised amendments, 2015

EMCA is an act of Parliament that provides for the establishment of an appropriate legal and institutional framework for the management of the environment. It is considered an umbrella law that aims to improve the legal and administrative co-ordination of the diverse sectoral statutes in the field of environment. As the principal environmental legislation in Kenya EMCA sets out the principle that every person in Kenya is entitled to a clean and healthy environment and can seek redress through the high court if this right has been, is likely to be or is being contravened. To ensure this, part VI of the Act (section 58) directs that any proponent of a project as specified in the Second Schedule should undertake a full Environmental Impact Assessment (EIA) study and submit an environmental impact assessment study report to the Authority in the prescribed form, giving the prescribed information and shall be accompanied by the prescribed fee. Section 68 of the Act requires operators of existing projects to carry out environmental audits in order to determine the level of conformance with statements made during the EIA. The proponent is required to submit the EIA and environmental audit reports to NEMA for review and necessary action.

The Act has been substantially amended in 2015. In 2016 a further amendment has been enacted establishing the list of projects considered under the regulation that require environmental impact assessment (Schedule 2). Schedule 2 includes the following types of projects which are relevant for the TWENDE project such as community water projects including boreholes, water pans, sand dams and sub-surface dams, livestock holding grounds and cattle dips, cottage industry, water abstraction works or reforestation and afforestation activities.

2.2.6. Environmental Impact Assessment and Audit Regulations, 2003

The regulations establish the importance and need of conducting an Environmental Impact Assessment (EIA) and define respective procedures. Regulation 3 states that "the Regulations should apply to all policies, plans, programmes, projects and activities specified in Part IV, Part V and the Second Schedule of the Act. Part III of the Regulations describes the procedures to be taken during preparation, submission and approval of the ESIA Report.

2.2.7. Community Land Act, 2016

The objective of the Community Land Act, 2016 is to give effect to Article 63 (5) of the 2010 Kenya Constitution; to provide for the recognition, protection and registration of community land rights; management and administration of community land; to provide for the role of county governments in relation to unregistered community land and for connected purposes. Article 35 of the Act states thus: subject to any other law, natural resources found in community land shall be used and managed: (a) sustainably and productively; (b) for the benefit of the whole community including future generations; (c) with transparency and accountability; and (d) on the basis of equitable sharing of accruing benefits.

2.2.8. Conservation on Biodiversity Regulations

Part II of Regulations, section 4 states that no person shall engage in any activity that may have adverse impacts on ecosystems, lead to introduction of exotic species or lead to unsustainable use of natural resources without an EIA license. The regulation puts in place measures to control and regulate access and utilization of biological diversity that include among others banning and restricting access to threatened species for regeneration purposes. It also provides for protection of land, sea. Lake or river declared to be a protected natural environmental system in accordance to Section 54 of EMCA, 1999.

2.2.9. Forest Conservation and Management Act, 2016 (No. 34 of 2016)

This Act of Parliament gives effect to Article 69 of the Constitution with regard to forest resources and provides for the development and sustainable management, including conservation and rational utilization of all forest resources for the socioeconomic development of the country and for connected purposes. It makes provision for the conservation and management of public, community and private forests and areas of forest land that require special protection, defines the rights in forests and prescribes rules for the use of forest land.

2.2.10. The Agriculture Act, Cap 318

Part IV no. 48 states that if the Minister considers it necessary or expedient so to do for the purposes of the conservation of the soil of, or the prevention of the adverse effects of soil erosion on, any land, he may, with the concurrence of the Central Agricultural Board, make rules for prohibiting, regulating or controlling the following: (i) the breaking or clearing of land for the purposes of cultivation; (ii) the grazing or watering of livestock; (iii) the firing, clearing or destruction of vegetation including stubble. Such prohibiting, regulating or controlling is deemed by the Minister, with the concurrence of the Central Agricultural Board, to be necessary for the following: (i) for the protection of land against storms, winds, rolling stones, floods or landslips; (ii) for the preservation of soil on ridges, or slopes, or in valleys; (iii) for preventing the formation of gullies; (iv) for the protection of the land against erosion or the deposit thereon of sand, stones or gravel; (v) for the maintenance of water in a body of water within the meaning of the Water Act

2.2.11. Pest Control Products Act CAP 346

This Act regulates the import/export manufacture distribution and use of products which are used for the control of pests and of the organic function of plants and animals. These are products used to control pest (pesticides) and this Act regulates the import/export and use of pesticides. The Act establishes the Pest Control Products Board and makes it the function of the Board to register pest control products. It requires that every person who desires to register a pest control product shall make an application to the Board. The Board may refuse to register the product if its use would lead to unacceptable risk or harm to: 1] Things on or in relation to which the pest control product is intended to be used; or 2] To public health, plants, animals or the environment.

The Act establishes 3 classes of pest control products and the class relevant for the Twende project is the first and second classes:

1. *a restricted class – a class of products which present significant environmental risks and these are products which are intended for use in aquatic and forestry situations; and*
2. *commercial class – class with environmental effects which are limited to a specific region.*

In the Twende project, restoration of rangeland landscape would include activities such as control of bush encroacher species and invasive alien species (e.g. Prosopis jubiflora) that may require the targeted use of herbicides, the IUCN Guidance Note on Pest Management Planning will be adhered to as described in details in chapter 6.5.4 below.

2.2.12. National Drought Management Authority Act No. 4 of 2016

The National Drought Management Authority will be one of the executing agencies for the project and the following are its functions as per the Act No. 4 of 2016, which are all in line with the project: exercise overall coordination over all matters relating to drought management including implementation of policies and programmes relating to drought management; (a) coordinate drought response initiatives being undertaken by other bodies, institutions and agencies; (b) promote the integration of drought response efforts into development policies, plans, programmes and projects in order to ensure the proper management of drought; (c) develop, in consultation with stakeholders, an efficient, drought early warning system and operate the system

2.3. International Conventions and Treaties relevant for the project

Below a list of international conventions and treaties which have been ratified by the Government of Kenya and are relevant for activities carried out under the TWENDE project.

2.3.1. United National Convention of Biological Diversity (CBD)

Kenya is a signatory of the International Convention on Biological Diversity (CBD) of 1992, which promotes the protection of ecosystems and natural habitats, respects the traditional lifestyles of indigenous communities, and promotes the sustainable use of components of its biodiversity and fair and equitable sharing of benefits arising from the use of genetic resources. The convention further promotes the principle on recognizing the rights of indigenous and local communities to prior informed consent in relation to the conduct of cultural, environmental and social impact assessment regarding developments proposed to take place on sacred sites, lands and waters of indigenous and local communities. Kenya has developed its National Biodiversity Strategy and Action Plan (NBSAP) so as to meet the Aichi Target which aims to halt loss by biodiversity by year 2020. The convention is implemented by The Environmental Management and Co-Ordination (Conservation of Biological Diversity and Resources, Access to Genetic Resources and Benefit Sharing) Regulations, 2006.

The TWENDE project is in line with the CBD and NBSAP, including the Aichi target with regards to Target 14: By 2020, ecosystems that provide essential services, including services related to water, and contribute to health, livelihoods and well-being, are restored and safeguarded, taking into account

the needs of women, indigenous and local communities, and the poor and vulnerable; and Target 15: By 2020, ecosystem resilience and the contribution of biodiversity to carbon stocks has been enhanced, through conservation and restoration, including restoration of at least 15 per cent of degraded ecosystems, thereby contributing to climate change mitigation and adaptation and to combating desertification.

2.3.2. The United Nations Convention to Combat Desertification (UNCCD)

Kenya ratified the Convention on 24th June 1997. The provisions are reflected in several Acts of Parliament. Section 46 of EMCA requires District Environment Committees to identify areas that require re-forestation or afforestation as well as to mobilize local communities to carry out these activities. *The TWENDE project is fully in line with the provisions with regards to achieving the UNCCD's Land Degradation Neutrality, that is, restoration of rangeland ecosystem to promote food security and resilience of the local communities*.

2.4. Institutional Framework

The Government established the administrative structures to implement EMCA as follows:

The National Environmental Management Authority (NEMA)

NEMA is the main administrative body implementing EMCA 2015. Its responsibility is to provide supervision and co-ordination over all matters relating to the environment and to be the principal instrument of Government in the implementation of all policies relating to the environment. Activities of NEMA are rolled out through three core directorates in charge of Enforcement, Education and Policy.

Cabinet Secretary

The Cabinet Secretary shall:

1. be responsible for policy formulation and directions for purposes of this Act;
2. set national goals and objectives and determine policies and priorities for the protection of the environment;
3. promote co-operation among public departments, local authorities, private sector, Non-Governmental Organisations and such other organizations engaged in environmental protection programmes;
4. provide evidence of public participation in the formulation of the policy and the environmental action plan; and
5. perform such other functions as are assigned under this Act. [Act No. 5 of 2015, s. 6.]

County Environmental Committee

The County Environment Committees shall:

1. be responsible for the proper management of the environment within the county for which it is appointed;
2. develop a county strategic environmental action plan every five years; and
3. perform such additional functions as are prescribed by this Act or as may, from to time, be assigned by the Governor by notice in the Gazette. [Act No. 5 of 2015, ss. 2,19.]

National Environment Complaints Committee

Under EMCA 2015, a National Environment Complaints Committee (formerly referred to as Public Complaints Committee) has been established to provide a mechanism for grievance and redress. The Committee whose membership includes representatives from the Law Society of Kenya, NGOs and the business community has the following functions:

1. to investigate
    a. any allegations or complaints against any person or against the Authority in relation to the condition of the environment in Kenya;

   b. on its own motion, any suspected case of environmental degradation, and to make a report of its findings together with its recommendations thereon to the Council;
2. to prepare and submit to the Council, periodic reports of its activities which report shall form part of the annual report on the state of the environment under section 9(3)
3. to perform such other functions and exercise such powers as may be assigned to it by the Council.

2.5. Analysis of gaps related to environmental and social safeguards

The table below provides a comparison of Government policies and regulations related to environmental and social safeguards against the GCF safeguards and IUCN's Environmental and Social Management System (ESMS). It further provides recommendations how the project will fill any gaps.

The ESMS is guided by eight overarching principles and four standards that reflect key environmental and social areas and issues that are at the heart of IUCN's conservation approach. They form the core of the ESMS Policy Framework, which governs the ESMS and determines the minimum environmental and social requirements for IUCN projects.

The ESMS principles and standards are rooted in IUCN environmental and social policies and IUCN World Conservation Congress (WCC) resolutions. They also draw on IUCN values, good practice tools developed by IUCN Secretariat programmes and IUCN Commissions and on lessons learned during IUCN's long tradition of working at the interface of conservation and social issues and human rights. The ESMS principles and standards consolidate objectives of the *Convention on Biological Diversity* as well as other relevant international conventions and agreements on environmental and social issues including the *Universal Declaration on Human Rights* and the *United Nations Declaration of the Rights of Indigenous Peoples.*

The ESMS is aligned with globally recognized standards on environmental and social matters. With IUCN being an accredited agency to the Global Environment Facility (GEF) and to the Green Climate Fund (GCF), the ESMS has been rigorously examined by these two entities and found fully compliant with the entities' relevant policies – specifically with the GEF Policy for Agency Minimum Standards on Environmental and Social Safeguards and the Performance Standards of the International Finance Corporation (IFC) as relevant to the nature of projects implemented by IUCN.

Table 1: Comparative table of GCF, IUCN and Government policies related to environmental and social safeguards, gaps and recommendations			
GCF E&S Safeguards	**IUCN ESMS Procedures and Standards**	**Policy Government of Kenya**	**Main gaps relevant for the projects and recommendations for gap closure**
PS1: Assessment and management of environmental and social risks and impacts **PS2: Labor and working conditions PS3: Resource efficiency and pollution prevention** **PS4: Community health, safety and security**	- ESMS Manual providing an integrated methodological approach to identifying and managing environmental and social impacts and opportunities. - Selection of measures based on mitigation hierarchy using four stages: (i) screening of impacts; (ii) scoping and assessment of impacts; (iii) development of environmental management plans, and (iv) monitoring and review. - ESMS Questionnaire provides for identifying social and environmental risks that are no covered by ESMS Standards (including labor and working conditions, pollution risks and Community health, safety and security issues); **-** ESMS Manual entails provisions for stakeholder engagement, public disclosure and grievance mechanism – to ensure public concerns are captured.	The 2010 Kenyan Constitution Article 10, 42 and 69 - recognizes public participation as a principle of governance, safeguards the rights to a clean and healthy environment and gives the state responsibilities to encourage participation in the planning, management, conservation and protection of the environment; National Environment Policy, 2013; EMCA, Water Act 2016 and Water Regulations 2006 provide a framework for an integrated approach to planning and sustainable management of Kenya's environment and natural resources. EMCA requires screening of project investments in order to determine if further environmental assessments (ESIAs) are needed. An ESIA (which also includes assessing for social impacts) should be carried out before detailed project design and prior to implementation. EMCA requires stakeholder's consultation during planning, implementation and operational phases of the project Requirement of public disclosure of ESIA reports.	n/a
PS5: Land acquisition and involuntary resettlement	ESMS Standard Involuntary Resettlement and Access Restrictions - Not triggered by the project	n/a	n/a
PS6: Biodiversity conservation and sustainable management of living natural resources	ESMS Standard on Biodiversity Conservation and Sustainable Management of Living Natural Resources**;** provisions relevant for the project: • ESIA/targeted assessment and mitigation needed for following risk issues (as per screening): - development of (even small) infrastructure or activities that may cause disturbance to	EMCA requires screening of project investments in order to determine if further environmental assessments (ESIAs) are needed including their public disclosures; Article 36 (1) of the Community Land Act, 2016 states thus: subject to any other relevant written law, an agreement relating to investment in community land shall be made after a free, open consultative process and shall contain provisions on	

	specific elements of biodiversity / areas of high biodiversity value; - introduction or reintroduction of species where risks are identified that species develop invasive characteristics; - harvesting of wild living resources (e.g. NTFP) with risks of unsustainable use of living natural resources or when affecting traditional use systems. • Forest restoration projects need to maintain or enhance biodiversity and ecosystem functionality. • Plantation projects need to demonstrate that they are environmentally appropriate, socially beneficial and economically viable. • Where of biocides are unavoidable need of an appropriate pest management planning process, including risk assessment and disclosure of a Pest Management Plan, where relevant.	the following aspects: (a) an environmental, social, cultural and economic impact assessment; The Pest Control Products Act CAP 346, regulates the use of herbicides in the control and management of invasive species.	
PS7: Indigenous peoples	ESMS Standard on Indigenous Peoples, includes the following provisions: • Social analysis carried out by a social scientist and in consultation with affected groups to identify impacts and develop culturally appropriate mitigation measures; • Ensure full and meaningful participation of indigenous peoples in all activities affecting them (positively or negatively); • FPIC for any intervention affecting their rights and access to their lands, territories, waters and resources; • Equitable sharing of benefits from conservation activities among all stakeholders;	The Government of Kenya has no specific legislation on indigenous peoples and has not adopted the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) or ratified the ILO Convention 169. The Government follows the position of the African Commission's Working Group of Experts on Indigenous Populations & Communities who argues that there is no question that all Africans are indigenous to Africa in the sense that they were there before the European colonialists arrived and that they have been subject to sub-ordination during colonialism. Instead the Kenyan Constitution refers to indigenous people as minorities and marginalized groups. The second part of the international legislation on indigenous people (defining indigenous people as being in structural subordinate position to the dominating groups and the state, leading to marginalization and discrimination), however, is partly addressed by the Kenyan	To avoid a potential gap of coverage the project will conservatively treat all vulnerable and marginalized groups through the measures of the IUCN Standard on Indigenous Peoples. Therefore, during the planning process at local level it will be checked whether all ethnic groups have the same chance to benefit from the project and voice their concern if their rights, interests, needs, livelihoods or culture are affected by the project. Because indigenous and marginalized communities are considered main project beneficiaries, there is no need to develop an Indigenous People Plan. Section XXX of the ESMF, however, entails a dedicated section specifying how provisions from the Indigenous Peoples Standard are addressed.

		Constitution through Article 56 which calls for procedures for affirmative action for marginalized communities and groups (article 56)[1]. Marginalized groups are defined in Article 260 of the Constitution[2].	
PS8: Cultural heritage	ESMS Standard on Cultural Heritage, includes the following provisions: • If risks are identified, ESIA guided by competent professionals with consultation of relevant groups such as local communities, government authorities, relevant civil society organizations, local experts and traditional knowledge holders; • Chance Find procedures • Equitable benefit sharing in cases where use of cultural heritage generates economic and social benefits; • Adherence to FPIC when projects affect cultural heritage to which communities have legal (including customary) rights		The risks are considered not very likely. However, for any activities that involve earth work Chance find procedure (see Annex of Standard) will be made available and communicated to all involved actors.

[1] Article 56 of the Kenya Constitution. Minorities and marginalised groups. The State shall put in place affirmative action programmes designed to ensure that minorities and marginalised groups— (a) participate and are represented in governance and other spheres of life; (b) are provided special opportunities in educational and economic fields; (c) are provided special opportunities for access to employment; (d) develop their cultural values, languages and practices; and (e) have reasonable access to water, health services and infrastructure.

[2] Article 260: "(…) "marginalised community" means—(a) a community that, because of its relatively small population or for any other reason, has been unable to fully participate in the integrated social and economic life of Kenya as a whole; (b) a traditional community that, out of a need or desire to preserve its unique culture and identity from assimilation, has remained outside the integrated social and economic life of Kenya as a whole; (c) an indigenous community that has retained and maintained a traditional lifestyle and livelihood based on a hunter or gatherer economy; or (d) pastoral persons and communities, whether they are—(i) nomadic; or (ii) a settled community that, because of its relative geographic isolation, has experienced only marginal participation in the integrated social and economic life of Kenya as a whole;"

4. Environmental and social context

4.1. Arid and semi-arid lands in Kenya and its livelihood systems

Geographically, Kenya is divided into seven Agro-Ecological Zones, most of which lie in the semi-arid to arid zones (ASALs) which are predominantly inhabited by the pastoralists and agro-pastoralists. The Kenya's ASALs, which make up 89% of the country's total land surface are mainly found in the Northern, Eastern and Rift Valley regions. The ASALs in Kenya comprise 23 counties, of which 9 are classified as Arid, and 14 as Semi-Arid (see Fig. 14). The defining feature of the ASALs is aridity with annual rainfall between 150mm to 550mm per year in arid areas and between 550mm to 850mm year in the semi-arid areas. The temperatures in arid areas are high throughout the year, resulting in high rates of evapotranspiration, more than twice the annual rainfall. The ASALs support about 7 million people and more than 50% of the country's livestock population. These areas, which are also classified as rangelands, do not support rain-fed cultivation due to physical limitations such as aridity, low and erratic rainfall and poor vegetation. Overall, pastoralism's contribution to national economy is 42% of the agricultural GDP in Kenya and constitute 10% share of the national GDP and accounts for over 80% of household income in arid and semi-arid areas of Kenya. Livestock production accounts for 24% of agricultural outputs in Kenya with over 70% of the country's livestock coming from the ASALs region. ASAL supports about 35% of Kenya's population, nearly 75% of wildlife population and consequently account for around 80% of the country's eco-tourism interests. However, despite the significant resource base, people in the drylands regions are relatively poorer with fewer social services and less infrastructure. Such high rates of poverty undermine investment in human capital development and enjoyment of the potential for projected shared benefits of economic growth. The livelihood system of arid areas is dominated by mobile pastoralism while in the semi-arid areas a more mixed mainly agro pastoralism and in some case crop agriculture (rain fed or irrigated), bio enterprises, conservation and tourism related activities.

The following three livelihood strategies dominate Kenya's ASALs, with specific opportunities and constraints:

Pastoralism: A livestock-based production system in ASALs that contributes 70% of cattle (12.2 million head), 87% of sheep (14.3 million), 91% of goats (25 million) and 100% of camels (2.9 million) of the national livestock population. As a strategy for managing climate variability and drought, pastoralists keep a mixture of cattle, donkeys, sheep, goats and camels, providing a range of options for utilizing different rangeland resources and providing a diversity of marketable products. Each species has a particular niche and specific characteristics, with some providing greater drought risk insurance and survival rates (e.g. camels and goats), while others (e.g. cattle and sheep) frequently command higher prices, particularly in key seasons.

Agro-pastoralism: Agro-pastoralists combine relatively sedentary livestock keeping with crop production. Livestock herds usually cushion agro-pastoralists against the adversities of droughts. Some of the features of marketing that apply to pastoralists also apply to agro-pastoralists. However, an important distinction is that agro-pastoralists may be less dependent on markets to purchase grain in key seasons, but are exposed to different risks associated with changing climate patterns due to their dependence on the seasonal crop cycles.

ASAL agriculture: Losses of livestock during droughts and chronic food insecurity are driving an increase in crop farming in ASALs, including small-scale irrigation agriculture which impacts on riparian water balance. Additionally, some former pastoral rangelands have received farmers arriving from other parts of the country who have converted land for cropping, which has been a point of conflict. Once families build assets through crop farming, many aspire to return to livestock pastoralism, their preferred livelihood. This has important implications for marketing, particularly of livestock, and many small-holder farmers withhold livestock from the market at all costs in an effort to rebuild their herd. This may drive dependence on non-livestock income generation and over-

exploitation of natural resources in the rangelands, which in turn may feedback negatively on the livestock sector.

4.2. Climate variability and change in Kenya

In general, the East African region is confronted with a range of climate risks that have far-reaching repercussions for its communities and economies now and in future. Even limited modest warming of below 2°C would pose substantial risks and projected damages. The warming is expected to increase. A review of historical climate trends shows that the East African region is highly vulnerable to the impacts of climate change. The region has suffered prolonged droughts in 1983/84, 1991/92, 1995/96, 2004/2005 and the *La Nina*-related drought of 1999/2001, with major impacts on the economy and food security. The severe occurrence of drought experienced in the region in 2009-11 had extreme effects on approximately 12.4 million people, and resulted to degradation of dryland ecosystems. Similarly, the *El Niño*-related floods of 1997/98 had devastating effects on road infrastructure, human settlements, agricultural production and health impacts related to cholera and highland malaria among others. Drought is recognized as one of the biggest threats to the achievement of Kenya Vision 2030 (a long-term road map which elaborates pathway to transformation), causing substantial losses and suffering in drought-prone areas and undermining economic growth. The situation is worse in the Arid and Semi-Arid Lands (ASALS).

4.3. Impacts of droughts in ASALs of Kenya

The greatest challenge to pastoral livelihoods in the ASALs is dealing with unpredictable rainfall, climate variability and change, leading to vulnerability. Severe droughts have been recorded in Kenya in the following years 1960/1961, 1969, 1973/1974, 79, 1980/1981, 1983/1984, 1991/1992, 1995/1996, 1999/2000, 2004/2006, 2008/2009, 2010/11 and 2016/17 with widespread direct and indirect effects on the lives and livelihoods. ASAL areas experience the severe effects of the drought. Droughts affect the natural environmental functions such as ground water recharge, refilling of surface water points and wetlands, and pasture recovery/regrowth. When annual precipitation reduces or rainfall completely fails, the pastures are not able to recover, leading to shortage of forage which leads to livestock mortality and ultimate food shortage. Drought can also lead to loss of specific vegetation on pasturelands as well as depletion of ground and surface water, which affects livestock mobility and sustainable utilization of rangelands.

Different assessments gave evidence of the impacts of droughts in ASALs of Kenya. According to assessment done by Kenya Food Security Steering Group, 2017, about 2.6 million people in 23 arid and semi-arid counties are affected by drought and in need of food aid. Thirteen counties depend predominantly on livestock, while 10 depend on rain-fed agriculture. Among the most affected counties by percentage are Isiolo, with more than 55% of the population at risk, followed by Marsabit, Tana River and Samburu where 44% of the population are affected and in Lamu (40%). Other counties affected are Wajir (32%), Garissa (29%), Mandera (28%), and Turkana and Kwale (25%).

4.4. Key factors affecting transition to climate change resilience in ASALs

Although pastoralism is an adaptation to high climate variability and aridity in ASALs, these traditional pastoral production systems are under threat from increasingly erratic rainfall, drying grasslands, and rapid population growth, restrictions on household and herd mobility and privatization of land. Therefore, traditional patterns of mobility are proving inadequate as key resource areas are degraded through over-use (usually through prolonged grazing), or lost to other uses, and pastoralists are forced to migrate to new areas. Changing climate patterns are also modifying the rangeland landscape, contributing to localized land degradation and affecting the balance between pasture and water sources, particularly in the key drought reserve areas.

Land degradation in ASAL which is driven by climate change as well as other factors (e.g. economic and demographic drivers) reduces capacity for climate change adaptation by undermining established

strategies, reducing overall rangeland productivity and disrupting hydrology and water availability. These host of issues affect pastoralist resilience to climate change. These are exacerbated by many factors, including;

1. Information and capacity gaps that limit the options of critical stakeholders to adapt to climate change (i.e. lack of access to, and availability of, data on climate change impacts and its implications; weak capacity to act on the information that is available; weak capacity to influence rangeland planning across different sectors).
2. Lack of security of governance by land users to implement sustainable rangeland management (i.e. low and ineffective participation of land users in decision-making; low capacity of local institutions to coordinate communal rangeland management; absence of mechanisms for coordinated planning and management of actions within rangeland landscapes).
3. Rangeland management planning is not cognizant of future climate change scenarios (i.e. low access to, and capacity to use, up to date information; absence of mechanisms and protocols for systematically integrating climate change data in planning).
4. Insufficient and inappropriate support to adaptation and investments in rangelands (i.e. large-scale measures for large scale regeneration; technical options to assist natural regeneration; suitable alternative land use practices; effective management of land and water to mitigate drought).
5. Poor access to markets and financial services (i.e. low access to markets for livestock products and non-livestock products; low availability of finance for local enterprises; low awareness of positive externalities and ecosystem services form rangelands).

5. Potential social impacts and mitigation measures

The project aims to improve resilience of communities and ecosystems in Arid and Semi-Arid Lands (ASALs) in Kenya to future climate shocks and stresses. The target landscapes are dry season grazing areas which are critical resource zones that provide refuge during periods of drought. Their existence depends on availability of permanent water, which makes them hotspots for resource competition and land use change. They are used seasonally by large numbers of livestock keepers, often from multiple ethnic groups, following customary governance practices. Customary institutions have become weakened, leading to break down in natural resource governance, degradation of resources, and escalating conflict.

Environmental and social impacts of the project are overall expected to be highly positive given that it is the aim of the project to address the above described challenges from climate change and increasing resource pressure and in light of the project's highly participatory and bottom-up approach. The planned vulnerability assessment is expected to appropriately capture and address specific risk experienced by vulnerable segments of the society.

Because of the small-scale nature of the restoration and livelihood activities it is considered as very unlikely that project activities will have significant adverse environmental and/or social impacts that are divers, irreversible, or unprecedented (hence no high risk). However, land-use changes, physical restoration measures and value chain and enterprise development might trigger mild social or environmental impacts given the sensitivity of the dryland ecosystem, the complexity of the social fabric and an increasing pressure from resource competition. Social and environmental risks have been identified that are described in the table below. Overall the identified impacts are expected to be few in number, generally be site-specific, largely reversible, and readily addressed either through project activities or mitigation measures. The project is therefore classified as moderate risk project. Because the specific on-the ground interventions and their sites will be defined in more detail only during project implementation, risk assessment at this stage can only be cursory focusing on generic types of activities.

Because of the participatory nature of the project on-the-ground interventions are not known in sufficient detail at this planning stage; hence, table 2 below only assesses generic activities on

potential environmental and social risks. As such impact identification is still rather preliminary and the table should be understood as indicative.

In addition to listing potential environmental and social impacts table 2 on the next page also sets out mitigation measures or guidance for development of such measures. It further makes predictions about the significance of residual impacts (after implementation of mitigation measures) by assessing the probability of risks occurring and anticipated magnitude of impacts.

Table 2: Potential Impacts and Mitigation Measures					
Project Activities / Sub-projects	**Potential negative E&S impacts**	**Standard triggered**	**Mitigation measures**	**Magnitude** (after mitigation)	**Probability** (after mitigation)
Component 1: **Climate change adapted planning for drought resilience**					
1.1 Enhance information systems to inform climate change sensitive landscape planning and vulnerability/risk management	n/a				
1.2 Strengthen community institutions to coordinate community planning and to inform and represent stakeholders in landscape planning	Community institutions may not perceive the needs of marginalized or vulnerable groups. Domination by older men in community dialogue and decision making which risks that women and youth might partially be excluded from decision making processes		The project will employ a set of assessment tools (e.g. participatory rangeland assessment, vulnerability assessment and community consultations to validate stakeholder analyses) – designed as project activities - that will ensure the identification of marginalized or vulnerable groups. During these assessments appropriate participation or representation of vulnerable or marginalized groups will be ensured and that participation is not hindered by logistical or financial barriers (e.g. inadequate information channels, lack of transport) or by any form of social stigmatization or exclusion. The project will promote inclusive mechanisms to hear the voices of women and youth and include them in decision making in land-use planning.	Low	Low
1.3 Develop county rangeland restoration plans that build on local community plans combined with enhanced climate change data	Restoration planning and resource allocation might have negative impacts on specific social, cultural or vulnerable groups (including women and youth) if it doesn't reflect their specific needs.		The landscape planning will build on community level land-use plans which will be developed using a highly participatory and consultative approach and which require final validation by the community. Potential risks will be discussed during the social analysis and respective consultations; the approach foresees that indigenous peoples, women, youth and vulnerable groups are formally and equitably represented in planning process.	Low	Low
1.4 Establish functioning landscape management mechanisms in participating counties for climate change sensitive and accountable decision-making	n/a				
1.5 Establish participatory monitoring, evaluation and learning systems to support adaptive management	n/a				

Component 2: Restoration of rangeland landscapes for ecosystem based adaptation					
2.1 Implement priority community-based rangeland restoration activities	Livelihood impacts due to the potential need of seasonal restriction of access to range and pastureland during restoration processes (e.g. grazing resources)		The project's approach to ensure active participation of the communities in the development of the land-use plans and grazing guidelines will be vital to prevent social impacts. The vulnerability assessments undertaken in each village/community will provide appropriate social baseline and understanding of vulnerabilities. Chapter 6.5.1 includes provisions for ensuring that any land-use decisions and in particular decisions about potential use restrictions of certain areas, are decided by the communities completely voluntary and with an appropriate degree of participation of potentially affected stakeholders.	Low	Low
	Restoration measures might conflict with cultural practices of indigenous groups Social assessment and consultation will identify cultural practices; design of restoration measures will ensure compatibility with cultural practices of indigenous peoples and marginalized groups, including pastoralists and hunter-gatherer groups		Social assessment and use of participatory approaches in planning and implementing activities at the local level. This approach incorporates extensive and inclusive consultation of different stakeholders including indigenous peoples and marginalized groups and their participation in the designing of interventions and plans relevant to their livelihoods as well as through actions that strengthen their participation and rights in natural resources management. Chapter 6.5.2 provides further guidance including elements of an Indigenous Peoples Process Framework.	Low	Low
	Resource competition is an existing risk in the target landscapes and could be exacerbated by project activities leading to conflicts among social/ethnic groups		The project has been and will continue to be designed via participatory community consultations, and implemented largely by community organizations and pastoralist user groups. These groups will identify which water retention or management structures to improve or build, and their locations – not outside partners. Activities for value chain development and other benefits provided by the project will serve as mitigation measure. Further guidance is provided in chapter 6.5.1. IUCN's experience in managing negotiated	Low	Low

			and mutually acceptable outcomes is vital to mitigate this risk.		
	Control of bush encroacher species and invasive alien species (e.g. Prosopis jubiflora) may require the targeted use of herbicides	BD	The application of the IUCN Guidance Note on Pest Management Planning will reduce risks of herbicides to human receptors (adjacent local communities and workers) and to the ecosystem. Further details provided in chapter 6.5.4	Low	Low
	Accidental spread of invasive species when implementing ecosystem restoration measures	BD	Risk assessment undertaken for the selection of grass species following IUCN guidelines for reintroduction and other conservation translocation[3]. Species listing and screening for non-use during project inception. Establishment of a protocol /guidelines for selecting tree and grass species, including exclusion list.	Low	Low
2.2 Implement priority actions for integrated land/water management in catchments	Small scale impacts on biodiversity and soil during construction phase of water conservation measures		Measures are small-scale and soil conservation is explicit objective of the promoted conservation measures	Low	Low
2.3 Install community-validated strategic water sources for sustainable rangeland utilization	Despite being small-scale the construction of water infrastructure might cause localized negative impacts on biodiversity or soil disturbance and erosion impacts during construction phase		All of the water infrastructure are small scale and hand built. The only exception might be the de-silting of water pans which would be managed by a digger and lorries removing the silt. These are dust adapted semi-desert environments and additional dust is limited and short-lived. Instruction on good practices for avoiding potential minor impacts from the construction of small-scale water infrastructure during construction phase will be provided. Water points must be located where no protected or other sensitive environmental areas could be affected.	Low	Low
	Influx of communities and livestock to newly established water points might cause localized impacts on biodiversity and soil erosion.				

[3] https://portals.iucn.org/library/efiles/documents/2013-009.pdf

	Risk of lowering the water table due to over-abstraction of water resources from constructed boreholes and wells	BD	Baseline water information on groundwater will be collected in location with risk of over-exploitation; water extraction induced by the infrastructure provided by the project will be monitored.	Medium	Low
	Allocation/placement of infrastructure (water harvesting structures, boreholes and wells) may trigger resource-related conflicts and disputes over their location or might lead to the perception of unfair treatment.		Community consultation for deciding location of water infrastructure. The project will ensure that potential divergence of interests within the community will be addressed.	Low	Low
	Human health risks if water is contaminated (e.g. through cattle movement) or through standing water (insect-borne diseases)		The project will ensure regular maintenance of water infrastructure and monitoring of water quality.	Low	Low
	Minor nuisance might be possible (dust, noise) during construction		Instructions on good practice (ECOP) will be provided	Low	Low
2.4 Assist communities to formulate bylaws and incorporate into county laws	n/a				
2.5 Build capacity of local institutions to implement climate-sensitive landscape management	n/a				
Component 3: **Investments and incentives for climate change resilient ecosystem management**					
Activity 3.1: Provide climate resilient investment in priority value chains that have been validated by local communities	Providing value chain support and developing markets for products harvested from natural habitats could lead to over-harvesting (e.g. harvest of gums and resins). The risk might be significant in particular for communities where the project does not influence harvest rates but who still benefit from enhanced market access	BD	The project will support communities in determining thresholds for harvest rates for natural resources extracted from natural habitats – specified in the community land use plans. These plans will also include requirements for monitoring actual extractions. The project will further work with authorities and relevant stakeholders outside the project sites and raise awareness about the need to establish and monitor harvesting rates. Further guidance is provided in chapter 6.5.4.	Low	Medium

	Risk of failing to reach women		Training programme will be gender responsive, e.g. in terms of logistics (e.g. time and place suitable for women), methodology and content	Low	Low
	Risk of localized environmental impacts from value chain activities (e.g. on water quality through waste water discharge or inappropriate waste management)		Provision of procedure to assess environmental aspects of value chain activities and good practice procedures to avoid impacts from water discharge and waste management quality;	Low	Low
Activity 3.2: Provide grants to establish restoration enterprises created/led primarily by women's groups	Potential but unknown environmental and social impacts		Due diligence process in place guiding the selection of grants, E&S screening and monitoring of risks	TBD	TBD
Activity 3.3: Establish financial incentive mechanisms for sustainable land management	Potential but unknown environmental and social impacts		Due diligence process in place guiding the selection appraisal of restoration plans, E&S screening and monitoring of risks	TBD	TBD
Activity 3.4: Provide grants for private sector enterprises that support ecosystem based adaptation	Potential but unknown environmental and social impacts		Due diligence process in place guiding the selection of grants, E&S screening and monitoring of risks	TBD	TBD

6. Procedures for addressing environmental and social risks of sub-projects

Due to the participatory nature of the project concrete on-the-ground interventions and their locations will only be determined in consultation with the respective communities and relevant government agencies during the implementation phase of the project. This applies to the following project activities:

2.1 Implement priority community-based rangeland restoration activities
2.2 Implement priority actions for integrated land/water management in catchments
2.3 Install community-validated strategic water sources for sustainable rangeland utilization
3.1 Provide climate resilient investment in priority value chains that have been validated by local communities
3.2 Provide grants to establish restoration enterprises created/led primarily by women's groups
3.3 Establish financial incentive mechanisms for sustainable land management
3.4 Provide grants for private sector enterprises that support ecosystem based adaptation

Because the individual sub-projects within the seven categories mentioned above are very small in size, it is not reasonable to follow the same procedures as for larger projects. Therefore, the sub-projects of individual villages or wards who feature similar environmental and social context and who are thematically similar will be clustered in one project (in the following referred to as cluster-projects). The same approach is applied for the grant and loan instruments where individual investments are clustered thematically. All cluster-projects will be screened on potential adverse environmental or social impacts using the IUCN ESMS Screening Questionnaire. The screening which is described in chapter 6.3.1 will establish the project's risk categorization, determine whether any IUCN ESMS Standards are triggered and is documented in form of a Screening Report.

The environmental regulatory requirements of the Government of Kenya as established by EMCA 1999 and associated amendments (see chapter 2.2.5) generally requires that all proposed development projects are to be preceded by an ESIA study. However, the National Environment Management Authority (NEMA) makes a threshold determination to decide whether an ESIA is necessary or whether the project is exempt depending on the project's risk level. In order to ensure compliance with the regulation will submit the ESMS Screening Report of each cluster-project to NEMA for final determination as to whether an ESIA is required or not (further details see chapter 6.3.2). Given that the IUCN ESMS is aligned with globally recognized standards on environmental and social matters and fully compliant with the Performance Standards of the International Finance Corporation (IFC) as relevant to the nature of projects implemented by IUCN, the ESMS Screening Report is considered equivalent to the Project Report normally required by EMCA.

Figure 2 on the following page visualizes the environmental and social due diligence processes that will be carried out for each cluster of sub-projects. The subsequent chapters describe each step in more detail: the safeguard review procedure (screening, scoping and assessment) and the process for planning the risk management strategy and how it will be implemented, monitored and reported.

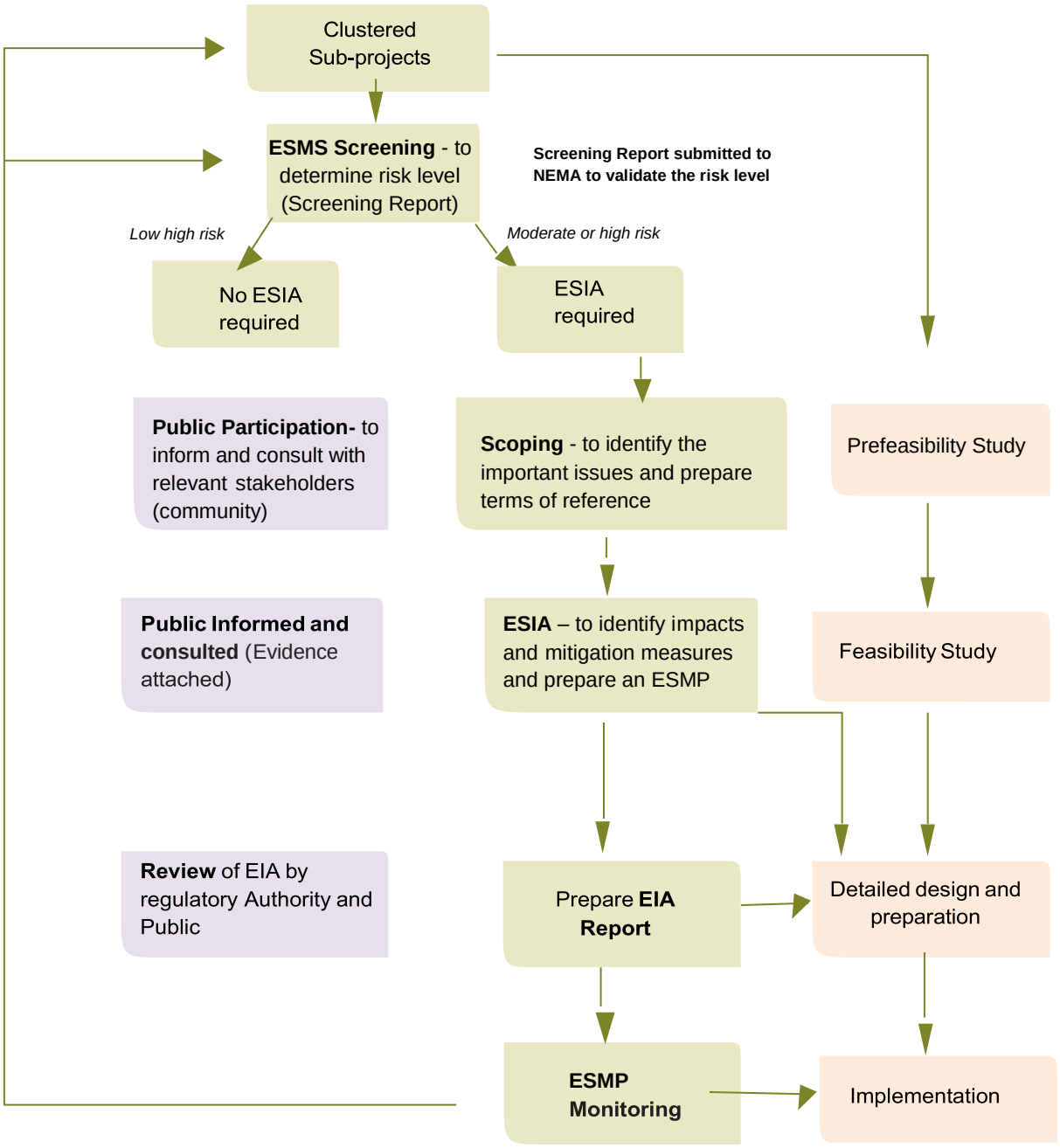


Figure 2: Environmental and social due diligence processes

6.1. Site selection of wards and villages for sub-projects

Ward selection

WRA has mapped the sub-catchments to the wards and in principle wards will be selected that align as far as possible with sub-catchments. The overall 39 total target wards have been identified for the

project consistent with the dry season grazing areas. All wards will be included in the project for the higher level planning and public engagement (e.g. the landscape forums). On the ground project activities may not happen in all wards – subject to detailed planning and resources allocation. The project will aim to ensure that at least one on-the-ground activity is happening in each ward. A provisional list of wards that the project will work in will be generated by project staff assigned to the Landscape Coordination Hubs. Actual work will take place at the village level which is the next administrative unit below the ward.

The project will be located in sub-catchments, which are geophysical unit based water sheds and a key level of land-use planning will be at the sub-catchment level. Most of the sub-projects will take place via wards which are the key administrative structure of the counties.

Stakeholder project launch

Project launch at the landscape and county level with launch workshops where community leaders (including women and youth representatives) will be invited to attend to learn more about the project and initiate the establishment of the Landscape Forums. Ward leaders will be invited to indicate their willingness to participate in the project. A project brochure will be prepared in Swahili and circulated in all candidate villages. Information about the project will be broadcast on local radio so that a wider set of stakeholders will have information about the project.

The site-selection process is ESMS-relevant in the sense that a transparent and fair process will need to be ensured when selecting the sites for field intervention.

6.2. Exclusion list

The list below specifies interventions that will not be pursued by the TWENDE as a means to lower the risk profile of the sub-projects. As a more general rule (and as explained in the subsequent chapter) TWENDE will not implement cluster-projects that are categorized as high risk project. In case risk issues are identified, the cluster-project will need to be substantially re-designed in order to lower the risk level.

- Permanent boreholes
- Major water pans or other water storage devices
- Structures that would imply large scale disturbance of soil/sub-soil
- Introduction of invasive alien species
- The priority actions for integrated land/water management in catchments (activity 2.2) will not involve any form of restrictions on water use for community members (e.g. temporal use or purpose of water use)

6.3. Screening Procedure

All cluster-projects will be screened on potential environmental or social risk using the IUCN ESMS Screening Questionnaire and Report template (appendix 1). There will be slight variations in the way how individual sub-projects will be aggregated to one cluster-project, in particular for the activities that involve loan/grant making (activities 3.2, 3.3 and 3.4). The clustering will be guided by the following principles:

- Projects to be aggregated in one cluster-project need to feature a similar environmental and social context and are thematically similar;

- Projects will be clustered at the largest scale that makes sense in order to reduce the procedural burden;
- Clustering will also take the readiness of sub-projects into consideration in order to ensure that the process is not stalled if some projects require more time for their design. Hence, thematically similar projects maybe be clustered in different groups depending on the time they are ready.

For the rangeland restoration activities, actions for integrated land/water management in catchments and installation of strategic water sources for sustainable rangeland management (activities 2.1, 2.2 and 2.3) most probably projects in the same landscape will be aggregated to one cluster-projects. Grant making to enable the creation of restoration enterprises will probably be clustered thematically differentiating small fodder banks from larger scale restoration. The community resilience facilities (CRF) that provide loans based on the land-use plans agreed by the communities and endorsed by the relevant government agencies will also be grouped thematically and according to the value chains promoted. The thematic approach will also be relevant for grants provided to private sector enterprises that support ecosystem based adaptation.

As input for the Screening the lead executing entity for the respective component completes the ESMS Screening Questionnaire. The Screening itself and the preparation of the formal Screening Report is assumed by the Project Management Unit (PMU) who will bring in the regional ESMS Officer or another IUCN ESMS Expert for this task. High-level supervision is provided by the IUCN ESMS Coordinator at IUCN HQ. The involvement of a NEMA accredited EIA expert in the screening decision is recommended, in particular for complex and ambiguous situations.

Screening involves identifying risk issues, deciding whether any ESMS Standards are triggered and assigning a risk category to the cluster-project. The findings are documented in form of a short Screening Report according to the template provided. The methodology oft assigning the risk category to a sub-project is the following:

- First the significance of each of the identified impacts (also referred to as risk factor) is assessed taking into account the likelihood of the impact arising and its likely consequence (magnitude of impact). Table 3 below guides the rating on significance for each risk factor. Unlikely impacts that would have only minor consequences are considered low risk; very likely impacts that would have major consequences are considered high risk; unlikely impacts that would have major consequences are considered moderate risk; very likely impacts that would have only minor consequences are considered moderate risk.
- For determining the risk category of the sub-project all identified risk factors are listed and their respective significance rating. The highest rating would generally guide the project's risk category. For example, if a sub-project has five risk factors, three of which are considered of low significance and two of which are considered moderately significant, the project will be classified as a moderate risk project.

Table 3: Matrix of rating significance of risk factors			
	Consequence (magnitude of impact)		
Likelihood	Minor	Medium	Major
Very Likely	Moderate	High	High
Likely	Moderate	Moderate	High
Possible	Low	Moderate	Moderate
Unlikely	Low	Low	Moderate

The determination of the rating for the consequence or magnitude of impacts is further aided by the Project Screening Criteria and the Project Screening List developed by NEMA as attached in Annex 2). Applying these tools, the magnitude of impacts is considered minor if they can be easily mitigated, potential residual impacts are likely to be minor and of little significance, and impacts and measures for managing them are well understood in the project context.

The Screening Report is submitted to NEMA for validation of the risk level and for threshold determination. For cluster-projects that are classified by the ESMS Screening as low risk projects and this appraisal is obtained confirmed by NEMA, NEMA may approve the project to commence at this stage and no further formal action is required.

Cluster-projects classified as moderate risk projects require an ESIA and the continuation of the environmental and social due diligence processes as described below (chapter 6.3.1 to 6.3.5). It is highly unlikely that any of the cluster-projects might be categorized as high risk project given the small-scale and low-impact nature of the restoration, water resource and value chain activities. In the unlikely case of involving risk issues that would be considered high risk, the cluster-project will need to be substantially re-designed in order to lower the risk level.

6.4. Due Diligence Procedure for Moderate Risks Projects

6.3.1 Project Reports

For all moderate risk cluster-projects a Project Report is prepared by an independent NEMA registered and accredited expert(s). In compliance with Regulation 7(1) of Legal Notice 101 the Project Reports shall describe the following:

- The nature of the project;
- The location of the project including the physical area that may be affected by the project's activities;
- The activities that shall be undertaken during the project construction, operation, and decommissioning phases;
- The design of the project;
- The materials to be used, products, by-products, including waste to be generated by the project and the methods of disposal;
- The potential environmental impacts of the project and the mitigation measures to be taken during and after implementation;
- An action plan for the prevention and management of possible accidents during the project cycle;
- A plan to ensure the health and safety of the workers and neighbouring communities;

- The economic and socio-cultural impacts to the local community and the nation in general;
- The project budget;
- Any other information that the Authority may require.

Once a project report is submitted to NEMA, a decision is made by NEMA whether or not an ESIA must be undertaken including the preparation of an ESIA report in accordance with the EMCA regulation.

6.3.2 Scoping

On advice from NEMA, the project will carry out a scoping mission to identify the important issues and prepare a Scoping Report specifying the project‘s area of influence, the thematic scope and depth of assessments required, the composition of the required ESIA team, the safeguard tools to be prepared and the probable budget required. Public participation during the scoping mission is important in order to inform and consult with relevant stakeholders (community) and understand potential concerns.

The project will contract a qualified and experienced social and environmental safeguard specialist to carry out the mission – preferably an expert that is accredited by NEMA. NEMA will be involved in the development of Terms of References (ToRs) for the ESIA and of safeguard tools (e.g. Action Plan for Access Restrictions, Indigenous Peoples Plan, Pest Management Plan etc.).

6.3.3 Impact assessment and risk management

The purpose of an ESIA is to assess the potential negative social and environmental impacts, confirm their significance, and to define a suitable strategy for avoiding impacts – through alternative project design, or by minimizing or compensating for them. Key elements of an ESIA and the respective ESIA report are listed below; the specific ToR for a cluster-project will be based on the findings of the Scoping mission:

- Non-technical summary
- Project description
- Policy, legal, and administrative framework analysis
- Stakeholder identification and analysis
- Environmental and social baseline
- Assessment of environmental and social impacts
- Analysis of alternatives
- Results of stakeholder consultations
- Environmental and Social Management Plan (ESMP)

Depending on the identified risk issues and in consultation with NEMA a project may require only a partial ESIA. Partial ESIAs are more limited in scope than a full ESIA/EIA and focus on a small number of clearly defined impact issues. Given the reduced impacts, they generally won’t require an analysis of alternatives.

The most important output of the ESIA process is the ESMP which describes the planned strategy for managing the identified risks and mitigating the identified negative impacts, which is developed in consultation with the affected groups. The ESMP describes the mitigation measures, confirms their feasibility, adequacy and cultural appropriateness, establishes the implementation schedule, criteria

for eligibility, roles/responsibilities, and required resources. Where relevant requirements for capacity building should be included. The ESMP also sets out monitoring/reporting measures to verify their implementation and effectiveness.

In some cases, the screening might conclude that only social impacts need to be investigated and require carrying out a Social Impact Assessment (SIA). An SIA is required in particular when one of the three social standards are triggered. The general elements of SIA are similar to that of an ESIA, described above, but the key impact issues to be assessed will depend on the nature of the project, and will be defined by the ESMS Screening. Key topics of analysis are the following:

- Analysis of the socio-cultural, economic, historical, institutional and political context in which the project operates;
- Main social groups (e.g. ethnic or linguistic groups, religion, occupation/livelihood, caste etc.) and their socio-cultural characteristics disaggregated between men and women;
- Identification of vulnerable groups such as landless persons, the elderly, persons with disabilities, children, ethnic minorities, marginalized groups or displaced persons;
- Main economic activities and livelihood patterns: formal and informal, subsistence and commercial, including dependence on natural resources;
- Land and tenure rights of different groups, identification of gaps or constraints;
- Historical events relevant to the project and potential impacts;
- Economic trends and prospects (relevant for social groups at or near the project);
- Social issues and risks faced by social groups, including issues related to access to resources and to social services as well as to their capabilities and development opportunities;
- Interests and developmental aspirations of social groups and their attitudes toward sustainable natural resource management;

The ESMS provisions and Kenya national legislation (EMCA, community land act, etc.) requires an appropriate level and quality of stakeholder consultation. See chapter 9 for further guidance.

The ESIA is carried out by an external consultant specialized on the impact issues to be assessed and registered by NEMA. The quality of the ESIA report, the safeguard tools and the ESMP will be assessed by the PMU supported by the regional ESMS officer based on a checklist available from the ESMS. The ESIA report, ESMP and respective safeguard tools will also be submitted to NEMA for scrutiny and validation.

The process is formally concluded by issuing an ESMS Clearance report. The Clearance confirms that risks issues are appropriately addresses by the ESMP and relevant safeguard tools. The Clearance also formulates specific provisions for monitoring and supervisions, where relevant.

6.3.4 Monitoring and Supervision of ESMP Implementation

Monitoring of the implementation of the EMSP and other safeguard tools as required (e.g. Action Plan for Access Restrictions, Indigenous Peoples Plan, Pest Management Plan etc.) will be done by the lead executing entity for the respective component. The ESMS provides a Guidance Note on ESMP monitoring (www.iucn.org/esms).

The executing entity is required to prepare annual reports on ESMP implementation. This includes reporting on:

- progress of ESMP implementation including providing relevant evidence;

- indication of effectiveness of mitigation measures[4];
- updates on implementation of any other ESMS tools;
- any relevant changes to the project context since ESMS screening (including emerging risks),
- any grievances that have been raised, and how these grievances were handled by the project team.

The ESMS provides a Guidance Note on ESMP monitoring (www.iucn.org/esms) which sets out further instructions for monitoring an ESMP including a the template for ESMP monitoring.

ESMP monitoring will be supervised by the PMU supported by the regional IUCN ESMS officer through annual supervision missions. The PMU will liaise with NEMA officers from the respective counties on relevant topics (e.g. regarding visits of the project sites, consultations with stakeholders etc.). During the project visits the implementation of ESMP and respective safeguard tools is inspected.

The PMU will also compile an annual report on ESMP implementation for submission to the project steering committee (PSC). Where relevant and as established by the ESMS Clearance, an annual performance & environment audit will be undertaken by an independent consultant.

6.5. Stakeholder consultation and disclosure of information

In accordance with the ESMS Principle on Stakeholder Engagement the executing entities need to ensure that individuals and communities who might be affected (positively or negatively) by IUCN-funded projects are provided with the opportunity to participate in a genuine and meaningful way in the formulation and implementation of the projects. To this end, a strong stakeholder engagement processes has been put in place during the design of the projects which is documented in the Stakeholder Consultation Report provided in Annex 9 of the Full Proposal. The consultations served as a first level gathering of feed-back and concerns about the project activities. However, continuation of stakeholder engagement is even more important when developing the individual sub-projects in each project site. This is explained in the Full Proposal in chapter E 5.3.

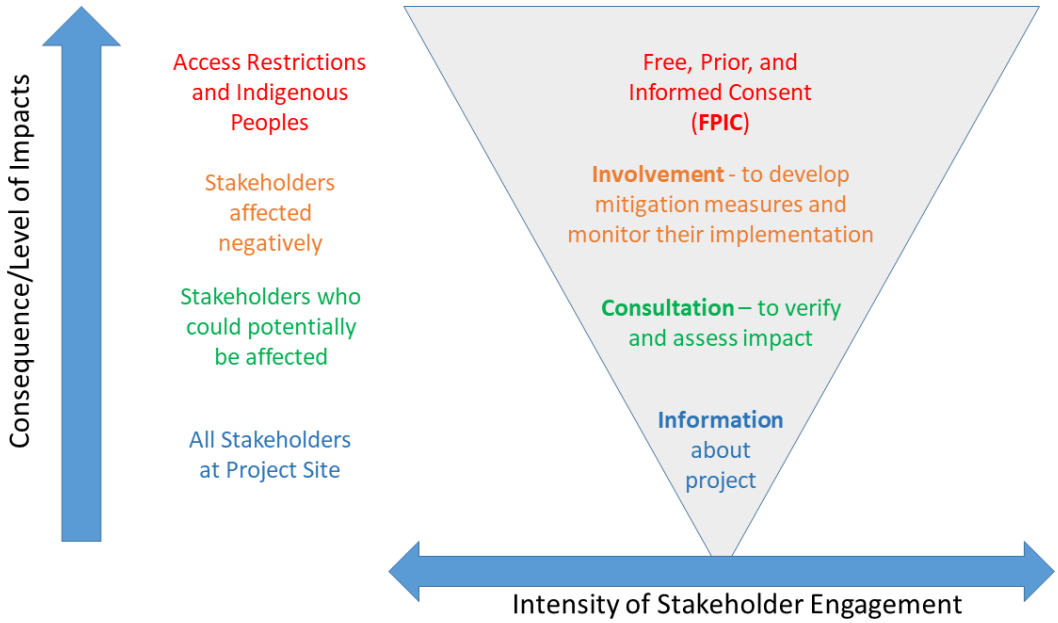
From the ESMS perspective stakeholder engagement is important to ensure that stakeholders are informed, that concerns are captured, and that potential risks are identified and adequately addressed through avoidance, minimization, or compensation. The intensity of stakeholder engagement is considered proportional to the concerns expressed or expected from stakeholders, and the consequence of potential risks (level of impacts). Figure 2 below visualizes the ESMS approach to stakeholder engagement with the level or intensity of engagement being a function of expected risks:

- All stakeholders at a project site should be provided general relevant information about the project;
- Stakeholders who could potentially be affected by project activities must be consulted during project design to verify and assess the significance of adverse impacts;
- If risks and negative impacts are confirmed and judged as significant, affected stakeholders should not only be consulted, but be thoroughly involved in project design, including in the development of mitigation measures (ESMP), and later in monitoring their implementation;

[4] Mitigation measure often require time to become effective. In the first year(s) of implementation it will often not be possible to provide more than a first indications of effectiveness. Nevertheless, it is important to monitor this in order to be able to make adjustments if there are any doubts about the effectiveness of the measures.

- If project activities affect indigenous people (positively or negatively) or lead to displacement / restrict access to the natural resources of local communities with recognised rights, a process for achieving FPIC is needed.

Figure 2: Stakeholder Engagement Approach in the ESMS



This approach will be followed when designing the sub-projects at the village level. The consultations will be appropriately documented by listing stakeholders consulted, the relevant environmental and social issues raised, and how the issues are addressed by project design.

For cluster-project that are classified as moderate risks and require an ESIA study, stakeholder consultation is part of the consultant's ToR. The extent and details of these consultations shall be documented in the ESIA report.

There are several ways by which TWENDE will undertake consultation and public participation during the screening and EIA process which include; holding public barazas, group discussions, administering questionnaires, oral and written interviews, Gazette Notices, Newspaper adverts, posters and radio announcements.

6.6. Provisions from ESMS Standards

6.5.1 Standard on Involuntary Resettlement and Access Restrictions

Livelihood loss from access restrictions

Under activity 2 priority community-based rangeland restoration activities will be implemented. This might entail the risk of livelihood impacts due to the potential need of seasonal restriction of access to collectively used range and pastureland in order to allow their regeneration (e.g. grazing resources). While the Standard on Involuntary Resettlement and Access Restrictions is not triggered in a strict sense as the land-use decisions will be community driven and as such voluntary, the ESMF establishes herewith a number of precautionary measures and provisions. This is to avoid impacts on livelihood which may arise if the community decision making is not adequate.

No net loss of livelihood. While the process is community driven the executing entities will need to ensure

- That the process of developing land use plans and deciding restoration options (including seasonal restrictions to collectively used land) is preceded by an assessment of livelihood impacts of such restrictions.
- That the decision making process is adequate and reflects voluntary, informed consensus. The proposed plans need to be validated by all relevant sectors of the community, including women and the youth as well as vulnerable groups.
- That appropriate measures are agreed and put in place to mitigate adverse impacts, if any, on the poor or vulnerable members of the community to ensure no loss of livelihoods from any temporary restriction of livelihoods.

Targeting the most degraded areas and least productive areas for restoration. The rehabilitation/ restoration measures will be prioritized and strategically chosen (e.g. the most degraded and least productive areas) to ensure maximum benefits within the project time cycle. Degraded and least productive areas do not currently contribute significantly to livelihoods and this is therefore a low risk strategy.

Using rapid restoration techniques such as grass restoration and thereby quickly (in 1 growing season) creating an asset for the most vulnerable that depend on home milking herds of small stock.

Mitigation for residual risks. Residual risks relate to the uncertainty whether rehabilitation or restoration of ecosystems will provide sufficient and timely benefits to mitigate use restrictions and that there might be vulnerable and disadvantaged groups in the communities who may not be able to cope with seasonal restrictions. If this risk is verified in a certain community, measures will be identified together with the affected groups to mitigate social impacts from restrictions; for example establishing links to existing social safety net systems such as NDMA who runs the Hunger Safety Net programme in many of the targeted counties providing safety guard system for many of the most vulnerable members of the community.

Land acquisition

The project will put in place small scale infrastructure for restoration (e.g. sand dams, stone bunds, half-moons etc.) as well as water infrastructure (e.g. pans, shallow wells etc.). Generally, it is not anticipated that this affect land rights and requires process of negotiations or agreements on land use or land acquisition as land in the project areas is held communally. Any infrastructure developed would be communally owned, located on communal land and identified by the community leaders and validated by a community assembly. Some exceptions exist, for instance where former community lands have been taken into government protected areas. If customarily or even privately owned croplands are identified by the rangeland assessment during the inception phase (e.g. in the higher rainfall margins of the landscapes) negotiations and agreement with right owners will be ensured.

Opportunities for strengthening land rights

Under activity 2.4 the project will assist communities in formulating bylaws to be incorporated into county laws. As such the project might support unregistered communities to register as community land under the 2012 Land Act and the 2016 Community Land Act. The project will assess the implications of the community land-use plans established through the 2002 Water Act and will

integrate with the Community Land Act (2016) provisions. The new act allows a community, with the approval of its members, to allocate land to a member or a group of members for exclusive use and occupation for such a time as community will determine. The project will explore this kind of options when communities allocate an area of degraded land to a women's' group to restore, manage, graze milking herd and establish a grass selling business, to avoid the long-term privatization of communal land.

The project will further explore opportunities provided by the Community Land Act to facilitate and strengthen formally negotiated arrangement between stakeholders. As such it will explore options of pastoralist communities granting grazing rights to a non-member of a community. This is a particularly important provision regarding communal access to rangeland during drought conditions. In drought conditions rainfall occurs erratically in time and space over the rangelands. Rainfall creates unpredictable patches of good range conditions across extensive areas of land. Livestock herders follow this rainfall, tracking and targeting patches of good pasture. Tracking has been aided by mobile phone technology. This can mean many herders converging with large livestock herds on very limited resources causing conflict (drought emergency). The customary system of range allocation in this situation was based on the negotiation between community elders. While this to some extent in place it has come under pressure from increased human and livestock populations, the weakening of community-level governance, competition for grazing land from crop agriculture and wildlife conservation, and infrastructure development.

The Twende project will also assist in the integration of the 2002 Water Act and the 2016 Community Land Act Provisions in order to integrate water catchment planning, range management planning, agriculture and forest management planning.

6.5.2 Standard on Indigenous Peoples

In IUCN's Standard on Indigenous Peoples follows the definition or 'statement of coverage' contained in the International Labour Organisation Convention 169 on *Indigenous and Tribal Peoples in Independent Countries*. Therefore, it includes:

i. peoples who identify themselves as 'indigenous';

ii. tribal peoples whose social, cultural, and economic conditions distinguish them from other sections of the national community, and whose status is regulated wholly or partially by their own customs or traditions or by special laws or regulations; or

iii. traditional peoples not necessarily called indigenous or tribal but who share the same characteristics of social, cultural, and economic conditions that distinguish them from other sections of the national community, whose status is regulated wholly or partially by their own customs or traditions, and whose livelihoods are closely connected to ecosystems and their goods and services.

The Government of Kenya has no specific legislation on indigenous peoples and has not adopted the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) or ratified the ILO Convention 169. The Government follows the position of the African Commission on Human and Peoples' Rights (ACHPR) and their Working Group of Experts on Indigenous Populations & Communities who argues that all Africans are indigenous to Africa in the sense that they were there before the European colonialists arrived and that they have been subject to sub-ordination during colonialism. The Kenyan Constitution does address risks of marginalized communities and groups, though, and calls for procedures for affirmative action (Article 56); and the definition of marginalized groups include traditional people, indigenous communities maintaining a traditional lifestyle and livelihood

as hunter or gatherer and pastoral persons and communities (being nomadic or a settled). This legislation can therefore be interpreted as corresponding to the element of the internal law that refers to indigenous people as being in structural subordinate position to the dominating groups, leading to marginalisation and discrimination.

The project site is inhabited by people that under international law are considered indigenous peoples. However, in order to be in alignment with Kenyan legislation, the project adopts the concept of 'marginalized communities' rather than that of indigenous people. This implies that other groups bundled under the term marginalized groups which by international law would not be considered as indigenous people will benefit from the same protection status as indigenous people (e.g. requiring dedicated social assessment, mitigation measures and FPIC). Because all people in the project areas are potentially vulnerable or marginalized this extended coverage is considered justified.

Social Impact Assessment and Impact mitigation

The planning process at ward or village level is preceded by analytical steps (rangeland and vulnerability assessments) that will enable an understanding of the social diversity at the site-level (in terms of ethnicity, religion, gender, livelihood/ occupation and other relevant criteria) and of power relations. It will also bring about an understanding of risk of groups or sub-groups becoming marginalised and socially discriminated.

Table 4 below is a draft representation of the main ethnic groups found in the project area - all of whom are considered as marginalized groups following the definition of Article 260. However, only the pastoralist communities would meet the international definition of indigenous peoples. It is important to note that the list is not comprehensive yet as there are often little known groups of hunter-gatherers disparagingly called 'Ndorobo' located scattered amongst other agriculturalist and pastoralist peoples. The rangeland assessment will provide a detailed account and a comprehensive description of the distinct characteristics each of the groups.

Table 4: Ethnic Groups in the Project Site Landscapes

	Marginalized Groups (Art 260)	Indigenous People (international law)
Mid Tana Landscape		
Meru	X	
Tharaka	X	
Somali	X	X
Kamba	X	
Boran	X	X
Orma	X	X
Wardei	X	X
Munyo yaya	X	X
Chyulu Landscape		
Kamba	X	
Maasai	X	X
Taita	X	

For structural reasons it may be that certain groups have historically found themselves in a marginalised and discriminated position and continue in such position, despite the improvements in legislation and affirmative actions intended for marginalized groups. This might be true in particular

for communities maintaining a traditional livelihood as hunter or gatherer or nomadic pastoral communities.

Generally, it is not anticipated that activities conceived under this project will raise significant risks for indigenous peoples and/or marginalized groups as it is the project's intention to address negative consequences of climate change these precise groups are facing and improve their resilience; and the project's participatory planning approach is generally expected to meet the Standard's requirement in terms of meaningful and effective consultation with these groups. However, given the complexity of the social fabric of the project site and the increasing pressure on natural resources, unintended impacts might be possible and a few potential impact issues have already been identified (listed in table 2). The risk will be re-visited during the ESMS Screening of each cluster-project which might conclude on the need to implement a Social Impact Assessment (SIA) in order to assess impacts in more detail and design an appropriate mitigation strategy.

The process of designing the resilience activities for each sub-project shall already be used for gauging the possibility of leading to unintended, adverse impacts. Wherever possible and relevant, separate consultation meetings should be organized for different ethnic groups when planning the sub-projects. During such meetings potential impacts shall already be explored such as disturbances of social, spiritual and cultural identity or risks of ethnic conflicts stimulated by project activities (e.g. due to pressure on resource use). It will also be critical to ensure that social or cultural barriers and inequalities in power between different ethnic groups (and potentially also within the groups) are adequately taken into account and that different ethnic groups will have the same chance to benefit from the project and be able to voice their concern if their rights, interests, needs, livelihoods or culture are affected by the project.

General guidance for developing mitigation measures is provided in table 2. Given the fact that the project's target groups are overlapping with indigenous groups, it seems most adequate to incorporate mitigation measures into the project's Environmental and Social Management Plan (ESMP) rather than articulating them in form of a separate Indigenous Peoples Plan (IPP). The ESMS Guidance Note for developing an Indigenous People Plan (IPP) still provides useful recommendations for developing the mitigation strategy; including the need for transparent eligibility criteria and for providing a mechanism for resolving disputes and grievances. The latter is further elaborated in chapter 10.

Free, prior and informed consent (FPIC)

The project will apply the principle of obtaining free, prior and informed consent (FPIC) on various levels. First, communities that have been identified as potential candidate villages based on bio-physical design criteria (alignment with sub-catchments) and climate vulnerability conditions have the option to decide against participation in the project, if they so wish. A village assembly will be held in each of the villages with legitimate representatives of the different social groups, including women and youth groups, to explain the project's objectives and the community will vote whether they wish the project to be implemented in their village. Separate meetings with marginalised groups will be organized, where needed. The meeting results will be documented including names of participants, concerns raised and how these will be addressed by the project.

The second level relates to the decision making process carried out for the community-level sub-projects. As described in the two chapters above the executing entity will need to ensure that impact analysis and development of mitigation measures is done in a consultative manner together with the groups potentially affected by activities of the sub-project (positively or negatively). This will

evidently ensure that the groups are adequately and timely informed about the project and are aware of potential impacts. The Standard requires that explicit consent is obtained from legitimate representatives of the indigenous groups affected by the activities prior to the commencement of the sub-projects. With the decision to apply the Standard not only to groups that are considered by international law as indigenous people but also to the wider group of marginalized peoples, the process of obtaining FPIC needs to cater for their inclusion in this process as well. The executing entities will need to ensure appropriate evidence and documentation of the process.

In addition to ensuring agreement to project activities (relevant to them) and to mitigation strategies (where needed), the Standard further requires that consent from indigenous rights holders is obtained for any situation where the project makes use of traditional knowledge or promotes the development and generation of social or economic benefits from cultural heritage sites or resources to which they have legal (including customary) rights.

6.5.3 Standard on Cultural Heritage

The Standard on Cultural Heritage is triggered as there is a low risk that rangeland restoration and the development of water infrastructure might damage hidden cultural resources or affect natural resources with cultural significance. The risk will be re-visited during the screening of each cluster-project. Due to the small-scale nature of resonation work and infrastructure measures risks of damaging hidden resources are not very likely. It will hence probably sufficient in most cases to ensure that a chance find procedure which describe the actions to be undertaken should physical cultural resources are discovered during the work, is available and communicated to all parties involved in the infrastructure works. The chance find procedures are attached in Annex 3.

6.5.4 Standard on Biodiversity

While the project's impacts on biodiversity are expected to be overall very positive, caution needs to be taken with regards to the following topics:

- Risks of introducing invasive species when implementing restoration measures (low risks for tree species, moderate risk for selection of grass species, unknown risks due to other pathways);
- Minor impacts from the construction of water infrastructure are possible, e.g. due to disturbance of vegetation, risk of inappropriate location of new water infrastructure and influx of communities and livestock to newly established water points;
- Risk of lowering the water table due to increased water abstraction from boreholes and wells constructed by the project;
- Minor to moderate risks for water quality from value chain activities;
- Risk of over-harvesting resources from natural habitat (e.g. gum and resins).

The risks will be re-visited during the ESMS Screening of each cluster-project when the sub-projects for each village are developed in detail and the concrete intervention sites are known. Generic mitigation strategies for these potential impacts are outlined in table 2.

Projects that include the application of biocides and other pest management techniques trigger the application of the IUCN Guidance Note on Pest Management Planning[5]. The ESMS Screening of the cluster-projects will assess the extent of pesticide application and decide on the assessment

[5] The Guidance Note is available at: https://www.iucn.org/sites/dev/files/iucn_esms_pest_management_guidance_note.pdf

and/or consultation requirements. The minimum requirement is that (i) the sub-project document provides a description of the proposed technique. Further requirements are (ii) undertaking an assessment of the risks of applying the chosen technique (referred to as technique risk assessment/TRA) and (iii) the development of a pest management plan (PMP). Requirement (ii), however, applies only for projects where the proposed pest management technique could potentially cause more than very minor and temporary risk and requirement (iii) only for projects with potentially significant impacts, including beyond the immediate site of application. The level of risk and applicability of these requirements will be established case-by-case during the ESMS Screening. Table 1 in the Guidance Note provides a general orientation.

6.7. Guiding Principles of Compliance with Environmental Regulations

Guiding principles for TWENDE Environmental Compliance in line with NEMA's Regulations are the following:

Environmental compliance elements in cluster-projects	Rationale for the action
1. No activity is implemented unless covered by approved environmental and social documentation	Establishes the importance of maintaining full environmental documentation coverage
2. The executing entity must verify current and planned activities annually against the scope of the approved ESMS compliance documents (ESIA, ESMP, ESMS Clearance).	Guards against a sub-project "creeping" out of compliance due to the addition or modification of activities outside the scope of the approved screening and environmental documentation.
3. Where activities demand environmental or social management expertise, appropriate qualifications and proposed approaches to compliance must be addressed in technical and cost proposals.	Helps ensure that the partner/team selected for the work is capable of implementing the required environmental management activities. Also sends a clear message that environmental management is not an afterthought,
4. The cluster-projects must develop an Environmental and Social Management Plan (ESMP) fully responsive to all screening or environmental assessment conditions	The ESMP translates the general mitigation directives in the screening or ESIA into more specific measures, assigns responsibilities for their implementation, and sets out monitoring/reporting measures to verify their implementation and effectiveness.
5. Budgets and work plans integrate the ESMP	Unless the ESMP is integrated in the budget and work plan, it will not be implemented

7. Capacity Building

In order to facilitate the implementation of the ESMF a safeguards training will be organized for all projects staff (PMU unit, project staff of the executing entities) and relevant project partners during the inception phase of the project. The training will also induct the executing entities on how to integrate the ESMF provisions into their respective components. The training will be delivered by the IUCN regional ESMS Officer on ESMS together with the IUCN ESMS Coordinator.

During all the inception workshops, beneficiary trainings and community forums, the purpose of social and environmental safeguard and the tools and procedures of the ESMF shall be discussed.

Special emphasis will be given to explaining the grievance mechanism that will be established to raise potential concerns (see chapter 10 for more details).

Where needed additional training or coaching will be provided to ensure that the provisions of the ESMF are recognised and appropriately built into the design of the sub-projects.

8. Disclosure of information and Grievance mechanism

In accordance with the ESMS Principle on Accountability it is critical that feed-back from external parties is enabled. This includes establishing public disclosure requirements to assure public access to relevant information about a project and an institution-wide ESMS Grievance Mechanism dedicated mechanism to capture concerns or grievances related to an IUCN project's lack of compliance with the ESMS.

The disclosure requirements establish that the ESMF as a whole (see chapter 1.4), but also that information about the sub-projects and potential adverse impacts are disclosed and put out for public consultation as part of the ESIA process. Implementation of the principle must adhere to the following guidance:

- Information shall reveal not only general information about the project (e.g., purpose, duration, scale, proposed activities), but also potential risks for communities and planned mitigation measures.
- Disclosure of information must occur in a reasonable timeframe to allow stakeholders to process this information and – if applicable – raise concerns.
- The form of disclosure must be targeted to the audience (particularily to affected groups) in the appropriate language and channels of communication.
- Consultation must be carried out in a culturally appropriate, non-discriminatory and gender-sensitive manner, free of external manipulation, intimidation or coercion.

The IUCN Grievance mechanism provides a transparent, timely and effective procedure for response and for corrective and remedial actions. As such IUCN assures people who fear or suffer from adverse impacts access to justice and redress. The mechanism and its functioning is described on the IUCN website. It is used as the overall framework and provide for easy access in case of complaints.

For moderate risk sub-projects (including projects who trigger at least one of the Standards) this overarching system needs to be complemented by a project-level grievance mechanism. This is to ensure that procedures are adapted to the local context as well as measures are put in place to proactively prevent grievances from building up. This will include mechanism for maintaining regular contact with relevant stakeholders and consultation in order to identify and anticipate potential issues early. Local adaptation of the grievance mechanism usually include the identification of a local, respected individual and assigning him/her the role of an ombudsperson. Involving a person who is respected and trusted by the affected parties can be an effective and unthreatening way for communities and project management to resolve differences.

9. Institutional arrangements for ESMF implementation

As an Accredited Entity for TWENDE IUCN will be accountable to the GCF on the overall project implementation and achievement of the project's outcomes. Consequently, IUCN is responsible for providing strong technical oversight to this project including ensuring that the project is compliant with the IUCN environmental and social management system (ESMS) and for monitoring compliance during the entire project lifetime.

The sub-chapters above establish the procedures for addressing environmental and social risks of sub-projects and chapter 6.4 describes the specific due diligence procedures for moderate risk projects.

The IUCN ESMS Coordinator, placed at IUCN Headquarters, assumes overall oversight for ESMS compliance. The PMU will be responsible for ensuring that the ESMS procedures are implemented in the project, for providing technical advice to all executing entities and for monitoring of ESMS requirements and ESMP implementation throughout the project's lifetime. In these responsibilities the PMU will be supported by the IUCN regional ESMS Officer.

Table 5 summarizes the ESMS procedures and roles projects.

Table 5: Roles and Responsibilities

ESMS steps	Applicable for	Responsible entity	Involved entity	Guidance or Template
Complete ESMS Questionnaire	All sub-projects (clustered)	Executing entity		ESMS Questionnaire & Screening Report
ESMS screening and report	All sub-projects (clustered)	PMU/ Regional ESMS officer	NEMA	ESMS Questionnaire & Screening Report
Scoping/ Development of	Moderate risk sub-projects[6]	NEMA accredited E&S expert	PMU/ Regional ESMS officer	
ToR for ESIA & safeguard tools	Moderate risk sub-projects	NEMA accredited E&S expert	NEMA, PMU/ Regional ESMS officer	
ESIA/SIA & safeguard tools & ESMP	Moderate risk sub-projects	NEMA accredited E&S expert		Generic ToR /Guidance Note ESIA/SIA, ESMP– Guidance Note & Template
Appraisal of ESIA report including ESMP	Moderate risk sub-projects	PMU/ Regional ESMS Officer	NEMA	ESIA Appraisal – Template & Checklist
ESMS clearance of project proposal	Moderate risk sub-projects	Regional ESMS Officer	NEMA, IUCN HQ ESMS Coordinator	ESMS Clearance-Template & Checklist
Implement and monitor ESMP & report progress	Moderate risk sub-projects	Executing entity		ESMP– Guidance Note & Template
ESMP Supervision	Moderate risk sub-projects	PMU / Regional ESMS Officer	NEMA, IUCN HQ ESMS Coordinator	
Effectiveness ESMP (part of project evaluation)	Moderate risk sub-projects	External expert	Reg. ESMS Officer, Affected groups	

[6] High risk sub-projects will require re-design, otherwise they will be excluded

10. Budget for ESMF implementation

Table 6: Indicative budget for ESMS		
ESMS steps / activities	**Estimated costs (in USD)**	**Description**
Training for project staff and Stakeholders on safeguards / ESMS	8,000	Provided by IUCN global ESMS Coordination and regional ESMS officer, includes staff time for the latter and travel/DSA for both
Ongoing revision of ESMS Questionnaireand screening	5,000	Staff time Project team / PMU
ESMS screening, field visit, consultations and report	15,000	Staff time and travel/DSA for reg. ESMS officer to the site
Instruments (ESIA/SIA,)	25,000	NEMA accredited expert, Fee NEMA
ESMP	5,000	Staff time Project team/PMU and travel/DSA, for mod. risk sub-projects only, staff time for advisory role of reg. ESMS officer
Community consultations	20,000	in each site, for screening, ESMP development, monitoring, communication grievance mechanism, includes staff time and travel/DSA project team/PMU
ESMS clearance of project proposal (incl. ESIA appraisal, if needed)	3,000	Staff time reg. ESMS officer
Implement ESMP & report progress	15,000	Staff time Project team / PMU, for mod. risk sub-projects only
ESMP monitoring (annually)	20,000	Staff time for reg. ESMS officer, travel and DSA for regional and global ESMS officer/coordinator.
Effectiveness ESMP (part of project evaluation)	20,000	External expert, for mod. risk sub-projects only
Total	**136,000**	

11. Annexes

- Annex 1: ESMS Screening questionnaire;
- Annex 2: Project Screening Criteria and the Project Screening List developed by NEMA
- Annex 3: Chance find procedures are attached