



# **ENVIRONMENTAL AND SOCIAL SAFEGUARDS POLICY**

DEPARTMENT OF ENVIRONMENT

THE GOVERNMENT OF ANTIGUA AND BARBUDA

Approved by the Project Management Committee on 18<sup>th</sup> September, 2018



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## **DEFINITIONS**

**Associated Facility** means a third-party financed facility or addition to an existing facility that is directly and significantly related to the project or program, carried out or planned to be carried out contemporaneously with the project or program, necessary for the financial and/or operational viability of the project or program, and would not have been conducted if the project or program did not exist

**Biodiversity** means the variability among living organisms from all sources, including diversity within species, between species, and of ecosystems; encompassing, inter alia, terrestrial, marine and other aquatic ecosystems, and the ecological complexes of which they are a part

**Project Affected Person** means an individual or group that is potentially affected by a project, program, or other issue of importance in Antigua and Barbuda, and brings forward a complaint about that project, program, or issue to an accountability, grievance or conflict-resolution system or the Conflict Resolution Commissioner

**Critical Habitat** means an area with high Biodiversity value, including (i) Habitats of significant importance to Critically Endangered or Endangered species, as listed on the International Union for the Conservation of Nature (IUCN) Red List of threatened species or equivalent national approaches, (ii) Habitats of significant importance to endemic or restricted-range species, (iii) Habitats supporting globally or nationally significant concentrations of migratory or congregatory species, (iv) highly threatened or unique ecosystems, and (v) ecological functions or characteristics that are needed to maintain the viability of the Biodiversity values described in (i) to (iv)

**Cultural Heritage** means both tangible and intangible cultural heritage, including movable or immovable objects, sites, structures, natural features and landscapes that have archaeological, paleontological, historical, architectural, religious, aesthetic, or other cultural significance; as well as practices, representations, expressions, knowledge, or skills – as well as the instruments, objects, artifacts and cultural spaces associated therewith – that communities and groups recognize as part of their heritage, as transmitted from generation to generation and constantly recreated by them in response to nature and a shared history

**Cumulative Impact** means the collective impact of a project's or program's incremental impact added to the impacts of other relevant past, present and reasonably foreseeable future developments, as well as the unplanned but predictable activities enabled by the project that may occur later or at a different location

**Disadvantaged or Vulnerable Groups or Individuals** means those individuals or groups who, by virtue of, for example, their age, gender, ethnicity, religion, physical, mental or other disability, social, civic or health status, sexual orientation, gender identity, economic disadvantages or indigenous status, and/or

dependence on unique natural resources, may be more likely to be adversely affected by the impacts of a project or program and/or more limited than others in their ability to take advantage of its benefits

**Economic Displacement** means loss of land, assets, or access to land or assets, including those that lead to loss of income sources or other means of livelihood

**Environmental and Social Impact** means any change, potential or actual, to the physical, natural, or cultural environment, and related impacts on surrounding communities and workers, resulting from a project or program, including direct, indirect, cumulative and transboundary impacts and the impacts of Associated Facilities, and including both adverse and beneficial impacts

**Environmental and Social Risk** means a combination of the probability of a certain hazard occurrence and the severity of impacts resulting from such an occurrence

**Environmental and Social Management Plan** means a document that identifies the Environmental and Social Risks and Impacts that are relevant for a project or program, and measures to anticipate, avoid, prevent, minimize, mitigate, manage, offset or compensate any adverse Environmental and Social Risks and Impacts, and to enhance environmental and social outcomes

**Free, Prior and Informed Consent (FPIC)** means the collective support of an affected Indigenous People for project or program activities, reached through a process of Meaningful Consultation in a culturally appropriate manner, and properly documented describing the mutually accepted process to carry out good faith negotiations, and the outcome of such negotiations, including dissenting views. There is no universally agreed definition of FPIC. FPIC does not require unanimity and may be achieved even when individuals or groups within the community explicitly disagree

**Indirect Impacts** means impacts that are caused by a project or program and are later in time and further removed in distance than a direct impact, but are still reasonably foreseeable, including the commonly known externalities of the type of project or program under consideration, and including, but not limited to, the Environmental and Social Impacts of increased economic growth, increased access to habitat and changes in land use that result from a project or program

**Involuntary Resettlement** means resettlement when affected persons do not have the right to refuse Land Acquisition or Restrictions on Land Use that result in Physical or Economic Displacement

**Land Acquisition** means any way in which land is obtained for the purposes of a project or program, including outright purchase, expropriation of property and acquisition of access rights, such as easements or rights of way, including but not limited to: (a) acquisition of unoccupied or unutilized land, whether or not the landholder relies upon such land for income or livelihood purposes; (b) repossession of public land that is used or occupied by individuals or households; and (c) project impacts that result in land being submerged or otherwise rendered unusable or inaccessible. "Land" includes anything

growing on or permanently affixed to land, such as crops, buildings and other improvements, and appurtenant water bodies

**Net Gain** means additional conservation outcomes that can be achieved for the Biodiversity values for which a Natural or Critical Habitat was designated

**No Net Loss** means the point at which project- or program-related Biodiversity losses are balanced by gains resulting from measures taken to avoid and minimize these impacts, to undertake on-site restoration, and to offset significant residual impacts, if any, on an appropriate geographic scale

**Physical Displacement** means relocation, loss of residential land, or loss of shelter

**Pollution** means both hazardous and non-hazardous chemical pollutants in the solid, liquid, or gaseous phases; as well as thermal discharge to water, emissions of short- and long-lived climate pollutants, nuisance odors, noise, vibration, radiation, electromagnetic energy, and the creation of potential visual impacts, including light

**Production of Living Natural Resources** means the cultivation or rearing of plants or animals, including, but not limited to, annual and perennial crop farming, animal husbandry (including livestock), aquaculture, and plantation forestry

**Restrictions on Land Use** means limitations or prohibitions on the use of agricultural, residential, commercial or other land that are directly introduced and put into effect as part of a project or program, including but not limited to restrictions on access to legally designated parks and protected areas, restrictions on access to other common property resources, and restrictions on land use within utility easements or safety zones

**Stakeholder** means an individual or group that has an interest in the outcome of a GEF project or program or is likely to be affected by it, such as local communities, indigenous peoples, civil society organizations, and private sector entities, comprising women, men, girls and boys

**Stakeholder and Community Consultation** means continuous stakeholder engagement throughout the project cycle, bringing about behavioural change in tandem with projects interventions through a two-way avenue

## **1. INTRODUCTION**

The Department of the Environment (“DOE”) is the overarching National Government Agency responsible for Environmental Management in Antigua and Barbuda. It is the focal point for implementing the Rio Conventions and was accepted as a Direct Access Accredited Entity to the Green Climate Fund (“GCF”) in 2017. It is guided by national legislation of the Government of Antigua and Barbuda, and in particular the Environmental Protection and Management Act 2019 which codifies the Rio conventions into national law.

The DOE operates within three modalities, namely legislative, institutional, and departmental operational guidelines. Within the context of these modalities, the Environmental and Social Safeguards Policy formalizes the DOE’s commitment to promote environmental and socially sustainable projects. As such, its policies on Environmental and Social Safeguards Policy (“ESS Policy”) sets out the principles on which the approach to environmental and social safeguard review and management by the DOE is based and the environmental and social safeguard requirements that are applicable to each project. The ESS Policy is supported by the DOE’s Technical Manual, which provides detailed requirements that are applicable and include specifications on the Environmental and Social Impact Assessment required by projects.

The objectives of the Environmental and Social Safeguards Policy are to:

- Provide for environmental, social and gender screening of projects;
- Determine and assess environmental, social and gender risks and impacts of projects, including through consultations with stakeholders and vulnerable communities;
- Ensure access to information and full participation in the decision-making process for stakeholders, especially vulnerable communities;
- Create safeguards and mechanisms to mitigate risks and negative environmental, social and economic impacts associated with projects;
- Ensure access to justice in environmental matters in regard to social safeguard and gender issues for affected parties in the form of a functional and efficient Complaint Mechanism; and
- Cooperate with partners to build capacity in risk mitigation and facilitate implementation of environmental, social and gender safeguards, and monitoring and evaluation.

The Project Management Committee (“PMC”) is responsible for reviewing and updating this policy.

## **2. GENERAL PRINCIPLES**

The DOE operates within an institutional framework under the authority of the Government of Antigua and Barbuda and endorses the Government’s environmental and social priorities and principles aimed

at protecting human rights and the environment.

The DOE remains committed to promoting social responsibility and sustainable development through its environmental projects and works to fund projects that yield both environmental and socio-economic benefits.

The DOE's approach in terms of social safeguard review and management draws upon principles enshrined in the legislation of Antigua and Barbuda, which emphasizes:

- Community health and safety
- Customary Land Tenure and Adverse Possession
- Protection of vulnerable groups (Child Justice Bill 2015, the Children (Care and Adoption) Bill 2015, the Status of Children Bill 2015)
- Protection of livelihoods and housing
- Non-discrimination (Disabilities and Equal Opportunities Bill, 2018)
- Gender equality (Domestic Violence Act 2015, Sexual Offences Act)
- Conditions and rights of workers (Antigua and Barbuda Labour Code)
- Stakeholder information and consultation

The DOE emphasizes the need to be consistent with the principles inherent within the Environmental Protection Management Act (2019) and relevant GCF and GEF ESS Policies as regards:

- Standards and practices related to the social and environmental impact assessment of projects;
- Environmental principles, substantive standards and practices on environmental protection, building regulations, land use development and planning, and enforcement

Through its environmental, social and gender safeguard impact assessment and monitoring and evaluation processes, the DOE will seek to ensure that the projects it finances are designed and implemented to:

- Integrate vulnerable groups into all aspects of project life: from conception to implementation to evaluation;
- Maximize environmental, socio-economic and gender benefits to society as a whole and to vulnerable communities;
- Minimize negative environmental, socio-economic and gender impacts; and
- Comply with social, environmental and gender standards

The DOE will not knowingly finance projects which:

- Harm individuals or undermine human rights and social protections
- Can potentially cause significant negative environmental, socio-economic or gender impacts
- Fail to meet the environmental, social and gender safeguard requirements of the DOE

### **3. REQUIREMENTS**

The DOE requires that all projects are designed and implemented to ensure consistency with substantive standards and practices included within Multilateral Environmental Agreements (MEAs) and incorporated within the Environmental Protection Management Act 2019 (e.g. biodiversity, climate change, the ozone layer, wetlands, persistent organic pollution, trans-boundary air pollution, endangered species and environmental information).

The DOE requires that all national agencies, including schools and clinics, create Environmental Management Plans, inclusive of Disaster Management Plans, and report to the DOE on same in a timely fashion, as legislated by the Environmental Protection Management Act of 2019.

### **4. SOCIAL SAFEGUARD REQUIREMENTS**

#### ***COMPLIANCE WITH NATIONAL, REGIONAL AND INTERNATIONAL LAW***

The DOE requires that all projects be designed and implemented in a manner to ensure that they are aligned with relevant human rights, social protection and gender conventions to which the Government of Antigua and Barbuda is party, including the Convention on the Rights of the Child (“CRC”), the Convention on the Elimination of all Forms of Discrimination against Women (“CEDAW”), the Convention on the Rights of Persons with Disabilities (“CRPD”), and national legislation, the Child Justice Bill 2015, the Children (Care and Adoption) Bill 2015, the Disabilities and Equal Opportunities Bill 2018, the Status of Children Bill 2015, the Antigua and Barbuda Labour Code, and the Domestic Violence Act 2015.

#### ***CONFIDENTIALITY***

The DOE respects and upholds stakeholders’ right to privacy and confidentiality while being sensitive to possible social, environmental and gender impacts during the development and implementation of its policies, programs and projects.

#### ***NON-DISCRIMINATION AND VULNERABLE GROUPS***

The DOE requires that all approved projects be non-discriminatory and strives to ensure that

environmental, socio-economic and gender benefits, are equitably distributed among community members. To ensure this, the DOE welcomes applications and proposals from vulnerable communities, including youth, women, the elderly, differently-abled persons, persons living with HIV/AIDs, men, farmers, fisherfolk, artists, and those addressing mental health challenges, to ensure equal access and benefits to basic health services, clean water and sanitation, energy, education, training, housing, safe and satisfactory working conditions, and land rights. As much as possible, project interventions strive to build capacity and utilize social entrepreneurship to integrate vulnerable groups into the DOE's processes, not only as beneficiaries/ recipients, but also as social businesses within the procurement process.

### ***INVOLUNTARY RESETTLEMENT/RELOCATION***

The DOE should not pursue projects or programmes that require resettlement or relocation and strives to avoid the physical and economic displacement of individuals; justification can only be provided with full and appropriate forms of legal protection and compensation after a thorough assessment and presentation to members of the Cabinet of the Government of Antigua and Barbuda. The decision is then guided through legislation stipulated in the Physical Planning Act 2003, the EPMA 2019 and the Lands Acquisition Act.

For a project, this requires that a Resettlement Action Plan be consultatively developed, including notification, negotiation, and the agreement and fair compensation of the owner prior to project implementation. Once agreed, land owners and occupiers are relocated and provided with improved dwelling conditions.

### ***CUSTOMARY LAND TENURE AND ADVERSE POSSESSION***

The DOE should not pursue projects or programmes which infringes on the customary land use or adverse possession of vulnerable individuals and groups. The vulnerability of these individuals or groups is defined by the interest they hold in land ownership which goes beyond monetary or productive interest; such individuals/groups are dependent on their land occupancy for subsistence and have a particular cultural and spiritual interest in land which is vital for their continued existence. Within the context of Antigua and Barbuda, such individuals and groups have been identified as members of the Barbudan community, the farming/agricultural community, the Rastafarian faith and any such group which may be so affected.

This status of land occupancy and the marginalization of these groups in the society place such groups at risk for land grabbing, forced displacement and involuntary resettlement and this is further exasperated by adverse climate change events which may challenge the land holdings of this group. The DOE should therefore avoid any project or programme which seeks to challenge the land occupancy of these groups, and where projects or programmes emerge which may affect the lands or territories of

these groups, the DOE should seek the free, prior and informed consent of the vulnerable group in question.

### ***PUBLIC HEALTH***

The DOE requires that all project recipients address project-related community health and safety matters and stakeholder information and consultation in accordance with the ESS Policy and Manual

### ***GENDER EQUALITY AND WOMEN'S EMPOWERMENT***

The DOE remains committed to gender equality and to mainstreaming gender within its programmes, to ensure that women and men have equal access to resources, justice, environmental information, as espoused within its Gender Policy. In this regard, it maintains a gender responsive working environment which transcends into project and programme development and implementation. Staff members, partners and community groups undergo continuous training in gender sensitization, international laws on gender, gender programming and gender awareness. Partners and contractors of the DoE are required to have a gender policy or to collaborate with the Directorate of Gender Affairs to create one.

## **5. DISCLOSURE AND PUBLIC CONSULTATION**

Proactive transparency is a key principle of the DOE's ESS Policy, through the availability of environmental information to concerned stakeholders, where applicable.

The DOE requires that relevant information on a Project's environmental, social or economic risks are made accessible and understandable to stakeholders who may be affected in a fashion that enables them to provide important input into the design and implementation of the project. This is particularly important in projects that may involve land acquisition, economic displacement or involuntary resettlement.

The DOE makes project-related environmental and social safeguard information public and will publish on its website projects and summaries, including those that require EIAs, via its information database. Stakeholder engagement plans are disclosed early in project development and summary reports of consultations are circulated and stored electronically.

Potential stakeholders who may be affected by a development or donor funded project can communicate their concerns about any environmental, social, or economic performance of the development through the DOE's complaints mechanism (<https://environment.gov.ag/contact>).

## **6. SECTORS EXPOSED TO ENVIRONMENTAL AND SOCIAL RISKS**

As legally mandated under the EPMA 2019 and in section 23 (4) of the Physical Planning Act, all development projects must provide an environmental monitoring plan and strategy which is then audited by the DOE to immediately address any emerging risks regarding development

Other key pieces of legislation, including the Physical Planning Act 2003 provides for the acquisition of lands and land management for communal good. The Lands Acquisition Act CAP 233 details the procedures in acquiring land, including owner notification before inspection and survey for market value, documenting negotiations; and the owner's agreement to sell the land. The Arbitration Act sets out the procedures for resolution of disputes, including land disputes.

According to the Physical Planning Act 2003, the Chief Environment Officer, now the Director of the DOE, is to be consulted by the Development Control Authority (DCA) on development within environmentally sensitive areas, which may have the potential to generate negative social, environmental, and economic impacts. As land use development and planning falls within the legal jurisdiction of the DCA, the Act also provides primary screening for the following types of development which may trigger environmental and social risks that require an environmental impact assessment. The Physical Planning Act, Section 23, Third schedule highlights the areas where an EIA is compulsory for a development that consists of:

- An airport, port or harbor, including a yacht marina;
- A power plant;
- A crude oil or refinery facility or a petroleum and natural gas storage and pipeline installation;
- An incinerator, sanitary landfill operation, solid waste disposal site, sludge disposal site, toxic waste disposal site or other similar site;
- A wastewater treatment, desalination or water purification plant;
- An industrial estate development project;
- An installation for the manufacture, storage or industrial use of cement, paints, chemical products or hazardous materials;
- A drilling, quarrying, sand mining and other mining operation;
- An operation involving land reclamation, dredging and filling of ponds; and

- A hotel or resort complex

Alternatively, if the proposed development falls outside the Third Schedule, the Act allows the DOE through the DCA to request an EIA if the proposal is considered to have a significant effect on the environment given a proposal's nature, locale, and likely environmental changes.

### ***CLIMATE CHANGE ADAPTION AND MITIGATION***

To address the challenges of climate change and to mainstream climate change adaptation and mitigation, the DOE through its EIA process encourages the incorporation of renewable energy and energy efficiency technologies for development projects and programmes, as legislated by the EPMA 2019

### ***BIODIVERSITY AND NATURAL HABITATS***

Safeguards for Biodiversity and Natural Habitats are outlined in the EPMA 2019 and the Fisheries Act 2006. The DOE meets its national (legislative) and international obligations to protect biodiversity and natural habitats by enforcing these laws and policies through the National Environmental Management Strategy, a subset of the St. George's Declaration. In so doing, it utilizes licenses and permit agreements in collaboration with other agencies, including the Plant Protection Unit, Fisheries Division, Department of Trade and Customs to protect species, particularly those identified as endangered. Mobilization and implementation of the draft National Biodiversity Strategic Action Plan.

The DOE also maintains a GIS database known as the Environmental Information Management and Advisory System (EIMAS) that assists in mapping areas of high ecological values. Proposed development projects/ programmes are initially mapped and screened against existing policies and legislation protecting the conservation of biodiversity. Where environmental impact is likely, propagation of plant species is undertaken through the DOE's nursery prior to project commencement. Rehabilitation efforts are also programmed through national budgetary processes, particularly in national public sector projects.

### ***LANDS AND SOIL CONSERVATION***

The promotion of soil conservation and avoidance of degradation or conversion of productive lands or land that provides valuable ecosystem services are a priority. The Sustainable Island Resource Management Zoning Plan, the PPA 2003 as well as the National Action Plan outline the planning guidelines used by the DOE in its review of development projects. Digital analysis is also undertaken through the EIMAS.

### ***POLLUTION PREVENTION AND CONTROL***

The DOE strives to avoid or minimize adverse impacts on human health and the environment through its EIA screening process. Development Projects deemed to have high pollution risks with unsatisfactory

mitigation measures are not recommended for approval. Alternatively, other solutions are sought, through reviews conducted by external agencies, and measures are put in place to prevent pollution. Through its environment education programme, the DOE sensitizes the public on issues related to standards of maximize energy efficiency, and minimization of material resource use, the production of wastes, and the release of pollutants.

## **7. SCREENING AND CATEGORISATION**

Subsumed into the Environmental Impact Assessment process is the DOE's primary and secondary functions to address ESS. Development projects are screened, possible risks are identified, assessed, and mitigated against.

## **8. ENVIRONMENTAL AND SOCIAL DUE DILIGENCE**

Pivotal to the EIA process is a stakeholder consultation, in which environmental, and socio-economic impacts must be presented to local communities and interested persons, in the presence of the DOE and other relevant Government agencies. Concerns of stakeholders are captured and submitted as part of the final report/ statement on the ESIA. Development projects are required to appropriately address such concerns prior to formal approval and implementation. Annex 1 provides a sample template used for screening development projects.

Cultural and national heritage resources are provided for under the Physical Planning Act 2003 (PPA 2003) and the National Parks Act and the EPMA 2019. The ESIA screening process and checklists provides the DOE with an opportunity to identify possible impacts to cultural heritage. Additionally, the DOE maintains a GIS database known as the Environmental Information Management and Advisory System (EIMAS) that assists in mapping areas of high cultural and ecological value. Through consultations of the Technical Advisory Committee ("TAC"), agency representatives can provide a wealth of traditional and community knowledge which is mapped as appropriately.

## **9. MONITORING AND COMPLIANCE**

The DOE produces an annual business plan or programme of activities which is made available for review and assessment feedback reports from ministerial heads and other stakeholders. Internal evaluations are conducted periodically by the Data Management Unit, which also collects project-specific data, through staff, and the TAC, as well as other stakeholders. Additionally, donor funded projects implemented by the DOE are externally reviewed by UNEP/ UNDP auditing experts.



ESS Factors	Legislative	Institutional	Operational
Access to information (Stakeholder involvement ) & Response Mechanism	Physical Planning Act 2003 Environmental Protection & Management Act 2019	TAC	DOE's website: <a href="http://www.environmentdivision.info">www.environmentdivision.info</a> EIA Screening, Scoping and Review Process
Access and Equity	EPMA 2019	TAC	
Biodiversity & Natural Habitats	Physical Planning Act 2003 Environmental Protection & Management Act 2019	TAC	EIMAS/ Database Licenses and permits Protected Area Systems Plans EIA Screening, Scoping and Review Process
Climate Change & Adaptation	Environmental Protection & Management Act 2019	DOE, TAC, PMC, Cabinet, Parliament, NGOs	EIA Screening, Scoping and Review Process
Grievance/ Complaint Mechanism	EPMA 2019	DoE, Line Ministries TAC	DOE's Office & website: <a href="https://environment.gov.ag/contact">https://environment.gov.ag/contact</a>
Marginalized & vulnerable groups	EPMA 2019	TAC	EIA Screening, Scoping and Review Process
Gender Equity & Women's Empowerment	Gender	TAC	EIA Screening, Scoping and Review Process
Involuntary Resettlement	Lands Act / Lands Acquisition Act 2013 EPMA 2019	DoE, TAC, PMC, Parliament, Cabinet	EIA Screening, Scoping and Review Process
Physical and Cultural Heritage	EPMA 2019 National Parks Act	National Parks Act	EIA Screening, Scoping and Review Process

	Physical Planning Act 2003		EIMAS Database
Indigenous and Local Communities			
Lands and Soil Conservation	Physical Planning Act 2003  Environmental Protection & Management Act 2019	TAC/PMC/Stakeholder consultations	Data Stock-staking/ Desk Review/Database  Gaps Analysis  EIA Screening, Scoping and Review Process