

**Independent review of the:**

- **GEF Policy on Environmental and Social Safeguards – draft for consultation, June 2018**
- **Guidelines for the Implementation of the Policy on Stakeholder Engagement – draft, June 2018.**

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# 1. Introduction

On June 16, 2018 the GEF released a first draft of the updated Policy on Environmental and Social Safeguards (hereafter “the new ESS policy”) for early consultation with the multi-stakeholder Working Group on Environmental and Social Safeguards. Also in June 2018 the GEF published for comments its draft Guidelines for the Implementation of the Policy on Stakeholder Engagement (hereafter ‘the new stakeholder policy’).

The Dutch Ministry of Foreign Affairs is part of the Multi-stakeholder Working Group and asked the Netherlands Commission for Environmental Assessment (hereafter ‘NCEA’) for an independent review of the quality of both documents from a sustainable development perspective: a so-called ‘sustainability advice’, with special attention to the ‘robustness’ of the approaches. The Ministry intends to use the advice in the preparation of its own recommendations to the Working Group.

This advice was compiled by an expert group consisting of the following members:

- Ellen De Keyser – social impacts and human rights
- David Annandale – environmental impacts
- Rob Verheem – secretary of the expert group

The advice consists of the following sections:

- Summary
- Review of the new ESS policy:
  - a brief background to the positioning of the new ESS policy, and the reasoning behind the development of an updated draft;
  - an overall assessment of the new policy, focusing on new additions and deletions;
  - a review of the policy requirements and of each new minimum standard;
  - concluding comments on the possible implications of the new policy.
- Review of the stakeholder engagement guidance:
  - An overall assessment of the guidance;
  - A detailed review of the Guidelines.

## Summary

*On June 16, 2018 the GEF released a first draft of the updated Policy on Environmental and Social Safeguards (hereafter “the new ESS policy”) for early consultation with the multi-stakeholder Working Group on Environmental and Social Safeguards. Also in June 2018 the GEF published for comments its draft Guidelines for the Implementation of the Policy on Stakeholder Engagement (hereafter ‘the new stakeholder policy’). The Dutch Ministry of Foreign Affairs asked the NCEA for an independent review of the quality of both documents from a sustainable development perspective: a so-called ‘sustainability advice’, with special attention to the ‘robustness’ of the approaches.*

### *The new ESS policy*

*Overall, it is clear that the quality of the proposed GEF safeguards has considerably improved compared to the ‘existing’ one. It is now better aligned with state of the art multilateral agency safeguard procedures. It includes a number of entirely new minimum standards, such as on labor and working conditions and community health safety and security. It also includes “revamped” standards dealing with biodiversity, involuntary resettlement, and indigenous people. And has a stronger emphasis on social issues, along with requirement for partner agencies to report more carefully on project post-approval monitoring.*

*Having said this, there is still room – and sometimes need – for further improvement. Compared to the safeguards frameworks of ‘peers’ such as IFC, WB, EBRD and EIB, some of the social safeguards could be strengthened further. This is specified in more detail below.*

*As to the robustness of the new approach: With the addition of the requirement for partner agencies to “document and report”, GEF has introduced a new level of robustness to its project due diligence process. The old policy did not require partner agencies to monitor project management and compliance. It does mean, though, that the new requirements will put considerable burden on the capacity of both GEF secretariat and partner agencies. It is recommended to analyse what this would mean in terms of staff, budget and capacity development needed, as the availability of such would be essential to the robustness of the new policy in practice.*

*A more detailed review of the new policy leads to the following key recommendations for its further improvement:*

### *Policy requirements:*

- To provide clarification on how lessons learned by monitoring the GEF portfolio are incorporated in change management procedures.*
- To improve the current definition of ‘indigenous peoples’ to make it less dependent of formal government recognition.*

### *Minimum standard 1: Environmental and Social Assessment, Management and Monitoring*

- To clarify when the GEF would require Environmental and Social Management Programs.*

*Minimum standard 2: Accountability, Grievance and Conflict Resolution*

- *To outline the importance of the early establishment of an easily accessible project-level grievance mechanism.*
- *To make this mechanism accessible to all stakeholders, and not only project- or program-affected people.*
- *To implement the grievance mechanism from the outset of the planning of a project.*
- *To make the full grievance mechanism and contact information publicly available through appropriate channels and methods.*

*Minimum standard 3: Biodiversity Conservation and the Sustainable Management of Living Natural Resources*

- *To maintain in the new safeguards the requirements on the protection of forests that are evident in the existing safeguards.*

*Minimum Standard 4: Restrictions on Land Use and Involuntary Resettlement*

- *To align the provisions of this standard with the provisions of Minimum Standard 9 on Indigenous Peoples.*
- *To clarify what is meant by 'affected persons being provided with technically and economically feasible resettlement alternatives and assistance' (§11.c.ii).*
- *To use the term 'compensation entitlements' rather than the term 'compensation benefits'.*
- *To improve the current wording of §11.d.ii. as the current wording appears to imply that the provision of in-kind/replacement housing and cash compensation are mutually exclusive.*
- *To transfer 'livelihoods' from the paragraph on 'physical displacement' to the paragraph on 'economic displacement'.*
- *To include under 'economic displacement' a specification of the levels to which should be improved or restored, comparable to the specification under 'physical displacement'.*
- *To make 'proper and timely compensation for the loss' equally applicable to compensation for impacts of physical displacement and not solely in cases of economic displacement.*
- *To include that persons which are using land without formal legal rights to this land, or claims to such land that could be recognized under national law, are equally entitled to compensation for housing structures.*
- *To ensure that women and other potentially vulnerable people are given equal access to opportunities to help improve, or at least restore, livelihoods.*
- *To give access to livelihood restoration programs also to women and others who use land for cultivation or other purposes but do not have a formal legal right or recognizable right.*

*The new stakeholder policy*

*Overall the guidelines for the new stakeholder policy are of good quality and provide a good basis for effective and meaningful stakeholder engagement. On a number of issues the policy could be further strengthened. It is recommended to:*

- *Highlight the importance of identification and involvement of stakeholders from the early stages of project development; i.e. from the development phase, and not only starting in the later project preparation phase.*

- *Prepare a stakeholder engagement plan at the start of the project development phase, and not in the later project preparation phase.*
- *Apply the requirement for ‘culturally appropriate consultations and dialogue’ to all stakeholders, and not only indigenous peoples.*
- *Likewise, to apply the requirement that ‘affected peoples must be enabled to receive equitable benefits and opportunities from a project’ to all affected communities, and not only indigenous peoples.*
- *Ensure that project concepts demonstrate ownership and support at local level and in the area of influence where the project will be implemented, and not only at country level.*
- *Clarify the requirement “Gender-analysis or equivalent socio-economic assessment”, as these instruments serve different purposes.*
- *Place emphasis on engagement with adequate representatives of stakeholders, including those of affected communities that endorse their representativeness, and not solely those of indigenous peoples.*

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## 2. Review of the new ESS policy

### 2.1 Overall assessment

#### **Overall Positioning of the GEF ESS Policy**

The first GEF environmental and social policy, known as “Agency Minimum Standards on Environmental and Social Safeguards”, was approved by the GEF Council in November of 2011. It is therefore now over 6 years old. The 2011 policy was inspired by the objectives and Operational Principles contained in the World Bank’s Operational Policy 4.00<sup>1</sup>. The GEF policy was different from those of its development agency “cousins” in that it focused entirely on setting criteria for its Agencies, Partner Agencies, and Project Agencies to meet. The GEF does not directly oversee its own projects.

One of the drivers of the current GEF safeguards reform is the fact that the thinking about how multi-lateral funding agencies should deal with the environmental and social consequences of the projects they fund has changed considerably since 2011. For this reason a number of multi-lateral agencies have either developed new environmental and social frameworks, or updated old ones. In the former category sits a number of UN agencies (UNDP, UNIDO, UNICEF), and some new development institutions (GCF, AIIB). In the latter category sits the World Bank and the IFC.

There is now a greater focus on post-approval compliance and monitoring, and less stress on “front-end” ex ante assessment. The safeguard procedures of donor agencies have also expanded to include a greater emphasis on so-called “emerging issues”, such as human rights, non-discrimination equity; climate change and disaster risk; biodiversity offsets; invasive alien species; supply chains; sustainable resource management; community health, safety and security; hazardous materials; involuntary resettlement; the application of free, prior informed consent (FPIC); cultural heritage; and labour and working conditions. In particular, since the approval of the World Bank’s completely revamped environmental and social framework in 2017, the link between the original GEF minimum standards and the World Bank’s Operational Policies has been broken.

Finally, another driver of GEF safeguards reform has been the publication of a formal GEF evaluation of the 2011 policy. This evaluation called for the GEF to: review the minimum standards; improve safeguards monitoring and reporting; and, support capacity development, expert convening, and communications.

#### **Overall Assessment of the New ESS Policy**

The new policy goes a long way towards alignment with state of the art multilateral agency safeguard procedures, such as the new Environmental and Social Framework (ESF) of the World Bank. The new policy includes entirely new minimum standards on: labour and working conditions; community health safety and security; and, resource efficiency and pollution prevention. It also includes “revamped” standards dealing with biodiversity, involuntary resettlement, and indigenous people.

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<sup>1</sup> OP 4.00: Piloting the Use of Borrower Systems to Address Environmental and Social Safeguard Issues in Bank Supported Projects.

Again, in line with the ESF, the new GEF policy has a stronger emphasis on identification and management of social issues, along with the requirement for partner agencies to report more carefully on project post-approval monitoring. As to human rights, the updated GEF policy takes the same approach as the ESF does: the policy makes broad statements to support human rights, then embeds rights issues at different points of the policy.

Also worthy of comment are a number of deletions. For example, the new policy no longer has minimum standards on pest management and safety of dams, although issues related to the former are now dealt with in the resource efficiency and pollution prevention standard.

All in all, it is clear that the quality of the proposed GEF safeguards has considerably improved compared to the 'existing' one. Having said this, there is still room – and sometimes need – for further improvement. Compared to the safeguards frameworks of 'peers' such as IFC, WB, EBRD and EIB particularly some of the social safeguards could be strengthened further. This is further deliberated under the recommendations in this advice for the individual minimum standards.

### **Robustness of the new approach**

With the addition of the requirement for partner agencies to “document and report” (paragraphs 12 – 17 of the new safeguards policy), GEF has introduced a new level of robustness to its project due diligence process. The old policy did not require partner agencies to monitor project management and compliance. The new policy requires that agencies report at project mid-term, and at project completion.

Another important implication of the new policy are the significant requirements that it places on partner agencies. First, agencies need to come into compliance with the new Minimum Standards within 6 months, or develop a concrete, time-bound action plan to achieve compliance. **This may place some partner agencies under considerable pressure, given the time it takes to follow the required procedures for high-level approval of needed amendments.**

The new policy will put considerable burden on the capacity of both GEF secretariat and partner agencies because of the new monitoring and enforcement requirements. **It is recommended to analyse what this would mean in terms of staff, budget and capacity development needed, as the availability of such would be essential to the effectiveness of the new policy in practice.**

## **2.2 Review of the ESS policy requirements**

### **Review of the Policy Requirements and recommendations**

The new policy includes a section outlining “policy requirements”. This is basically an introduction to the minimum standards, and an indication to partner agencies as to how they should meet the new policy’s demands . The section consists of four sub-sections: (i) “Minimum Standards for Agency Policies, Procedures, Systems and Capabilities”; (ii) “Documentation and Reporting in GEF-Financed Projects and Programs”; (iii) Portfolio Monitoring and Reporting; and, (iv) GEF Conflict Resolution Commissioner.

Sub-sections (i) and (iv) are duplicated from the original policy. Sub-section (i) makes it clear that agencies must demonstrate that they have in place the necessary policies, procedures, systems and capabilities to meet minimum standards 1–8. They will also need to meet minimum standard 9 where that standard is applicable. As was the case with the original policy, partner agencies will be assessed for compliance with the requirements of the new policy. The GEF Secretariat will facilitate an assessment of partner agency compliance within 6 months of the date of effectiveness.

Sub-sections (ii) and (iii) are new, and significant. This is because they require partner agencies to provide an Environmental and Social Management Plan, or equivalent, with “complete information regarding the relevant Environmental and Social Risks and Impacts associated with the proposed project, and associated measure to address such risks and impacts”. In addition, agencies are required to provide information on the “implementation of relevant environmental and social management measures at project mid-term, if applicable, and at project completion”. It is clear then that the new policy places more emphasis on post-approval monitoring by partner agencies.

**It is recommended that the Policy should provide clarification on how lessons learned by monitoring the GEF portfolio are incorporated in change management procedures.** This could include capacity building of Agencies and further development of policies and guidelines, in order to continuously improve the performance of the portfolio, or at least commit to incorporating results of monitoring in change management procedures.

As to definitions: in the current definition of ‘indigenous peoples’ it is not clear to which extent stakeholders need to be recognized by national governments as indigenous peoples, in order to qualify as such and be treated as prescribed in the Policy. It is important to clarify this issue, as for example in Sub-Saharan Africa many governments refuse to recognize indigenous peoples. **It is recommended to improve the current definition of ‘indigenous peoples’ to make it less dependent of formal government recognition.** A possible solution could be to adopt the definition that for example the World Bank uses in its ESS7: Sub-Saharan African historically underserved traditional local communities.



## 2.3 Review of individual Minimum Standards

Below key observations and recommendations are made. Other observations and recommendations (including on the standards 5 – 9) can be found in annex 2 (to be inserted).

### # Minimum Standard 1: Environmental and Social Assessment, Management and Monitoring

Minimum standard 1 is the “umbrella” standard that specifies that agencies have environmental and social assessment procedures in place. Some significant additions have been made to this Standard in the new policy, including the recognition of the importance of country safeguard systems.

**It is recommended to clarify when the GEF would require Environmental and Social Management Programs** (hereafter ‘ESMPs’). Annex 1: 6d requires that agencies develop, implement, and monitor ESMPs in response to the findings of relevant environmental and social assessments. While most partner agencies will require ESMPs for projects that have significant impacts, this GEF requirement is new. An uncertainty around this requirement is the lack of direction as to when the GEF would require ESMPs.

### # Minimum Standard 2: Accountability, Grievance and Conflict Resolution

This Standard duplicates the accountability and grievance standard that exists in the original policy, with the important addition of “conflict resolution” in the Standard’s title. Also worthy of note is that this Standard has now been moved up the list from its original position as Minimum Standard 8, thus implying a higher level of overall importance.

**It is recommended that the standard outlines the importance of early establishment of an easily accessible project-level grievance mechanism.** This is important to enable an effective way of proactively identifying and managing recurring issues, concerns, questions and complaints.

**A second recommendation would be to make this mechanism accessible to all stakeholders, and not only project- or program-affected people** as is currently stated in the standard. This is important as in practice it often occurs that communities in the wider project area, or indirectly affected communities or other stakeholders, have no access. This easily leads to absence of tracking their concerns and issues which may lead to opposition that could be avoided by giving them the same access as directly affected people.

**A third recommendation would be to implement the grievance mechanism from the outset of the planning of a project.** This would enable project management to receive and address complaints not only during the implementation of projects and programs, but also at the stage where environmental and social impacts, potentially affected communities, other stakeholders and their assets are identified.

**Finally it is recommended to make the full grievance mechanism and contact information publicly available through appropriate channels and methods.** It is not enough to solely do this through the Agency and/or Project- or Program-specific website.

### # Minimum Standard 3: Biodiversity Conservation and the Sustainable Management of Living Natural Resources

There are a number of noteworthy changes to the Standard that was originally titled “natural habitats”. Perhaps the most significant change is the addition of a “biodiversity” focus, which did not exist to the same extent in the original policy. Also, as part of the requirement for agencies to consider the mitigation hierarchy in their application of Minimum Standard 1, Standard 3 allows for the consideration of environmental offsets.

Worthy of special note is the number of deletions from the original natural habitats Standard. For example, application of the precautionary principle no longer applies. Perhaps more significant is the apparent downplaying of importance of forests in the consideration of biodiversity and sustainable management of natural resources. The original policy required agencies to:

- (i) “not finance natural forest harvesting or plantation development that will involve conversion or degradation of critical forest areas or related critical natural habitats”.
- (ii) “ensure that forest restoration projects maintain or enhance biodiversity and ecosystem functionality and that all plantation projects are environmentally appropriate, socially beneficial and economically viable”.
- (iii) “give preference to siting physical infrastructure investments on lands where natural habitats have already been converted to other land uses”; and,
- (iv) “consult appropriate experts and key stakeholders, including local nongovernmental organizations and local communities, and involve such people in design, implementation, monitoring, and evaluation of projects, including mitigation planning”.

All these requirements have now been deleted from minimum standard 3. While the inclusion of a biodiversity focus in this Standard is welcome, the deletion of important requirements is concerning. **It is therefore recommended to maintain these requirements in the updated GEF safeguards framework.**

### # Minimum Standard 4: Restrictions on Land Use and Involuntary Resettlement

In the new policy, the original Involuntary Resettlement standard is significantly extended to add the concept of “restrictions on land use”. In addition, the Standard now focuses specifically on “affected Disadvantaged or Vulnerable Individuals or Groups”. Another notable addition (in Annex 1: 11e) is the idea of compensation for “economic displacement”. The original policy only considered compensation for physical displacement. Overall, the new Minimum Standard significantly extends the original involuntary resettlement standard.

Having said this, it is also clear that in comparison to international good practice and the safeguards of other organisations there is room for further improvement. Below some recommendations are made. In Annex 1 some possible text suggestions are made to follow up on these recommendations.

**It is recommended:**

- **To align the provisions of this standard with the provisions of Minimum Standard 9 on Indigenous Peoples.** Particularly in terms of taking avoiding displacement as a first principle: by always starting to study alternatives to the project, and only where project alternatives are not feasible studying alternative project designs.
- **To clarify what is meant by ‘affected persons being provided with technically and economically feasible resettlement alternatives and assistance’ (§11.c.ii) and ‘choices among feasible resettlement options’ (§11.d.i).** It is in the current draft not clear whether the standard implies a choice between in-kind and cash compensation, or alternative locations, or avoiding resettlement, etc.
- **To use the term ‘entitlement’ rather than the term ‘compensation benefits’.** Entitlement is more appropriate as compensation is a form of impact mitigation and thus an entitlement that serves to put affected people in a situation that is, at least, equal than before displacement. Benefits on the other hand imply additional measures provided, on top of the entitlements, that will further improve the development of displaced communities.
- **To improve the current wording of §11.d.ii.** According to international good practice compensation packages for physical displacement consist of both the provision of replacement housing or cash compensation for residential structures, in addition to cash compensation for non-residential structures such as annexes, kitchens, fences etc. The current wording appears to imply that the provision of in-kind/replacement housing and cash compensation are mutually exclusive.
- **To transfer ‘livelihoods’ from the paragraph on ‘physical displacement’ to the paragraph on ‘economic displacement’.**
- **To include under ‘economic displacement’ a specification of the levels to which should be improved or restored, comparable to the specification under ‘physical displacement’.**
- **To make ‘proper and timely compensation for the loss’ equally applicable to compensation for impacts of physical displacement and not solely in cases of compensation for impacts of economic displacement.**
- **To include that persons using land without formal legal rights to this land, or claims to such land that could be recognized under national law, are equally entitled to compensation for structures established prior to the cut-off date.**
- **To ensure that women and other potentially vulnerable people are given equal access to opportunities to help improve, or at least restore, livelihoods.** This would include the rights to own, control, use, or extract resources from land, especially so because women’s land rights tend to be disproportionately affected and not mitigated adequately on projects.

- **To give access to livelihood restoration programs also to women and others who use land for cultivation or other purposes but do not have a formal legal right or recognizable right.**

## 2.4 Implications of the New EES Policy for partner agencies and the private sector

Possibly the most important implication of the new ESS policy are the significant requirements that it places on partner agencies. First, agencies need to come into compliance with the new Minimum Standards within 6 months, or develop a concrete, time-bound action plan to achieve compliance. This may place some partner agencies under considerable pressure, given that amendments to agency safeguard procedures will usually require high-level approval.

Another issue that partner agencies will need to address is the requirement (in Annex 1: paragraph 3), that “unless otherwise specified, Agencies demonstrate that the relevant policies, procedures, systems and capabilities are applied broadly across Agency activities, not limited to GEF-financed projects and programs”. This may well be of consequence for some partner agencies, where their safeguard procedures only relate to GEF funded projects.

Finally, another issue that does not appear to be dealt with in the new policy is how private sector projects should be assessed and managed. The partner agencies that obtain funds from the GEF to implement projects work predominantly with developing country government agencies. It should be noted, however, that GEF has initiated a significant private sector collaboration. Through what it terms “non-grant instruments”, the GEF has supported ten private sector collaborations, using \$91 million of GEF funds, and \$1,689 million of co-financing. It is not clear whether these new private sector arrangements are covered by the new GEF Policy.

### 3. Review of the new Stakeholder Policy

Overall the policy is of good quality and provides a good basis for effective and meaningful stakeholder engagement. On a number of issues the policy could be further strengthened, in particular to better safeguard that stakeholder engagement in all cases:

- takes place throughout the process, starting from the development phase;
- is based on a Stakeholder Engagement Plan that is developed and implemented early in the project development phase and updated regularly;
- takes place through culturally appropriate consultations and dialogue that are gender-sensitive (with culture not being an argument for not consulting women);
- is meaningful and informed;
- involves community representatives who are endorsed by the communities they represent.

**For this reason it is recommended in the policy to:**

- **Highlight the importance of identification and involvement of stakeholders from the early stages of project development;** i.e. from the development phase, and not only starting in the later project preparation phase.
- **Prepare a stakeholder engagement plan at the start of the project development phase,** and not in the later project preparation phase. This would be important to increase the chance of ownership by the stakeholders, and ultimately a project or program's social license to operate.
- **Apply the requirement for culturally appropriate consultations and dialogue to all stakeholders,** and not only indigenous peoples.
- **Likewise, to apply the requirement that affected peoples must be enabled to receive equitable benefits and opportunities from a project to all affected communities,** and not only indigenous peoples.
- **Ensure that project concepts demonstrate ownership and support at local level and in the area of influence where the project will be implemented,** and not only at country level.
- **Clarify the term "Gender-analysis or equivalent socio-economic assessment",** as the current wording seems to imply that a socio-economic assessment can substitute a gender-analysis. This would not be correct as both instruments serve different purposes.
- **Place emphasis on engagement with adequate representatives of stakeholders, including those of affected communities that endorse their representativeness,** and not solely those of indigenous peoples.

## Annex 1: Text suggestions for minimum standard 4

### Recommendation:

To align the provisions of this standard with the provisions of Minimum Standard 9 on Indigenous Peoples.

### Text suggestion:

Draft standard	Suggested revision
All viable alternative project or program designs are assessed to avoid, where feasible, or minimize any risks or adverse impacts from Restrictions on Land Use and Involuntary Resettlement.	Displacement is avoided where feasible.

### Recommendation:

- To use the term 'entitlement' rather than the term 'compensation benefits'.

### Text suggestion:

Draft standard	Suggested revision
Affected persons are included in the process to determine compensation benefits.	Affected persons are included in the process to determine compensation entitlements.

### Recommendation

- To improve the current wording of §11.d.ii.
- To transfer 'livelihoods' from the paragraph on 'physical displacement' to the paragraph on 'economic displacement'.
- To include under 'economic displacement' a specification of the levels to which should be improved or restored, comparable to the specification under 'physical displacement'.

### Text suggestion:

Draft standard	Suggested revision
Where Physical Displacement occurs, displaced persons are provided with: <ol style="list-style-type: none"> <li>Choices among feasible resettlement options;</li> <li>Adequate replacement housing or cash compensation;</li> <li>Relocation assistance suited to their needs; and</li> <li>Opportunities to improve, or at least restore, their livelihoods and living standards, in real terms, to pre-displacement levels or to levels prevailing prior to the start of project implementation, whichever is higher.</li> </ol>	Where Physical Displacement occurs, displaced persons are provided with: <ol style="list-style-type: none"> <li>Choices among feasible resettlement options;</li> <li>Adequate replacement housing and cash compensation for non-residential structures; and</li> <li>Relocation assistance suited to their needs;</li> <li>Opportunities to improve, or at least restore, their living standards, in real terms, at least to pre-displacement levels or to levels prevailing prior to the start of project implementation, whichever is higher.</li> </ol>

Draft standard	Suggested revision
<p>Where Economic Displacement occurs, affected persons are provided with:</p> <ol style="list-style-type: none"> <li>1. Proper and timely compensation for the loss;</li> <li>2. Opportunities to improve, or at least restore, their means of income-earning capacity, production levels, and standards of living; and</li> <li>3. Transitional support, as necessary.</li> </ol>	<p>Where Economic Displacement occurs, affected persons are provided with:</p> <ol style="list-style-type: none"> <li>1. Proper and timely compensation for the loss;</li> <li>2. Opportunities to improve, or at least restore, their livelihoods, their means of income-earning capacity, production levels, and standards of living, in real terms, at least to pre-displacement levels or to levels prevailing prior to the start of project implementation, whichever is higher;</li> <li>3. Transitional support, as necessary.</li> </ol>

**Recommendation:**

- **To include that persons using land without formal legal rights to this land, or claims to such land that could be recognized under national law, are equally entitled to compensation for structures established prior to the cut-off date.**

**Text suggestion:**

Draft standard	Suggested revision
<p>For persons without formal legal rights to land, or claims to such land that could be recognized under national laws, resettlement assistance is provided in case of displacement, in lieu of compensation for land, to help improve or at least restore their livelihoods.</p>	<p>For persons without formal legal rights to land, or claims to such land that could be recognized under national laws, opportunities to help improve, or at least restore, their livelihoods are provided in case of economic displacement, in lieu of compensation for land, in addition to compensation for structures established prior to the cut-off date in case of physical displacement;</p>

## Annex 2: Other observations and recommendations

To be inserted.

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