



**REPUBLIC OF KENYA**

**YOUTH EMPOWERMENT PROJECT**

**ENVIRONMENTAL AND SOCIAL MANAGEMENT POLICY  
FRAMEWORK (ESMF)**

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## ACRYONYMS AND ABBREVIATIONS

<b>Cap:</b>	Chapter
<b>CMS:</b>	Convention on Migratory Species
<b>CPP:</b>	Consultation and Public Participation
<b>DEC:</b>	District Environmental Committee
<b>EA:</b>	Environmental Audit
<b>EIA:</b>	Environmental Impact Assessment
<b>EIAS:</b>	Environmental Impact Assessment Study
<b>EMCA:</b>	Environmental Management and Coordination Act
<b>EMP:</b>	Environmental Management Plan
<b>ESMF:</b>	Environmental and Social Management Framework
<b>GHG's:</b>	Green House Gases
<b>GOK:</b>	Government of Kenya
<b>GPD:</b>	Gross Domestic Product
<b>IBRD:</b>	International Bank of Reconstruction and Development
<b>IDA:</b>	International Development Assistance
<b>ILO:</b>	International Labour Organisation
<b>IPP:</b>	Indigenous Peoples <b>Plans</b>
<b>IPPF:</b>	Indigenous People Planning Framework
<b>KNFJA:</b>	Kenya National Federation of Jua Kali Associations
<b>KPIA:</b>	Kenya Poverty and Inequality Assessment
<b>KKV:</b>	Kazi Kwa Vijana
<b>MoYAS:</b>	Ministry of youth Affairs and Sports
<b>NBI:</b>	Nile Basin Initiative
<b>NEMA:</b>	National Environmental Management Authority
<b>OP/BP:</b>	Operational Police /Bank Policy
<b>OPM:</b>	Office of the Prime MINISTER
<b>PIM:</b>	Participatory Impact Monitoring
<b>UNFCC:</b>	United Nations Framework Convention for Climate Change
<b>USD:</b>	US Dollars
<b>YEDF:</b>	Youth Enterprise Development Fund

## **EXECUTIVE SUMMARY**

The Kenya Youth Empowerment (KYEP) is a project owned and implemented by the Kenya government to address youth issues, such as the post-election violence experienced in 2008, and the youth unemployment faced since 2006. The Kenyan government has approached the World Bank to contribute to the financing of the Kazi Kwa Vijana (KKV), as this program is known in Kiswahili. The financing will be utilized to ensure increased community participation in the sub-project selection leading to greater ownership and stronger sustainability, and to improve operational features of the project, through expansion of the KKV by linking the project to youth training and internship with the private sector to ensure more sustainability for this support. The project, which is entering its second phase, plans to build on, and enhance the already existing efforts.

Priority will be given to sub-projects that can be implemented rapidly using labor intensive techniques such as road maintenance, small-scale water supply and sanitation, water harvesting, afforestation, and waste collection. The implementation of the respective sub-projects is not expected to have adverse environmental impact given the relatively simple and mostly manual nature of most KKV work (with the exception of some drilling in the case of the sewage pipeline laying). In most cases a separate Environmental Management Plan will not be required, as long as the screening checklists are completed before project start and are subsequently monitored. As required by the Bank, the government has developed an Environmental and Social Management Framework (ESMF) to ensure possible risks and impacts are prevented, minimized, or compensated. The ESMF will assist the government to examine project alternatives, identify ways of improving project design, siting, planning, design, and implementation of preventive or mitigation measures throughout project implementation.

This ESMF is designed to provide clear guidance on procedures and methodologies for ensuring improved decision making and to ensure that project options under consideration are sound and sustainable. In addition, the project is destined to ensure that potentially affected people have been properly consulted.

The ESMF consists of 10 sections with each deal with a particular consideration. Section 1, provides a chronological profile of issues affecting the highlighting , poverty and inequality concerns, unemployment status of the youth, indoctrination of youth into the 2008 post-election violence, the current financial and economic crisis, and planned Kazi-Kwa-Vijana project aimed at addressing these issues. Section 2 introduces the KKV project components which are characterized as: component 1 – offering strategy for enhancing the performance of KKV; Component 2 – present a tripartite model involving the youth –training providers- private sector in increasing youth employability and self-employment; and component 3 – aimed at providing analytical support to government and supporting capacity building of key Institutions. Section 3 presents biophysical and socio-economic settings under which the project is to be implemented thus providing a pointer on the impacts the project might evoke. Section 4 provides overview considerations for ESMF by providing its objective, procedure and tools used to undertake it. Section 5, 6 and 7 provide Kenyan legal and policy frameworks, international conventions and treaties, and World Bank safeguard policies. Section 8 focuses on the World Bank Operational policy 4.10 Indigenous People Safeguard policy that details the Indigenous People’s communities under consideration and the process for ensuring their safeguard. Section 9 presents the environmental and social screening process

towards successful implementation of the ESMF. Section 10 ends by presenting the institutional framework with action, role and responsibilities of each stakeholder as well as an action plan for the implementation of the ESMF.

## 1. INTRODUCTION

**Kenya has recently experienced a turnaround in its economy in showing strong economic growth, but this growth began to slow in 2008.** The Kenyan economy grew at an average of 6 percent per year between 2003 and 2007, after a long period of stagnation. In 2007, the growth of Gross Domestic Product (GDP) reached 6.3 percent before dropping to 1.7 percent in 2008 and has continued to slow in the first two quarters of 2009. This contraction was due to a series of events. In 2008 the country suffered from an outbreak of violence after the disputed presidential elections in December 2007. Over 1,000 people were killed and more than 350,000 were internally displaced. In addition, the recent global financial, food and fuel crisis, in combination with droughts have also had a negative impact on the economy. The droughts and high input prices in the agriculture sector led to a contraction and, an increase in maize imports. Moreover,, remittances decreased. The hardest hit sector has been tourism where hotels and restaurants contracted by 36 percent during the first half of 2009. The agriculture and tourism sectors are important employers, with the agriculture sector accounting for almost 60 percent of total employment (Kenya Poverty and Inequality Assessment – KPIA, April 2009) and the travel and tourism sector for 7.1 percent (Travel & Tourism Economic Impact, 2009).

**While poverty has declined since 1997, both poverty and inequality continue to be serious concerns. The youth form a large share of the poor.** According to the KPIA there was a decline in poverty from the late 1990s until 2006, from 51 percent in 1997 to 47 percent in 2006. Extreme poverty was estimated at 19 percent of the population in 2006. Almost one in three of Kenya's poor population was between 15-29 years of age. Half of these were youth between 15-19 years of age and who had a poverty rate of 51% - which was larger than the national average. The economic slowdown and the series of different crises have negatively affected the population. Poverty levels are expected to start increasing again. The 2006 data shows that inequality in household consumption between the top 10 percent to the bottom 10 percent stood at 20:1 in urban areas and 12:1 in rural areas<sup>1</sup>.

**Youth represent 30 percent of Kenya's population and their unemployment is twice the country's average.** Almost one third of Kenyans are between 15 and 29 years, and the total reached almost 11 million people in 2006 (compared to 8.5 million in 1999). According to the KPIA this age cohort is now at a historical high (in absolute and relation terms). Youth in Kenya face serious challenges, including high rates of unemployment and underemployment. The overall unemployment rate for youth is double the adult average, at about 21 percent. Statistics on joblessness suggest that the magnitude of the unemployment problem is larger for youth with 38 percent of youth neither in school nor work (aggregating the rates of reported unemployment and inactivity).

**The violence in early 2008 highlighted the critical importance of addressing the problem of poverty and inequality, and in particular the increasing problem of idle youth.** In addition, the

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<sup>1</sup> This compares to a national average of 5:1 in Tanzania and only 3.3:1 in Ethiopia

country Social Analysis (World Bank, 2007) found that youth unemployment, especially among males, is a major contributor to frustration and tension, particularly in urban areas. Clearly, unemployment among the youth has now become a matter of serious policy concern in the country. Evidence from previous analytical work<sup>22</sup> shows that lack of action on the challenges that affect youth will escalate both social and economic costs of development in Kenya. This situation became clear during the crisis that erupted after the disputed December 2007 elections. Youths were the main group involved in the unrest and violence and they were identified by both the Government of Kenya (GoK) and Development Partners as a high priority target group for addressing some of the major challenges facing the country.

**The recent financial and economic crisis has prompted the GoK to renew its commitment to addressing youth issues and youth unemployment has emerged as a top priority.** The GoK developed a strategy to address youth unemployment in 2007, emphasizing the importance of a coordinated and multi-sectoral approach in addressing the problem of youth unemployment and youth under-activity. In April 2009 the Kazi Kwa Vijana (KKV)<sup>3</sup> Program was launched, aiming at employing youth in rural and urban areas in labor –intensive public works projects implemented by different line ministries. The KKV program is implemented under the overall supervision and guidance of a National Steering Committee chaired by the Prime Minister and comprising Ministers and Permanent Secretaries with KKV sub-projects. The Office of the Prime Minister (OPM) is in charge of the overall coordination and monitoring. Priority is given to sub-projects that can be implemented rapidly using labor intensive techniques such as road maintenance sub-projects, small-scale water supply and sanitation sub-projects, water harvesting sub-projects, afforestation sub-projects and waste collection. In addition to the KKV, the GoK continues to support the Youth Enterprise Development Fund (YEDF), established in 2006, providing youth with access to finance for self employment activities and entrepreneurial skills development.

**The GoK has successfully launched the KKV, but as the program approaches the second phase, there is need to improve its effectiveness and efficiency. The World Bank is well positioned to help the GoK do this.** The World Bank has worldwide experience in best practice operational features of public works program and will, together with the International Labour Organization (ILO), provide important technical skills to improve the efficiency of the KKV. The support will strengthen the institutional arrangements for the program and further development of some operational features. This includes improved targeting mechanisms, optimization of employment content of sub-projects, the inclusion of services and effective monitoring and evaluation. Given that employment programs, particularly labor intensive public work programs for youth, are likely to be needed in the medium term, there is need for the GoK to master the management of these programs and to develop a design that allows for flexibility based on demand, with possible scaling-up and scaling-down as necessary. World Bank support will ensure increased community participation in the sub-project selection which will lead to greater ownership and stronger sustainability. The GoK allocation is Ksh.6.6 billion to the KKV for FY10 (around 84 million USD).

**In addition to improved operational features, the World Bank will support the expansion of the KKV into youth training and internship with the private sector to ensure more sustainability for this support.** Training available to youth often lacks a close link with the competencies sought by

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<sup>2</sup> Youth and Development in Kenya (World Bank 2005); inside informality; Poverty, Jobs, Housing and Services in Nairobi Slums (World Bank 2006)

<sup>3</sup> “Kazi kwa Vijana” means “Work for Youth” in Kiswahili.

employers. Engaging the private sector in providing employment and training will improve the relevance of the training offered to youth and promote their future employability. Employers will need to be closely involved in the design of this activity and the targeting of youth participants. This expansion will hopefully result in increasing the employability of youth and will provide a basis for a possible nation-wide program.

## **2. PRELIMINARY PROJECT DESCRIPTION**

**The Proposed project builds on, and tries to enhance, already existing efforts of the GoK.** The implementation of the KKV has already started in many parts of Kenya. It was allocated Ksh 3.4 billion (around US\$43million) in FY09 and Ksh 6.6 billion (around US\$84million) in FY10 (July, 2009 – June 2010). The program is fully owned by the GoK, and was impressively quickly launched and disseminated across the GoK at all levels. Program awareness has been created across the country. KKV is politically supported at the highest levels and, already has a considerable allocation in the FY 10 GoK budget and is likely to continue beyond this. Extensive interviews with youth conducted by the World Bank's identification mission (in both rural and urban areas) indicate that youths approve the project, appreciate the income, and wish it to continue.

**The first project component** of the World Bank project will enhance the performance of the KKV, by providing technical assistance and extra funds for the implementation of innovative projects. This technical assistance will aim to introduce systemic improvements to the program. These will include: (i) enhancing community participation in the identification of projects, (ii) setting clearer criteria for project selection, (iii) optimizing the labor content, (iv) working with government to enhance program targeting, and (v) development of a strong Monitoring & Evaluation system. The overall objective of this component will be to enhance the performance of KKV and move it into a flexible mechanism that can be scaled up or down depending on need.

**The second project component** will develop a pilot tripartite partnership model that includes youth, training providers, and the private sector. This partnership will aim at increase youth's employability by providing them with training and opportunities for internships and employment with private sector entities for a certain period with some subsidy from the program. Vocational, life skills and entrepreneurship training will be supported under this component. The objective is for youth to either be employed by these enterprises or to increase their employability with other enterprises or through self-employment. This component will link with a number of Government and non-governmental organizations in Kenya such as the Youth Enterprise Development Fund (YEDF), and the Kenya National Federation of Jua Kali Associations (KNFJA). If successful, such an approach could be scaled up with GoK resources.

**The third project component** will provide analytical support to government in key areas relevant to youth and support capacity building of key institutions at both central and decentralized levels. Resources will finance studies in critical youth policy issues, analysis to some labor market issues, and support the institutional capacity of key institutions, like the MoYAS. Training, especially in areas of community participation will be provided to youth officers on the ground.

**This Environmental and Social Management Framework (ESMF) addresses the first component only.**

**Targeting.** For the labor-intensive public works activities, the current approach of the KKV is to target provinces most affected by the drought. Within these provinces, the main criterion used for targeting is age (18-35). The wage rate used, set at minimum wage with differentials for rural and urban areas, is functioning well as a targeting mechanism. During project preparation, the World

Bank team will agree with the GoK representatives on the criteria to use to decide on which geographical areas the World Bank-financed project will target during implementation.

**Gender** issues will be given particular attention in project design. Public works activities will be chosen to ensure adequate female participation. The inclusion of social services such as elder-and child-care will also enhance female participation. The project will also support life skills training for girls to ensure their effective participation in the program and its benefits.

**Institutional Arrangements** for the overall project will mainly build on existing structures and will seek to strengthen those rather than create new ones. The project will support the Office of the Prime Minister (OPM) which hosts the secretariat for the KKV. It will strengthen this secretariat and ensure highly dedicated and appropriately skilled staffs are retained. During preparation, the World Bank team and GoK representatives will discuss how to best ensure positive civil society participation in project implementation.

***The implementing Line Ministries (still to be determined)*** will be responsible for working with the local community chiefs and/or community supervisors in preparing the initial screening checklists, preparing Environmental Management Plans where necessary, and compiling an Annual Report of sub-projects under their mandate.

For the ESMF it is envisioned that the National Environmental Management Agency will be the "umbrella" agency overseeing the screening process, the preparation of Environmental Management Plans (EMPs) for sub-projects where necessary, and participation in general supervision through monitoring of Annual Reports for Line Ministries in each region.

### **3. BIOPHYSICAL AND SOCIO-ECONOMIC ENVIRONMENT OF KENYA**

Kenya is situated in Eastern Africa bordering the Indian Ocean, between Somalia and Tanzania. It covers an area of 587,000 km<sup>2</sup> of which approximately 570,000 km<sup>2</sup> is land area and approximately 13,000 km<sup>2</sup> is covered by surface water bodies. Kenya's total population in 2008 was estimated at 38 million with an estimated population growth of 2.5% per annum. About 68% of the population live in the rural areas and depend mainly on agriculture.

GDP per capita in Kenya was estimated to be US\$680 in 2007 (World Bank Development Indicators) with an annual growth of 2.5% (2008 estimate). The major industries in Kenya are small scale consumer goods, agricultural products, processing and tourism.

Kenya is divided into eight provinces (Western, Nyanza, Rift Valley, Nairobi, Central, Eastern, Coast and North Eastern) and until recently into 71 districts. Recent government reorganization has increased the number of districts to 146. Population density varies from 0.004 people per square kilometer in North Eastern, to 3.75 in Nairobi.

The country's varied altitudinal profile ranges from the sea level at Indian Ocean coastline to over 5,000m at Mt. Kenya. The Central and Western Kenya are characterized by the Rift Valley which separates two sets of highland masses to the east (Aberdares and Mt. Kenya) and west (Mau Escarpment and the Cherangany Hills). Respectively, these form the various watersheds including the Ewaso Ng'iro lowlands running down to the Indian Ocean, and the Lake Victoria basin.

Rainfall generally falls in two wet seasons, the long season lasting from March to May, and the short season between November and December. The two wet seasons are separated by dry spells whose length increases from about two months in the highlands to about eight months in the lowlands.

Agricultural land covers approximately 12% of the country's surface area and support 80% of the population. The remaining 88% of land surface area is classified as arid and semi-arid land (ASAL) which supports only 20% of the population. However, ASALs supports 50% of the livestock and 80-90% of wildlife resources in the country.

### **Key Environmental and Social Issues**

The following section provides a brief summary of key environmental issues facing Kenya, as identified in the State of the Environment report for Kenya, 2004, and as relevant to the Youth Empowerment Project (YEP).

#### ***Agriculture***

Agriculture is the backbone of Kenya's economy. It contributes up to a quarter of GDP; generates over 60% of foreign exchange earnings; provides employment to over 70% of the population and raw materials to about 70% of all industries; and represents over 45% of the annual government budget. Rapid population growth and agricultural expansion has led to the sub-division of arable land into small uneconomic allotments, encroachment into forests, increased migration into arid and semi-arid lands and subsequent introduction of poor land use practices. This has resulted in adverse environmental impacts including soil erosion, loss of soil fertility, deforestation, loss of biodiversity, overgrazing and desertification. Ongoing forestry efforts are, however, increasing forest cover, while enhancing food production and security through inter-cropping.

#### ***Forests***

Forests rank high among the country's most important resources, though they only cover about 1.7% of the total land area. The Kakamega Forest in western Kenya is a relic of the East African rainforest and the Mau Forest is the largest forest complex in East Africa. Demand for land to expand agriculture and human settlements is the main reason for forest decline and is impacting most forested locations in Kenya, ranging from the large forest blocks to very small and isolated hilltop forests.

#### ***Water resources***

Pollution is a major threat to Kenya's aquatic ecosystem with the State of the Environment Report (2004) identifying nutrients, synthetic organic compounds, sediments, litter, plastics, metals and oil as key issues. Watershed degradation is increasing with water availability and quality being key issues.

Groundwater is used in some parts of the country, but is generally underutilized. In some areas, groundwater is abstracted for domestic and industrial use as well as the irrigation of high value crops. The high demand for water, encroachment of development into recharge areas and unregulated use is identified as threatening ground water resources in the future.

#### ***Health and Environment***

The generation of domestic solid waste and sewage has become an increasing environmental and public health problem in many parts of the country. This is partly due to rapid expansion of urban areas and rural to urban migration (spurred by high population growth rates). The problem is exacerbated by inadequate planning, inefficiency, poor technology and weak enforcement of existing legislation by authorities. Most of the urban areas in the country are faced by domestic waste and sewage management problems. In most towns, waste management is inadequate and a significant portion of the population does not have access to waste collection or sewerage and

sewage treatment. Only 32 out of 174 local authorities have any form of sewage collection and disposal infrastructure. Inadequate waste management contributes to water and soil pollution and presents risks to human and environmental health.

#### **4. THE ENVIRONMENTAL AND SOCIAL MANAGEMENT FRAMEWORK**

The objective of this Environmental and Social Management framework (ESMF) is to provide an environmental and social screening process for implementation of YEP sub-projects in Kenya. As these activities are sector-specific and site-specific, the ESMF is intended to be used as a practical tool during sub- project formulation, design, implementation and monitoring. It describes the steps involved in identifying and mitigating the potential environmental and social impacts of future sub-project activities. It also provides guidance in cases where the screening results indicate that a separate Environmental Management Plan (EMP) is required.

This ESMF will be incorporated as relevant into the KKV Manual (or if necessary, a separate manual addressing only the sectors supported by the World Bank—financed YEP.

Environmental and Social Checklists, Appraisal and Report Forms, and accompanying guidelines, are contained in this report to assist in the environmental and social evaluation of planned sub-projects under the YEP. The forms are designed to place information in the hands of Line Ministries and reviewers so that impacts and their mitigation measures, if any, can be identified.

Environmental and Social Management framework for the KKV will be addressed by referencing and applying all the relevant country systems and where such systems are inadequate, they will be supplemented with the World Bank's environmental and social safeguards policies and procedures. These include: [OP/BP 4.01, Environmental Assessment](#); [OP/BP 4.04, Natural Habitats](#); [OP 4.09, Pest Management](#); [OP/BP 4.10, Indigenous Peoples](#); [OP/BP 4.11, Physical Cultural Resources](#); [OP/BP 4.12, Involuntary Resettlement](#); [OP 4.36, Forests](#); and [OP/BP 4.37, Safety of Dams](#).

The various Line Ministries [still to be identified], will enforce their relevant laws and policies through the coordination of the National Environmental Management Authority (NEMA). The policy screening team will be constituted by the line ministries under the chair of NEMA to evaluate the possible environmental and social impacts of the various projects under the KKV Project. A policy screening framework will be developed to assess and propose mitigation strategies of potential negative environmental and social impacts at the conception and planning stages of sub-project activities, and, if necessary, carry out separate EIA s for specific sub-projects should the screening results indicate the need for such.

Several tools for screening possible environmental and social impacts will be developed including questionnaires and checklists -- among others. These will facilitate the collection of information that will allow reviewing team (inter-ministerial and associate experts) to determine the characteristics of the prevailing local bio-physical and social environment which will enable them to assess the potential impacts of activities and the appropriate mitigation/rehabilitation measures required (if any). The Checklist will also identify potential socio-economic impacts that will require mitigation measures and/or resettlement and compensation.

The ESMF includes a template of an Environmental Management Plan (EMP) for the implementation of sub-projects that may require it. The EMP summarizes institutional arrangements for the implementation of mitigation measures, the monitoring of the implementation of these measures, capacity building needs, as well as cost estimates.

As stated earlier, the proposed screening process should be consistent with the World Bank's safeguard policy OP 4.01: Environmental Assessment. This policy requires that all World Bank-financed operations are screened for potential environmental and social impacts, and that the required environmental work be carried out on the basis of the screening results. Thus, the screening results may indicate that (i) no additional environmental work would be required; (ii) the application of simple mitigation measures by qualified staff would suffice; or, (iii) a separate EMP would be required.

It would be preferable at the screening stage to determine if the impacts are positive, negative, reversible or otherwise or neutral. This would, at an early stage allow for appropriate pre-emptive or mitigating measures to be clearly defined or alternatives in the concepts, designs or siting of sub-projects to be considered.

Although the potential environmental and social impacts of KKV projects are likely to be minimal, and in most cases positive, potentially significant and localized negative impacts may occur, thus requiring appropriate mitigation. Potential negative environmental impacts such as pollution, waste management, loss of vegetation, soil erosion, soil and groundwater pollution are addressed in the context of this ESMF.

## **5. LEGAL FRAMEWORK APPLICABLE TO KKV PROJECT**

This environmental and social framework has been prepared to ensure that it fully complies with and complements the environmental legislation and procedures of enacted in Kenya. This section provides a review of some of the relevant country legal and policy frameworks that will be referred to fully the ESM requirements.

### **Environmental Management and Coordination Act (EMCA) 1999**

The EIA process in Kenya is regulated under the Environmental Management and Coordination Act (EMCA), passed in 1999. The EMCA requires the proponent of any project or program to be carried out in Kenya to undertake a systematic examination to determine whether or not the activity will have any adverse impacts on the environment. The act stipulates, *inter alia*, that:

- EIAs must be carried out in accordance with the Environmental (*Impact Assessment and Audit*) Regulations, 2003;
- Projects subject to the Regulations must be approved and an EIA License granted by the National Environmental Management Authority (NEMA) prior to their development;
- Environmental audits must be undertaken during implementation to check the impacts of the development and plan any further environmental mitigation; and District and Provincial environmental Committees (DEC) comprising representatives of national government, local authorities, nongovernmental organizations and the community, are established, as independent tribunals (independent of NEMA) to oversee disputes and provide a forum to whom affected parties can complain.

Kenya's Environment Action Plan seeks to promote and implement sound environmental policy. The EMCA represents the culmination of a series of initiatives and activities coordinated by government and stakeholders. It is the master plan for the environment in Kenya and contains a National environment Policy.

## **Framework Environmental Legislation and Environmental Strategy**

NEMA has provided procedural steps for undertaking EIA studies and Environmental Audits for projects listed 'Second Schedule of EMCA 1999 and using consideration provided for in *LEGAL NOTICE No. 101*' of Environmental (Impact citation. Assessment and Audit) Regulations, 2003 *listed in annex to this document*, and Strategic Environmental Assessment (SEA) used to integrate environmental considerations into policies, plans and programs. Included in the guidelines are the contents and format of the study reports that is submitted to NEMA for evaluation and further action which approval, rejection or remedial advice. Further, the NEMA have provided procedural guidelines for implementation of Environmental Impact Assessment (EIA), Monitoring and Environmental Audit (EA), Strategic Environmental Assessment (SEA) and issues of Trans-boundary, Regional and International Conventions, Treaties and Agreements.

### EIA Procedure

EMCA has provided a systematic procedure to guide the undertaking of an Environmental Impact Assessment procedure to be followed by the project /sub-project proponents, EIA registered experts, and general public. An EIA is accomplished through 6 steps: Screening of activities, Scoping, EIA study, Submission of EAI study, review of the EIA study and decision making.

*Table 5.1.1. EIA Procedure: - steps, activities and methodology*

<b>Step</b>	<b>Activities</b>	<b>Methodology</b>
<b>Screening of activities</b>	<p>The step aims at determining whether or not an EIA study is required for a particular development activity. The criteria used is based on the significance of the project's environmental impacts which considers such factors as: (i) sensitivity of the area likely to be affected; (ii) public health and safety; (iii) possibility of uncertain, unique or unknown risks; (iv) possibility of having individually insignificant but cumulatively significant impacts; (v) whether the proposed activity affects protected areas, endangered or threatened species and habitats; (vi) size, working methods, project activities including their duration and proposals for waste disposal etc.</p> <p>The steps followed include: (i) project and site description, (ii) collection of baseline data, (iii) data analysis, (iv) evaluation of significance of environmental impacts , (v) evaluation of alternatives, (vi) consultation and public participation; (vii) preparation of a project report; (viii) review of project report, and (ix) approval process</p>	Use of activities and impacts are listed with their corresponding thresholds to determine which activities require EIA
<b>Scoping</b>	<p>Determine the range of issues to be addressed in the EIA study: (i) Identify the significant issues which are related to the proposed project (ii) identify the significant issues (concerns) related to the proposed project, evaluate them, organize and present them for guiding decision-making,</p> <p>The steps followed include: (i) Develop a communication plan (decide who to talk to and when); (ii) assemble information</p>	Public consultation with experts and public – especially potentially affected persons

	<p>that will be the starting point of discussions; (iii) make the information available to those whose views are to be obtained; (iv) find out what issues people are concerned about; (v) look at the issues from a technical perspective in preparation for further study; (vi) organize the information according to issues (grouping, combining and setting priorities); (vii) develop a strategy for addressing and resolving each key issue, including information requirements and terms of reference for further studies.</p> <p><b>Outputs:</b> Terms of Reference for undertaking the EIA study</p>	
<b>EIA Study</b>	<p>Steps to guide the process include: (i) project Impact Identification, (ii) analysis to predict environmental and social (biological, social, economic, and physical anthropological) impacts of the project; (iii) evaluation to select best option, presentation of results using easily understood formats e.g. cross-tabulation diagrams, graphics and maps, and interpretation of the severity of impacts in economic terms; (iv) identification of wide proposal of mitigation measures to prevent, reduce, remedy, or compensate for the various adverse effects; (v) design of a comprehensive monitoring and evaluation plan during implementation and operation for the project as a measure of compliance.</p>	
<b>Submission of EIA Study Report</b>	<p>The proponent should submit 10 hard copies and an electronic copy of the EIASR to the Authority on payment of a prescribed fee.</p>	Registered EIA expert
<b>Review of the EIAS Report</b>	<p>The review panel uses the following criteria to evaluate the comprehensiveness and soundness of the EIA study: (i) conformity with the TOR's, (ii) conformity with National EIA guidelines, (iii) extent to which environmental issues are addressed, (iv) scientific and technical soundness of the findings and ease of their understanding by experts and general public; (v) comprehensiveness of identified adverse impacts and their mitigation measures, (vi) adequacy of the methodology used, techniques applied, assumptions made, and limitations encountered; (vii) reasonableness of suggested alternatives to the proposed action; (viii) validity of information cited in the report; (ix) evidence and adequacy of Consultation and public participation</p>	Review Panel
<b>Decision Making</b>	<p>The Authority makes decisions at various stages to determine whether to issue EIA license without conditions, issue with conditions or reject.</p> <p>The issues considered in issuing the license include: (i) the validity of the environmental impact assessment study report with emphasis on environment, economic, and socio-cultural impact of the project; (ii) the various comments made by</p>	

	affected parties under the EIA Regulations, (iii) the report of the presiding NEMA officer at a public hearing under regulation 17 of Regulations where applicable; (iv) any other information the Authority may require.	
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**Consultation and Public Participation (CPP)**

EMCA has provided a disclosure strategy provided for in the *LEGAL NOTICE NO. 101 THE ENVIRONMENTAL (IMPACT, AUDIT AND STRATEGIC ASSESSMENT) REGULATIONS, 2009, in Part III (17) (1-4)*, that requires consultation and public participation during project planning, in implementation and decommissioning phases. The process is aimed to reach the interest groups identified at the scoping stage. EIA process disclosure is aimed at (i) facilitating the involvement and participation of affected persons throughout the project cycle; and (ii) ensures a sense of responsibility and commitment towards implementing the proposed Environmental Management Plan.

**The Environmental (Impact Assessment and Audit) Regulations, 2003**

The Regulation provides the guidelines that have been established to govern the conduct of environmental assessments and environmental audits in Kenya. The guidelines require that the EIA study be conducted in accordance with the issues and general guidelines spelt out in the Second and Third schedules. These include coverage of the issues on schedule 2 (ecological, social, landscape, land use and water considerations) and general guidelines on schedule 3 (impacts and their sources, project details, national legislation, mitigation measures, a management plan and environmental auditing schedules and procedures.

**Environmental Management and Coordination (Noise and Excessive Vibration Pollution Control) Regulations, 2008**

These regulations determine that no person shall make or cause to be made any loud, unreasonable, unnecessary or unusual noise that annoys, disturbs, injures or endangers the comfort, repose, health or safety of others and the environment. In determining whether noise is loud, unreasonable, unnecessary or unusual, the following factors may be considered: (i) time of the day; (ii) proximity to residential area; (iii) whether the noise is recurrent, intermittent or constant; (iv) the level and intensity of the noise; (v) whether the noise has been enhanced in level or range by any type of electronic or mechanical means; and, (vi) whether the noise is subject to be controlled without unreasonable effort or expense to the person making the noise.

**Environmental Management and Coordination (Air Quality) Regulations, 2008**

The objective of these regulations is to provide for prevention, control and abatement of air pollution to ensure clean and healthy ambient air. The general prohibitions state that no person

shall cause the emission of air pollutants listed under First Schedule (Priority air pollutants) to exceed the ambient air quality levels as required stipulated under the provisions of the Seventh Schedule (Emission limits for controlled and non-controlled facilities) and Second Schedule (Ambient air quality tolerance limits).

### **The Water Act 2002**

The Act vests the water in the State and gives the provisions for the water management, including irrigation water, pollution, drainage, flood control and abstraction. It is the main legislation governing the use of water especially through water permit system.

### **The Lakes and Rivers Act Chapter 409 Laws of Kenya**

This Act provides for protection of river, lakes and associated flora and fauna. The provisions of this Act may be applied in the management of the project.

### **The Wildlife Conservation and Management Act, Cap 376**

This Act provides for the protection, conservation and management of wildlife in Kenya. The Act deals with areas declared as National Parks, under the Act. The Act controls activities within the park, which may lead to the disturbance of animals. Unauthorized entry, residence, burning, damage to objects of scientific interest, introduction of plants and animals and damage to structure are prohibited. The provisions of this Act should be applied in the management of the project.

### **The Public Health Act (Cap. 242)**

The Act provides for the securing of public health and recognizes the important role of water. It provides for prevention of water pollution by stakeholders, among them Local Authorities (county councils). It states that no person/institution shall cause nuisance or condition liable to be injurious or dangerous to human health.

### **Waste Management Regulations (2006)**

The Waste Management Regulations are meant to streamline the handling, transportation and disposal of various types of waste. The aim of the Waste Management Regulations is to protect human health and the environment. The regulations place emphasis on waste minimization, cleaner production and segregation of waste at source.

### **Physical Planning Act (Cap286)**

The Act provides for the preparation and implementation of physical development plans and for related purposes. It gives provisions for the development of local physical development plan for guiding and coordinating development of infrastructure facilities and services within the area of authority of County, municipal and town council and for specific control of the use and development of land.

## **The Occupational Safety & Health Act of 2007**

The act is relevant to the successful implementation of the YEP. Part VI deals with Health and general provisions. This touches on issues of overcrowding, ventilation, lighting, and sanitary provisions. Part VII deals with machinery safety Part VIII deals with safety issues and general provisions including fire prevention, safety provisions in case of fire, evacuation procedures, safe means of access and safe place of employment. The Act requires employers to take all reasonably practicable measures to protect the health and safety of workers and public exposed to risks from workplaces.

## **6. INTERNATIONAL CONVENTIONS AND TREATIES**

The international legal framework offers an opportunity for strengthening country legal systems and hence need to advise the implementation of the ESMF. This section presents some of the relevant international conventions, treaties and frameworks for the ESMF implementation.

### **Convention on Wetlands or the Ramsar Convention**

The Ramsar Convention on Wetlands is primarily concerned with the conservation and management of wetlands. Parties to the Convention are also required to promote the wise use of wetlands in their territories and to take measures for their conservation by establishing nature reserves in wetlands, whether they are included in the Ramsar list or not. Kenya ratified the Ramsar Convention in June 1990. The proposed project is expected to adhere to the Ramsar Convention's principles of wise use of wetlands in the project area.

### **Convention on Biological Diversity**

The Convention on Biological Diversity adopts a broad approach to conservation. It requires Parties to the Convention to adopt national strategies, plans and programmes for the conservation of biological diversity, and to integrate the conservation and sustainable use of biological diversity into relevant sectoral and cross-sectoral plans, programmes and policies. The proposed project is expected to conserve biodiversity, especially the rare and endangered species in the project area and its environs.

### **Convention on the Conservation of Migratory species**

The Convention on Migratory Species (CMS) was adopted to conserve migratory species of wild animals given that migratory species are seen as an international resource. Such species may be terrestrial or marine. The State Members of the Convention endeavor to conclude agreements for the protection and management of migratory species whose conservation status is unfavourable and of those whose conservation status would substantially benefit from international cooperation deriving from an agreement. The Convention's Agreement on the Conservation of African-Eurasian Migratory Water birds is specific on the need to protect the migratory water birds' feeding, breeding and wintering habitats, the main ones being wetlands and open water bodies.

### **United Nations Framework Convention on Climate Change**

The United Nations Framework Convention on Climate Change (UNFCCC) seeks to regulate levels of greenhouse gases (GHGs) concentration in the atmosphere, so as to avoid the occurrence of climate change at levels that would harm economic development, or that would impede food production activities. The Convention is founded on the principle that contracting parties should take courses of action, in respect of their economic and social activities, and with regard to the Convention's specific requirements, that will protect the climate system for present and future generations. The proposed project will assist in the implementation of the specific requirements of the Convention.

### **United Nations Convention to Combat Desertification**

The objective of the United Nations Convention to Combat Desertification (UNCCD) is to combat desertification and to mitigate the effects of drought in seriously affected countries, especially those in Africa. It seeks to achieve this objective through integrated approaches to development, supported by international cooperation and partnership arrangements, in the affected areas. It lays emphasis on long-term strategies that focus on improved productivity of land and the rehabilitation, conservation and sustainable management of land and water resources, leading to improved living conditions, particularly at the community level. The proposed project is designed to implement the requirements of the UNCCD.

### **The Nile treaties**

There are about eleven treaties dealing with the consumptive use of the waters of River Nile and Lake Victoria. The riparian countries are under limited obligations under general international law to permit the lower riparian States an equitable share of the water, but then the exact modalities would be subject to fresh negotiations. The Nile Basin Initiative is currently addressing the issue of equitable utilization of the common Nile Basin water resources.

The Nile Basin Initiative seeks to harness the tremendous potential of the Nile for the benefit of the people of the Basin, both for now and for generations to come. This becomes a major challenge because as economic development accelerates, population increases and demand for water grows. NBI's Shared Vision puts economic development at its centre. The Shared Vision is: *"To achieve sustainable socio-economic development through the equitable utilization of, and benefits from, the common Nile Basin water resources" or in short "Sustainable development of the River Nile for the benefit of all"*.

## **7. OVERVIEW OF THE WORLD BANK'S SAFEGUARD POLICIES AND DISCLOSURE REQUIREMENTS**

### **World Bank Environmental and Social Safeguard Policies**

Environmental and Social Management framework for the KKV will be addressed by referencing and applying all the relevant country systems and where such systems are inadequate, they will be supplemented with the World Bank's environmental and social safeguards policies and procedures which include: [OP/BP 4.01, Environmental Assessment](#); [OP/BP 4.04, Natural Habitats](#); [OP 4.09, Pest Management](#); [OP/BP 4.10, Indigenous Peoples](#); [OP/BP 4.11, Physical Cultural Resources](#); [OP/BP 4.12, Involuntary Resettlement](#); [OP 4.36, Forests](#); and [OP/BP 4.37, Safety of Dams](#).

**In accordance with the World Bank's safeguard policy**, the proposed sub-projects under the KYEP will undergo an environmental and social impact screening and assessment process on a case-by-

case basis. The process will be done using a procedure designed to comply with the World Bank's OP 4.0 Environmental and Social Safeguards policies and procedures indicated in table 7.1.

*Table 7.1: Summary of World Bank's Safeguard Policies*

<b>Bank Policy</b>	<b>Policy Requirements</b>	<b>Triggering of the Policy</b>
<b>OP/BP 4.01 Environmental Assessment</b>	The objective of this policy is to ensure that Bank-financed projects are environmentally sound and sustainable, and that decision-making is improved through appropriate analysis of actions and of their likely environmental impacts. This policy is triggered if a project is likely to have potential (adverse) environmental risks and impacts on its area of influence. OP 4.01 covers impacts on the natural environment (air, water and land); human health and safety; physical cultural resources; and trans-boundary and global environment concerns.	Depending on the project, and nature of impacts a range of instruments can be used: EIA, environmental audit, hazard or risk assessment and environmental management plan (EMP). When a project is likely to have sectoral or regional impacts, sectoral or regional EA is required. The Borrower is responsible for carrying out the EA.
<b>OP/BP 4.04 Natural Habitats</b>	This policy recognizes that the conservation of natural habitats is essential to safeguard their unique biodiversity and to maintain environmental services and products for human society and for long-term sustainable development. The Bank therefore supports the protection, management, and restoration of natural habitats in its project financing, as well as policy dialogue and economic and sector work. The Bank supports, and expects borrowers to apply, a precautionary approach to natural resource management to ensure opportunities for environmentally sustainable development. Natural habitats are land and water areas where most of the original native plant and animal species are still present. Natural habitats comprise many types of terrestrial, freshwater, coastal, and marine ecosystems. They include areas lightly modified by human activities, but retaining their ecological functions and most native species.	This policy is triggered by any project (including any sub-project under a sector investment or financial intermediary) with the potential to cause significant conversion (loss) or degradation of natural habitats, whether directly (through construction) or indirectly (through human activities induced by the project).
<b>OP/BP 4.36 Forests</b>	The objective of this policy is to assist borrowers to harness the potential of forests to reduce poverty in a sustainable manner, integrate forests effectively into sustainable economic development and protect the vital local and global environmental services and values of forests. Where forest restoration and plantation development are necessary to meet	This policy is triggered whenever any Bank-financed investment project (i) has the potential to have impacts on the health and quality of forests or the rights and welfare of people and their level of dependence upon or

	these objectives, the Bank assists borrowers with forest restoration activities that maintain or enhance biodiversity and ecosystem functionality. The Bank assists borrowers with the establishment of environmentally appropriate, socially beneficial and economically viable forest plantations to help meet growing demands for forest goods and services.	interaction with forests; or (ii) aims to bring about changes in the management, protection or utilization of natural forests or plantations.
<b>OP/BP 4.11 Physical Cultural Resources</b>	The objective of this policy is to assist countries to avoid or mitigate adverse impacts of development projects on physical cultural resources. For purposes of this policy, “physical cultural resources” are defined as movable or immovable objects, sites, structures, groups of structures, natural features and landscapes that have archaeological, paleontological, historical, architectural, religious, aesthetic, or other cultural significance. Physical cultural resources may be located in urban or rural settings, and may be above ground, underground, or underwater. The cultural interest may be at the local, provincial or national level, or within the international community.	This policy applies to all projects requiring a Category A or B Environmental Assessment under OP 4.01, project located in, or in the vicinity of, recognized cultural heritage sites, and projects designed to support the management or conservation of physical cultural resources.
<b>OP/BP 4.10 Indigenous Peoples</b>	The objective of this policy is to (i) ensure that the development process fosters full respect for the dignity, human rights, and cultural uniqueness of indigenous peoples; (ii) ensure that adverse effects during the development process are avoided, or if not feasible, ensure that these are minimized, mitigated or compensated; and (iii) ensure that indigenous peoples receive culturally appropriate and gender and inter-generationally inclusive social and economic benefits.	The policy is triggered when the project affects the indigenous peoples
<b>OP/BP 4.12 Involuntary Resettlement</b>	The objective of this policy is to (i) avoid or minimize involuntary resettlement where feasible, exploring all viable alternative project designs; (ii) assist displaced persons in improving their former living standards, income earning capacity, and production levels, or at least in restoring them; (iii) encourage community participation in planning and implementing resettlement; and (iv) provide assistance to affected people regardless of the legality of land tenure.	This policy covers not only physical relocation, but any loss of land or other assets resulting in: (i) relocation or loss of shelter; (ii) loss of assets or access to assets; (iii) loss of income sources or means of livelihood, whether or not the affected people must move to another location. This policy also applies to the involuntary restriction of access

		to legally designated parks and protected areas resulting in adverse impacts on the livelihoods of the displaced persons.
<b>OP/BP 4.37 Safety of Dams</b>	The objectives of this policy are as follows: For new dams, to ensure that experienced and competent professionals design and supervise construction; the borrower adopts and implements dam safety measures for the dam and associated works. For existing dams, to ensure that any dam that can influence the performance of the project is identified, a dam safety assessment is carried out, and necessary additional dam safety measures and remedial work are implemented.	This policy is triggered when the Bank finances: (i) a project involving construction of a large dam (15 m or higher) or a high hazard dam; and (ii) a project which is dependent on an existing dam. For small dams, generic dam safety measures designed by qualified engineers are usually adequate.
<b>OP 7.50 Projects in International Waters</b>	The objective of this policy is to ensure that Bank-financed projects affecting international waterways would not affect: (i) relations between the Bank and its borrowers and between states (whether members of the Bank or not); and (ii) the efficient utilization and protection of international waterways. The policy applies to the following types of projects: (a) Hydroelectric, irrigation, flood control, navigation, drainage, water and sewerage, industrial and similar projects that involve the use or potential pollution of international waterways; and (b) Detailed design and engineering studies of projects under (a) above, include those carried out by the Bank as executing agency or in any other capacity.	This policy is triggered if (a) any river, canal, lake or similar body of water that forms a boundary between, or any river or body of surface water that flows through two or more states, whether Bank members or not; (b) any tributary or other body of surface water that is a component of any waterway described under (a); and (c) any bay, gulf strait, or channel bounded by two or more states, or if within one state recognized as a necessary channel of communication between the open sea and other states, and any river flowing into such waters.
<b>OP 7.60 Projects in Disputed Areas</b>	The objective of this policy is to ensure that projects in disputed areas are dealt with at the earliest possible stage: (a) so as not to affect relations between the Bank and its member countries; (b) so as not to affect relations between the borrower and neighboring countries; and (c) so as not to prejudice the position of either the Bank or the countries concerned.	This policy is triggered if the proposed project will be in a "disputed area". Questions to be answered include: Is the borrower involved in any disputes over an area with any of its neighbors. Is the project situated in a disputed area? Could any component financed or likely to be financed as part of the project be situated in a disputed area.

## World Bank Disclosure Requirements

For meaningful consultations between the borrower and project-affected groups and local NGOs on all Category A and B projects proposed for IBRD or IDA financing, the borrower provides relevant materials in a timely manner prior to consultation and in a form and language that are understandable and accessible to the groups being consulted.

Any separate **Category B report** for a project proposed for IDA financing **is made available to project-affected groups and local NGOs**. Public availability in the borrowing country and official receipt by the Bank of Category A reports for projects proposed for IBRD or IDA financing, and of any Category B EA report for projects proposed for IDA funding, are prerequisite to Bank appraisal of these projects.

### Triggered World Bank Safeguard Policies

Applicable?	Safeguard Policy: If Applicable, How Might It Apply?
[Y]	<b>Environmental Assessment (OP/BP 4.01)</b> All proposed sub-projects
[N]	<b>Natural Habitats (OP/BP 4.04)</b>
[N]	<b>Pest Management (OP 4.09)</b>
[N]	<b>Involuntary Resettlement (OP/BP 4.12)</b>
[Y]	<b>Indigenous Peoples (OD 4.20)</b> Should be detailed in the IPPF and IPP
[N]	<b>Forests (OP/BP 4.36)</b>
[N]	<b>Safety of Dams (OP/BP 4.37)</b>
[N]	<b>Cultural Property (draft OP 4.11 - OPN 11.03)</b>
[N]	<b>Projects in Disputed Areas (OP/BP/GP 7.60)*</b>
[N]	<b>Projects on International Waterways (OP/BP/GP 7.50)</b>

## 8. INDIGENOUS PEOPLE'S POLICY FRAMEWORK (IPPF)

Since initial screening by the Bank indicated that Indigenous People (IP) are likely to be present in, or have collective attachment to, the project area, but their presence or collective attachment cannot be determined until the programs or sub-projects are identified, an IPPF was planned to provide a basis for assessing the extent to which the project or sub-projects might affect Indigenous People as provided for by the World Bank's Indigenous People Policy (OP 4.10). In *November 2009*, the government, therefore, prepared an IPPF for the KYEP.

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\* By supporting the proposed project, the World Bank does not intend to prejudice the final determination of the parties' claims on the disputed areas.

## **Preparation of the KYEP IPPF**

Among the salient features of contemporary Kenya's development is that indigenous identity remains an important factor in national and local organizations. As the country undergoes social and demographic transformation, investing in youth programs becomes particularly germane because a large proportion of potential beneficiaries of KYEP sub-projects may belong to indigenous households and communities.

KYEP involves the preparation and implementation of sub-projects in multiple regions of the country. During project preparation, it became clear that KYEP might generate potential benefits to vulnerable/marginalized groups and indigenous peoples' groups and may also lead to some impact on these groups. In this context, the Indigenous People's Operational Policy (OP 4.10) will be triggered and in response the Borrower is preparing an indigenous people's policy framework (IPPF) to guide intervention in this area. The purpose of the IPPF is to ensure that the development process fully respects the dignity, rights, economies, and cultures of these communities and that the project is able to gain broad community support of affected indigenous peoples and other vulnerable marginalized groups.

Subprojects to be financed under KEYP will be screened and if Indigenous Peoples is a factor in the subproject, a subproject specific Indigenous Peoples Plans (IPP) will be prepared. These subprojects will not be implemented until the associated IPP has been developed in agreement with the affected Indigenous People's communities, cleared and disclosed.

## **Social Management Requirements**

World Bank Indigenous Peoples Operational Policy OP 4.10 contributes to the World Bank's mission to reduce poverty and promote sustainable development by ensuring that Indigenous Peoples' human rights, dignity, cultures and economies are fully respected. Through this policy, the Bank recognizes that Hunter-Gatherers' identities and cultures are inextricably linked to the lands on which they live, and the natural resources they are dependent on. These distinct characteristics and circumstances make indigenous peoples vulnerable to different types of risks and levels of impacts from development projects. Such risks include loss of identity, culture and customary livelihoods as well as exposure to negative health impacts. The World Bank recognizes the vital role that hunter-gatherers play in sustainable development and the fact that their rights receive increasing attention and action under domestic and international law. In the context of this policy and acknowledging that there vulnerable/marginalized groups are likely to be more than just hunter-gatherer groups, the IPPF for the KYEP has been developed, highlighting the positive effects of fostering youth empowerment and employment opportunities in Kenya for purposes of promoting equity, equality, nation building, social cohesion, non-discrimination, and sustainable development.

## **Regional Aspects of Hunter-Gatherers**

In 2003, the African Commission on Human and Peoples' Rights (ACHPR), a sub-body of the African Union adopted the document "Report of the African Commission's Working Group of Experts on Indigenous Populations/Communities". The report emphasizes that the overall characteristics of groups identifying themselves as indigenous peoples as follows:

- Their cultures and ways of life differ considerably from the dominant society.
- Their cultures are under threat, in some cases to the point of extinction.
- The survival of their particular way of life depends on access and rights to their lands and the natural resources thereon.
- They suffer from discrimination as they are regarded as less developed and less advanced than other more dominant sectors of society.
- They often live in inaccessible regions, often geographically isolated.
- They suffer from various forms of marginalization, both politically and socially.

The African Commission report concludes that this discrimination and marginalization threatens the continuation of indigenous peoples' cultures and ways of life and prevents them from being able to genuinely participate in decisions regarding their own future and forms of development.

Following the publication of its report on indigenous populations, the African Commission has produced an Advisory Opinion on the UN Declaration on the Rights of Indigenous Peoples which concludes that the UN Declaration is in line with the African Charter on Human and Peoples' Rights and with the conceptualization and work of the African Commission on indigenous peoples. The African Commission further engaged in a series of country visits and seminars aimed at examining the situation of indigenous peoples and establishing dialogue with African governments and other stakeholders. The African Commission has published a series of reports from its visits, and it is regularly raising indigenous rights issues in its examinations of government reports submitted to the African Commission.

It is, therefore, clear that the African Commission on Human and Peoples' Rights (the major regional African human rights institution) recognizes the discourse of indigenous peoples based on the fundamental UN principles and spearheads the discussion in an African context and the World Bank should, therefore, work with African governments to address issues relating to indigenous peoples in the African continent.

## **Hunter-Gatherers in Kenya**

The African Commission's Working Group on Indigenous Populations & Communities affirms that "*...almost all African states host a rich variety of different ethnic groups (...). All of these groups are indigenous to Africa. However, some are in a structurally subordinate position to the dominating groups and the state, leading to marginalization and discrimination. It is this situation that the indigenous concept, in its modern analytical form, and the international legal framework attached to it, addresses*". According to the ACHPR, there are several vulnerable/marginalized ethnic groups

in Kenya that identify as indigenous peoples. Some of them are hunter-gatherers, including the Sengwer, Ogiek, Watta, Yiaku, Boni (ACHPR, 2006). During project implementation such groups would be targeted so that project benefits reach them.

### **The Legal and Policy Framework Regarding Indigenous Peoples in Kenya**

According to ACHPR (2006), there is no specific legislation regarding indigenous peoples of Kenya. However, there are public policies that address issues to do with land and education among others.

For example, the GoK has made clear its intention that *“land issues requiring special intervention, such as historical injustices, land rights of minority communities (such as hunter-gatherers, forest-dwellers and pastoralists) and vulnerable groups will be addressed. The rights of these groups will be recognized and protected”* (Draft Land Policy: p.6).

In addition, the education sector’s policy framework, the Sessional Paper No. 1 of 2005, makes it clear that the groups that have suffered past marginalization will receive targeted financial support in form of grants. Also, the MOEST, Sessional Paper No. I of 2005 entitled **A Policy Framework for Education, Training and Research: Meeting the Challenges of Education, Training and Research in Kenya in the 21<sup>st</sup> Century**” governs education policy in the country. In particular, the language of instruction is in the mother tongue in Standards 1-3, and there is a culturally sensitive approach used to the learning needs of different communities.

### **Impacts**

This IPPF is expected to provide the framework in which negative impacts to the vulnerable and marginalized groups and indigenous people are mitigated and positive impacts are enhanced based on the free, prior and informed consultations with the affected beneficiaries. As the project is currently designed, no negative impacts are foreseen. Positive impacts for the IP young people will be there. As such an action plan will be developed within the scope of the proposed Social Assessment that will provide the project team with practical measures in which the vulnerable and marginalized and indigenous people youth will be able to benefit from the project activities. Gender considerations will be factored into the processes so that boys and girls among the IPs are able to benefit in the most appropriate manner. Equally important is the incorporation of grievance mechanisms to ensure that the voice of these young people is heard. As such the Social Assessment will provide pointer to the appropriate mechanisms that can be adopted to address these issues.

*Table 8.1.5: KYEP - Potential Impacts on Vulnerable - Indigenous Peoples*

<b>Component</b>	<b>Project Activity as outlined in the PAD</b>	<b>Possible impacts on the indigenous peoples</b>	<b>Mitigation measures</b>
Component 1: Youth employment through labor	1. Expand youth employment and increase their incomes through labor intensive	(-) Inadequate level of labor intensity could lead to a decrease in the number of youth	(+) There will be a minimum required level of labor intensity for the public works programs to ensure high labor intensity of sub-projects.

intensive works and social services.	works and social services.	IPs supported under this component  (-) Insufficient involvement of IPs in labor intensive works and social services and a reduction in enhanced incomes.	(+) This will be coupled with the GOKs efforts to ensure that the activities respond to findings from consultations and social assessment with IPs and provides the IPs with the recognition and respect as well as the appropriate mechanisms to ensure fair and equitable representation.
Component2:  Enhancing employability of youth through training and work internships with the private sector.	1. Pilot approaches aimed at increasing youth employability and earning potential through training and internships with the private sector	(-) Inadequate participation of IPs in private sector internships thus reducing youth employability and earning.	(+) Incentives and continued dialogue with the private sector will be incorporated in designing the program. This will ensure IP representation is consistently addressed in a fair and equitable manner.  (+) Consultations with IPs will be conducted to ensure there is satisfactory engagement.  (+) The social assessment as well as monitoring of the program will act as risk mitigation mechanism allowing for the appropriate response. Lessons learned from the pilot will allow for enhanced responsiveness when scaling up this component.
Component 3:  Capacity Building and Policy Development	The component will support training of district youth officers and district sports officers to effectively deliver their mandate.	(-) Inadequate capacity of training providers for the training of the Youth and Sports Officer to reach out and engage the IPs.	(+) A competitive tender for the provision of the training of Youth and Sports officers will be undertaken to ensure adequate implementation.  (+) A well designed capacity building program for the youth officers and district sports officers with relevant manuals will be included to ensure IP consultation and representation are taking place regularly.

## **Participatory Social Assessment**

The project plans to undertake a detailed social assessment which will use a participatory/consultative approach and give voice to the vulnerable groups and indigenous people. This social assessment will be undertaken in two stages – (1) initial screening, followed by a; (2) detailed assessment. The objective of the initial screening is to identify all existing Hunters and Gatherers in the proposed KYEP project operational area. This identification process will be informed by the following criteria: (i) self-identification as members of a distinct indigenous cultural group and recognition of this identity by others; (ii) collective attachment to geographically distinct habitats or ancestral territories in the project area and to the natural resources in these habitats and territories; (iii) customary cultural, economic, social, or political institutions that are separate from those of the dominant society and culture; and (iv) an indigenous language, often different from the official language of the country or region.

The objective of the detailed social assessment is to help the project support the aspirations and the needs of the vulnerable groups and indigenous people. As such, in addition to providing the social, economic and other relevant information, the project will come up with an action plan that will be developed in consultation with the beneficiaries on how the KYEP project will extend the benefits of the project to these groups and also mitigate any negative impacts. This action plan will be adopted by all the stakeholders and will pave the way for a standardized approach in all project areas where vulnerable and indigenous people live.

This action plan will include arrangements for the free, prior, and informed consultations with the affected indigenous peoples' communities, as well as arrangements for a participatory impact monitoring (PIM) at district level. This will be an important element to assist the various structures to fine-tune their interventions and aim at maximizing culturally appropriate benefits and provide space for the indigenous peoples' communities to voice their concerns.

The IPP will be prepared in a flexible and pragmatic manner, and its level of detail varies depending on the specific sub-projects, and the nature of effects to be addressed. The IPP will include the following elements:

- (a) A summary of the social assessment.
- (b) A summary of results of the free, prior, and informed consultation with the affected vulnerable/marginalized communities that was carried out during subprogram preparation and that led to broad community support for the subprogram.
- (c) A framework for free, prior, and informed consultation with the affected vulnerable/marginalized communities during subprogram implementation.
- (d) An action plan of measures to ensure that the vulnerable/marginalized groups receive social and economic benefits that are culturally appropriate, including, if necessary, measures to enhance the capacity of the subprogram implementing agencies.
- (e) When potential adverse effects on vulnerable/marginalized groups including hunter-gatherers are identified, an appropriate action plan which includes measures to avoid, minimize, mitigate, or compensate for these adverse affects.
- (f) The cost estimates and financing plan for the IPP.
- (g) Accessible procedures appropriate to the subprogram to address sector grievances by the affected vulnerable/marginalized communities arising from subprogram implementation.

When designing the grievance procedures, the borrower takes into account the availability of judicial recourse and customary dispute settlement mechanisms among the affected groups.

- (h) Mechanisms and benchmarks appropriate to the subprogram for monitoring, evaluating, and reporting on the implementation of the IPP. The monitoring and evaluation mechanisms should include arrangements for the free, prior, and informed consultation with the affected communities.
- (i) IPPs prepared through the Participatory Social Assessment process, will include consideration of gender-related concerns,
- (j) The IPP will identify grievance mechanisms that will be appropriate and acceptable to the indigenous communities.

### **Institutional Arrangements**

The planned Social Assessment will provide outline the existing and relevant institutions and how these can be strengthened. The IPs in the project will have their own youth officers/community development committees whose capacities will be enhanced through the appropriate empowerment tools that will be recommended by the Social Assessment Report.

### **Participatory Monitoring and Evaluation**

Following the Social Assessment and the collection of information on vulnerable/marginalized groups and indigenous people, information will be included in the overall M&E of the project. The implementation of the participatory impact monitoring (PIM) at district and provincial level will be an important element to assist the various structures to fine-tune their intervention with a view to maximize culturally appropriate benefits and provide space for the indigenous peoples' communities to voice their concerns.

The PIM will be based on the data gathered by the screening process/social assessments. The PIM reports at the provincial and district level will be produced before June 30th of every year and then be returned to all vulnerable and indigenous people for feedback. The district PIM reports, the IPP evaluation and the recommendation should be communicated to all stakeholders i.e. World Bank task team and the interested public before October 30<sup>th</sup> every year. Benefits and impact on the vulnerable/marginalized groups and indigenous people will be outlined in the final project impact evaluation.

### **Disclosure**

The OPM will submit the final draft of this IPPF to the World Bank for review and clearance. Once cleared, the OPM will disclose in Kenya in language and form that will be appropriate to the IPs. It will also be disclosed at the World Bank Infoshop. Identified indigenous people will be consulted.

## **Initial Disclosure Comment from Affected/Benefiting Indigenous People**

In fulfillment of the Bank's requirements, the Kenya government organized a disclosure workshop with Indigenous Peoples communities identified during the Bank's screening at the project preparation stage. A report on this disclosure was prepared by David Yator Kiptum , **Executive Coordinator, Sengwer Indigenous Development Project, C/O Sengwer Cultural Centre, Kapolet Forest, Cherangany Hills, P.O. Box 3894-30200, Kitale – Kenya, Email: [sengwer.idp97@gmail.com](mailto:sengwer.idp97@gmail.com) Tel: +254 202350175 Cell phone: +254 726806100/734067087**

### **Introduction**

On 9<sup>th</sup> day of December 2009 68 Indigenous Youth, leaders and elders drawn from Ogiek and Sengwer Indigenous Peoples participated in a Disclosure workshop for the Indigenous Peoples Policy Framework for KYEP at Sengwer Cultural Centre in Kapolet Forest, Cherangany Hills. The participants appreciated the development of the IPPF for KYEP as a programme that will enhance equity and access to development resources by the youth not only from the dominant groups, but also the vulnerable and marginalized Ethnic Minority Hunter-Gatherer Indigenous Peoples (EMHGIP) in Kenya. ***The Ethnic Minority Hunter-Gatherer Indigenous Peoples*** (EMHGIP) who are traditional forest dwellers also referred to as Dorobo include Ogiek, Yiaku, Watta, Boni and Sengwer

### **Geographical distribution**

**Ogiek** are found in Mount Elgon, Kwanza, Trans Nzoia West, Molo, Njoro, Koibatek, Narok and other new administrative districts in Mau Complex; **Sengwer** are distributed in and around Cherangany Hills in West Pokot, Pokot North, Pokot Central, Marakwet East, Marakwet West, Trans Nzoia East, Pokot East, Wareng, Koibatek and Kericho districts. **Yiaku** live in Mogogodo forest in Laikipia North district; **Watta** are spread in Garissa, Marsabit, Tana River and Tana Delta in the Coast; and, **Boni** are found Tana River, Lamu among other districts in Coast province.

### **Acknowledgement for the Kenya Youth Empowerment Project (KYEP)**

After the disclosure the participants ***comprising of indigenous youth, elders and leaders*** fully acknowledged and supported KYEP. Besides, they support the IPPF for KYEP that seeks to involve active and effective participation of indigenous youth in the KYEP as stakeholders and beneficiaries of the project. The community participants fully support the project.

### **Support for IPPF for KYEP**

The EMHGIP from ***Sengwer and Ogiek*** fully support the IPPF for KYEP and ***kindly requests Kenya Government to give KYEP the moral, material, technical and financial support to realize its objectives*** of reducing poverty amongst the youth of Kenya and building their respective capacity through training and educational programmes. Besides, they call upon Kenya Government to

implement the IPPF for KYEP effectively to ensure that Indigenous youth from EMHGIP are equally incorporated in the project.

### **Conclusion**

The participants of the disclosure workshop support the government's role in enhancing the social, cultural and economic status of Indigenous youth in Kenya through Kenya Youth Empowerment Project (KYEP). KYEP and its IPPF should be fully supported

## **9. THE ENVIRONMENTAL AND SOCIAL SCREENING PROCESS**

The procedure for assessing and screening sub-projects is as follows:

- An area will be identified as suitable for a sub-project by the line ministry
- The representative from the Line Ministry will work with the local community chief (or appointed supervisor from the community) in preparing an ESMF Checklist
- If necessary, simple Environmental Management Plan will be prepared
- If the "umbrella" NEMA is not satisfied with the Checklist, a field visit will be made by a NEMA official and the Environmental and Social Field Appraisal form will be completed if the NEMA official determines that necessary mitigation measures have been undertaken.
- Once any suggestions made by NEMA have been enacted, the sub-project can proceed.
- An Annual Report form will be prepared for each region by the Line Ministry involved, detailing the number of projects under their supervision, any environmental or social issues that may have arisen, and any training needs required. The annual report must also specify if adequate occupational health and safety gear was provided including (as necessary) wellington boots, gloves, masks and hard hats.
- Copies of the annual review report should be delivered to NEMA (?) and to the World Bank. NEMA may also want to host national or district workshops to review and discuss the view findings and recommendations.

### **Responsibilities of Line Ministries**

Line ministries will assist communities in planning their subprojects, and preparing their applications, to avoid or minimize adverse environmental and social impacts. This work involves carrying out basic environmental analysis and, where needed, the preparation of Environment Management Plans (EMPs).

**Environmental analysis** entails simply considering the effects of a subproject on the environment. Environmental analysis is especially important early in planning a subproject. This is because many of the best opportunities (e.g. location, site layout and timing) for avoiding or minimizing adverse effects, and for capturing benefits, are most available when subproject plans are still flexible.

Line ministries will use an **ESMF Checklist**, and refer to relevant sections of the ESMF and its annexed **Resources and Participation Sheets** as tools to assist communities include environmental analysis in their subproject planning. The ESMF Checklist is used to ensure that the appropriate environmental management questions are asked and answered. The Resources Sheets covered

information on the environmental concerns associated with different types of subprojects, possible measures to deal with those concerns, and how to determine if the concerns are being addressed. The concerns identified of the resources Sheets indicate the kinds of questions communities should ask in planning and designing their projects.

**The basic steps of environmental analysis are to:**

- Identify and involve the community members with an interest in the subproject (this is likely to be the chief of the local district or estate).
- Identify the key environmental concerns with the sub-project, and ensure the analysis focuses on them.
- Decide how to analyze possible adverse environmental effects and benefits. What methods are useful, relevant, and cost-effective? Is “informed common sense” sufficient or will more technical analyses be needed?
- Determine the information needed for the analyses, collect it and carry out the analyses.
- Identify Mitigation measures to deal with adverse effects, and to capture benefits. This may lead to revising the subproject concept, plan or design.
- If it seems needed, develop an environmental management plan (EMP) for managing the environmental aspects of the sub project during operation.

**Mitigation measures** are subproject signs or elements to avoid, reduce or offset adverse effects. They can have various objectives as listed below in order of priority:

- *Avoidance*: avoid activities that could cause adverse effects, or avoid types of resources or areas that are environmentally sensitive.
- *Prevention*: Prevent adverse effects from happening due to individual activities.
- *Minimization*: Limit or reduce the degree, extent, magnitude, or duration of an adverse effect (e.g. by scaling down, relocating or redesigning part of a subproject or a specific activity)..
- *Rehabilitation*: repair or improve affected resources (e.g. natural habitats, water sources), particularly when earlier development has degraded them.
- *Restoration*: restore affected resources to a more stable and productive condition.

The purpose of environmental analysis is to develop a subproject design and plan that employs mitigation measures, in the order of priority listed above, to address the environmental concerns highlighted by the ESMF Checklist. Avoidance of adverse effects is the first priority, followed by prevention if avoidance is not possible, and so on down the list. When subproject planning is complete, there may well be no identifiable mitigation measures, just a subproject plan that raises no environmental concerns. If there are distinct mitigation measures, they should be specified in an Environmental Management Plan.

**I. Environmental Management Plan (EMP) Guidelines**

When a subproject includes distinct mitigation measures (physical works or management activities), an Environmental Management Plan (EMP) should be included with the subproject application.

**EMP Contents:**

An EMP usually includes the following components:

- Description of adverse effects: The anticipated effects are identified and summarized.
- Description of mitigation measures: Each measure is described with reference to the effects(s) it is intended to deal with. As needed, detailed plans, designs, equipment descriptions, and operating procedures are described.
- Description of monitoring program: Monitoring provides information on the occurrence of environmental effects. It helps identify how well mitigation measures are working, and where better mitigation may be needed. The monitoring program should identify what information will be collected, how, where and how often. It should also indicate at what level of effect there will be a need for further mitigation. How environmental effects are monitored is discussed below.
- Responsibilities: the people, groups, or organizations that will carry out the mitigation and monitoring activities are defined, as well as to whom they report and are responsible. There may be a need to train people to carry out these responsibilities, and to provide them with equipment and supplies.
- Implementation schedule: the timing, frequency and duration of mitigation measures and monitoring are specified in an implementation schedule, and linked to the overall subproject schedule.
- Cost estimates and sources of funds: These are specified for the initial subproject investment and for the mitigation and monitoring activities as a subproject is implemented. Funds to implement the EMP may come from the subproject grant, from the community, or both. Government agencies and NGOs may be able to assist with monitoring.

### **Monitoring Methods:**

Methods for monitoring the implementation of mitigation measures or environmental effects should be as simple as possible, consistent with collecting useful information, so that community members can apply them themselves. For example, they could just be regular observations of subproject activities or sites during construction and then use. Are fences and gates being maintained and properly used around a new water point; does a stream look muddier than it should and, if so, where is the mud coming from and why; are pesticides being properly stored and used? Most observations of inappropriate behavior or adverse effects should lead to common sense solutions. In some cases (e.g. unexplainable increases in illness or declines in fish numbers), there may be a need to require investigation by a technically qualified person.

A sample template for a subproject EMP is attached as Annex 5.

## **10. INSTITUTIONAL FRAMEWORK FOR ENVIRONMENTAL AND SOCIAL MANAGEMENT**

The implementation of the ESMF will require concerted efforts of various institutions with authority to execute ESMF related policy mandates and capacity to manage and monitor the implementation process at local, district, provincial and national levels. In addition, where the capacity is inadequate, training and capacity building program organised and facilitated by the project. Noting that implementers have low technical capacity to efficiently implement the ESMF, technical assistance will be offered to involved communities, services providers and public-sector institutions to support their ESMF implementation work.

## **Institutional Arrangements**

**The overall KYEP project is designed to be** built on the existing structures and will seek to strengthen those rather than create new ones. The project will support the Office of the Prime Minister (OPM) which hosts the secretariat for the KKV. It will strengthen this secretariat and ensure highly dedicated staffs are retrained and those with appropriate skills are retained. During preparation, the World Bank team and GoK representatives will discuss how to best ensure positive civil society participation in project implementation.

**The implementing Line Ministries (proposed)** will be responsible for working with the local community chiefs and/or community supervisors in preparing the initial screening checklists, preparing Environmental Management Plans where necessary, and compiling Annual Reports of sub-projects under their mandate. For the ESMF it is envisioned that the National Environmental Management Agency will be the "umbrella" agency overseeing the screening process, the preparation of Environmental Management Plans (EMPs) for sub-projects where necessary, and participation in general supervision through monitoring of Annual Reports for Line Ministries in each region.

*Table 10.1.1: Line Ministries to be involved in the implementation of the ESMF (TO BE DETERMINED AND CONFIRMED)*

<b>Line Ministries</b>	<b>Role</b>
1. OFFICE OF THE PRIME MINISTER 1.1. Ministry of state for planning, national development and vision twenty thirty	KYEP Coordinating Ministry
2. MINISTRY OF ENVIROMENT AND NATURAL RESOURCES  1.2. National Environmental Authority (NEMA)	ESMF Coordinating Authority
3. MINISTRY OF WATER AND IRRIGATION  1.3. Water Resource Management Authority	ESMF of sub-projects within Water Catchment Conservation and Protection
4. MINISTRY OF YOUTH AND SPORTS	Mainstreaming ESMF within the National Youth Policy and Programmes
5. MINISTRY OF FORESTRY AND WILDLIFE  1.4. Kenya Forest Services	ESMF of sub-projects targeted at forest and wildlife conservancies

1.5. Kenya Wildlife Services	
6. MINISTRY OF ENERGY	ESMF of sub-projects targeted at the upper catchment of hydro-electric project (e.g. Upper Tana) and Geothermal Sites (Naivasha and Nakuru area)
7. MINISTRY OF ROADS	ESMF of sub-projects targeting roads rehabilitation and maintenance
1.6. Kenya Roads Board	
8. MINISTRY OF INFORMATION AND COMMUNICATION	ESMF of sub-projects targeting information and communication activities life digital villages etc
9. MINISTRY OF REGIONAL DEVELOPEMENT AUTHORITIES	ESMF for sub-projects targeting activities undertaken by: ENSDA, KVDA, LABDA, ENNDA, CDA, and TARDA regions
10. MINISTRY OF DEVELOPEMENT OF NORTHERN KENYA AND OTHER ARID LANDS	ESMF for sub-projects targeting semi-arid areas
11. MINISTRY OF SPECIAL PROGRAMMES	ESMF of sub-project droughts, fire, floods, terrorism, technological accidents, diseases and epidemics that disrupt people's livelihoods, destroy the infrastructure, divert planned use of resources, interrupt economic activities and retard development.
12. MINISTRY OF TOURISM	ESMF on sub-projects that affect tourism activities
13. MINISTRY OF AGRICULTURE	ESMF for sub-projects targeting agricultural activities
14. MINISTRY OF LIVESTOCK DEVELOPEMENT	ESMF for sub-projects targeting livestock activities

**Development Partners including Private and Non-governmental Organizations** such as non-governmental organizations in Kenya such as the Youth Enterprise Development Fund (YEDF), and the Kenya National Federation of Jua Kali Associations (KNFJA), Professional Training Institutions.

*Table 10.1.2: Development partners and role in the implementation of an ESMF*

<b>Development Partners</b>	<b>Role in ESMF Implementation</b>	<b>Stakeholders</b>
Private	1. Participate in identifying and involving the community members with an interest in the subproject	KNFJA, YEDF, and other to be selected
NGO's	1. Training and capacity building of youths and local leaders on ESMF methodology	To be selected

	<ol style="list-style-type: none"> <li>2. Work with communities to identify and fill out sub-project applications/proposals by conducting environmental and social analysis. This will be done using a screening checklist in the ESMF, the table on potential environmental and social impacts and mitigation measures, as well as resources sheets</li> <li>3. Support the preparation of simple environmental management plan</li> <li>4. Participate in preparation of Annual Report on the number of projects under supervision, emerging environmental or social issues,</li> <li>5. Participation in national and district workshops to review and discuss the annual findings and recommendations</li> </ol>	
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## **11. CAPACITY BUILDING AND TRAINING REQUIREMENT**

### **Environmental training and sensitization**

In order to ensure proper implementation of environmental and social screening, and mitigation measures, as well as effective project management, the KYEP will undertake an intensive environmental training and institutional capacity building. The objective of the training under the ESMF is to:

- Support representatives and leaders of community groups and associations to prioritize their needs, and to identify, prepare, implement and manage the environmental and social aspects of their sub-projects;
- Support local NGOs and other service providers to act as extension teams to provide technical support (including basic the specific competencies of the ESMF) to communities in preparing their sub-projects; and
- Ensure that local government officials have the capacity to assist communities in preparing their sub-project proposals, and to appraise, approve and supervise implementation of sub-projects.

### **Type of Training to be offered**

Training will target Government, Youths, and development partners with training need assessment undertaken for each group. The youths will receive vocational, life skills and entrepreneurship training with the objective of enabling them to be either employed by the financed KYEP enterprises or to increase their employability with other enterprises or through self-employment. The government will be trained in analytical support to government in key areas relevant to youth and support capacity building of key institutions at both central and decentralized levels. Resources will finance studies in critical youth policy issues, analysis to some labor market issues, and support the institutional capacity of key institutions, like the MoYAS. Training, especially in areas of community participation will be provided to youth officers on the ground. As well, awareness-raising for sub project implementation participants who need to appreciate the Actions for implementation of ESMF will be conducted.

The EMSF will require several actions to run as planned. The main activities will include sub-project preparation, review, approval and supervision. The institutional arrangements delimiting the sub-project actions, roles and responsibilities are provided in the table below.

*Table 10.2.2: Strategic Plans for implementing the ESMF*

<b>Sub-projects Actions</b>	<b>Activities</b>	<b>Roles and responsibilities</b>
1.0Preparation	<ul style="list-style-type: none"> <li>Identify and fill out sub-project applications/proposals by conducting environmental and social analysis.</li> <li>Preparation, where necessary, of a sub-project EMP for specific mitigation measures</li> </ul>	<ul style="list-style-type: none"> <li>Service providers (Contract Services Providers Community based Organisation, Non-government organizations, and extension workers)</li> </ul>
2.0Review	<ul style="list-style-type: none"> <li>Review and vetting of EMP's at local levels and , and submission to KYEP Secretariat</li> </ul>	<ul style="list-style-type: none"> <li>Local review and vetting committee made up of Environmental and Social expert</li> </ul>
3.0Approval	<ul style="list-style-type: none"> <li>Provision of Nation Lead Coordination and ensuring that the results meet the targets set by the project</li> <li>Preparation of an end phase environmental and social progress report</li> </ul>	<ul style="list-style-type: none"> <li>Government: KYEP Secretariat at the Prime Minister Office</li> </ul>
4.0Supervision	<ul style="list-style-type: none"> <li>Monitoring, evaluation of implementation and compliance with the ESMF guidelines and World Bank Operational policies</li> </ul>	<ul style="list-style-type: none"> <li>KYEP Steering Committee</li> <li>World Bank</li> </ul>

### **Technical Assistance for implementation of the ESMF**

Noting that the technical capacity to implement the ESMF is limited, following are the capacity areas will offer to assist communities, service providers and public-sector institutions to implement the ESMF in an effective way:

- Knowledge and Skills for mainstreaming ESMF requirements;
- Capacity for undertaking in environmental and social management at district levels;
- Knowledge on identification of opportunities that contribute to positive impact on natural resource management;
- Knowledge and skills on mainstreaming WB safeguard policies on ESMF in the operational areas;
- Knowledge and skills for optimizing the integration of technical advice with a demand-driven, participatory approach;
- Knowledge and skills on providing advice on relevant environmental laws to communities

## **Budgets for implementation of ESMF**

Table 10.2.4: ESMF Implementation Plan

<b>Action</b>	<b>Activities</b>	<b>MOV</b>	<b>Technical Expertise</b>	<b>Budgets KSH</b>
1. Disclosure on the ESMF	Meetings around the country to local and indigenous People	Reports on community comments from all the country Action plans for	GoK/World Bank	2,000,000
2. Refinement of ESMF	Desk work review, consultations	Harmonization of Kenya EIA/EI/SIA and World Banks	World Bank/Consultant	600,000
3. Finalizing the development of ESMF Institutional Implementation Framework	Consultative meetings at HQ, provincial and district, Division and location, sub-location and villages	Approved and Adopted Final ESMF	GoK/Consultant	1,000,000
4. Training of on the technical operational guidelines	Training of Implementation ESMF steering committee at 5 provinces	Operational Manual for the ESMF	World Bank/Consultant	2,000,000
5. Identification, selection and contracting and commissioning Service providers (Contract Services Providers Community based Organisation, Non-government organizations, and extension workers)	Development of selection criteria, TOR's, tendering, selection, contracting, training on the ESMF operation procedures	Operational Service Providers Operational Reports	GoK/World Bank/Consultant	5,000,000
6. Development of Sub-projects EMP	Engagements of Service providers to support the youth groups in developing Sub-project EMP	Training manual Operational Manual	GoK/Consultant	10,000,000
7. Development of Indigenous People Plan	Regional workshop to develop the IPP	Indigenous Peoples Plans	GoK/Consultant	2,500,00
8. Development of ESMF tools for gathering baseline information, screening sub-projects	Desk work, consultative sessions		GoK/World Bank/Consultant	600,000
9. Training on Participatory	Selection of communities	Training manual	World	5,000,000

approaches to planning, implementation and monitoring implementation ESMF	representative, service providers, extension staffs	Operational manual	Bank/Consultant	
10. Monitoring and Evaluation	KYEP steering team and World Bank M&E team	Annual M&E report on EMSF performance Steering recommendations	GoK/World Bank	5,000,000
TOTAL				31,200,000

# ANNEXES

## **Annex 1:**

### **Small Road works, Water and Sanitation, and Solid Waste Management Projects**

The following activities are prohibited on or near the project site:

1. Cutting of trees for any reason outside the approved construction area;
2. Hunting, fishing;
3. Use of unapproved toxic materials, including lead-based paints, asbestos, etc.;
4. Disturbance of anything with architectural or historical value;
5. Building of fires;
6. Use of firearms (except authorized security guard); and
7. Use of alcohol by workers

#### Waste Management and Erosion

Solid, sanitation, and hazardous wastes must be properly controlled, through the implementation of the following measures:

##### Waste Management

1. Minimize the production of waste that must be treated or eliminated.
2. Identify and classify the type of waste generated. If hazardous wastes (including health care wastes) are generated; proper procedures must be taken regarding their storage, collection, transportation and disposal.
3. Identify and demarcate disposal areas clearly indicating the specific material that can be deposited in each.
4. Control placement of all waste resulting from public works (including earth cuts) to approved disposal sites (>300m from rivers, streams, lakes or wetlands). Dispose in authorized areas all of garbage, metals, used oils, and excess materials generated during works, incorporating recycling systems and the separation of materials.

##### Maintenance

1. Identify and demarcate equipment maintenance area (>15m from rivers streams, lakes or wetlands).
2. Ensure that all equipment maintenance activities, including oil changes, are conducted within demarcated maintenance areas; never dispose spent oils on the ground, in water courses drainage canals or in sewer systems.
3. Identify, demarcated and enforce the use of within-site access routes to limit impact to site vegetation.
4. Install and maintain an adequate drainage system to prevent erosion on the site during and after public works.

### ***Erosion Control***

1. Erect erosion control barriers around perimeter of cuts, disposal pits, and roadways.
2. Spray water on dirt roads, cuts, fill material and stockpiled soil to reduce wind –induced erosion, as needed.
3. Maintain vehicle speeds at or below 10mph within work area at all times

### ***Stockpile and Borrow pits***

1. Identify and demarcate locations for stockpile and borrow pits, ensuring that they are 15 meters away from critical areas such as steep slopes, erosion-prone soils, and areas that drain directly into sensitive water bodies.
2. Limit extraction of material to approved and demarcated borrow pits

### ***Site Cleanup***

1. Establish and enforce daily site clean-up procedures, including maintenance of adequate disposal facilities for works debris

### **Safety during Project Operation**

1. Carefully and clearly mark pedestrian-safe access routes
2. If school children are in the vicinity, include traffic safety personnel to direct traffic during school hours
3. Maintain supply of supplies for traffic signs (including paint, easel, sign material, etc.) road marking, and guard rails to maintain pedestrian safety during construction.
4. Conduct safety training for workers prior to beginning work.
5. Provide personal protective equipment and clothing (goggles, gloves, respirators, dust masks, hard hats, steel-toed and – shanked boots, etc.,) for workers (as necessary) and enforce their use.
6. Ensure that the removal of asbestos-containing material or other toxic substance be performed and disposed of by specially trained workers.
7. During heavy rains or emergencies of any kind, suspend all work.
8. Brace electrical and mechanical to withstand seismic events during works.

### **Nuisance and Dust Control**

To control nuisance and dust:

1. Maintain all project-related traffic at or below 15 mph on streets within 200m of the site
2. Maintain all on-site vehicle speeds at or below 10 mph.
3. To the extent possible, maintain noise levels associated with all machinery and equipment at or below 90 db

4. In sensitive area (including residential neighborhoods, hospitals, rest homes, etc.) more strict measures may need to be implemented to prevent undesirable noise levels.
5. Minimize production of dust and particulate materials at all times, to avoid impacts on surrounding families and businesses, and especially to vulnerable people (children, elders).
6. Phase removal of vegetation to prevent large areas from becoming exposed to wind.
7. Spray water as needed on dirt roads, cut areas and soil stockpiles or fill material.
8. Apply proper measures to minimize disruptions from vibration or noise coming from construction activities.

### **Community Relations**

To enhance adequate community relations:

1. Following the country are EA requirements, inform the population about work schedules, interruption of services, traffic detour routes and provisional bus routes, as appropriate.
2. Limit construction activities at night. When necessary ensure that night work is carefully scheduled and the community is properly informed so they can take necessary measures
3. At least five days in advance of any service interruption (including water, electricity, telephone, and bus routes) the community must be advised through postings as the project site, at bus stops and in affected homes/businesses.

### **Chance Find Procedures for Culturally Significant Artifacts**

In case culturally valuable materials are uncovered during excavations:

1. Stop work immediately following the discovery of any materials with possible archeological, historical, paleontological, or other cultural value, announce findings to project manager and notify relevant authorities;
2. Protect artifacts as well as possible using plastic covers, and implement measures to stabilize the area, if necessary, to properly protect artifacts.
3. Prevent and penalize any unauthorized access to the artifacts
4. Restart construction works only upon the authorization of the relevant authorities.

## Annex 2: Community Forestry

### Scope of projects

Community forestry projects may be undertaken for a variety of reasons including timber and fuel wood production, soil and water conservation, and micro-watershed protection. They may also include tree nurseries or elements of agro-forestry that yield forest products besides wood (e.g. fruits, nuts). They typically involve afforestation and not existing forests. Reforestation, upgrading and management of existing forests and forestry operations are not considered in this resources sheet.

Clearly, such projects can provide substantial economic and environmental benefits. At the same time, if they are not planned and carried out sensitively, they can also create environmental problems, particularly soil erosion and conflicts over land use and the distribution of project benefit.

### Environmental Concerns

#### Human Environment

- Human settlements in or near project site
- Existing land tenure and uses (legal or illegal) (e.g. agriculture, grazing, recreation)
- Common lands
- Sites of cultural, religious or historical importance
- Security of local and traditional livelihood, and cash income generation

#### Natural Environment

Protected species

Protected areas (e.g. watersheds or water basins, nature reserves, parks)

Areas supporting;

- Critical habitats for rare or ecologically important species, or significant biodiversity (e.g. wetlands).
- Commercially or domestically important species (e.g. Fish, locally hunted wildlife)
- Wilderness areas (habitants for indigenous animal species)
- Soil structure, stability, susceptibility to erosion
- Surface water quantity and quality (e.g. streams, rivers, ponds, lakes)

### Annex 3: Example General ESMF Checklist

NAME OF PROJECT

Application Number
-----------------------

**Subproject Name:**

**Subproject Location:**

**Community Representative and Contact Information;**

**Representatives of Line Ministry and contact Information;**

**Site Location:**

When considering the location of a subproject, rate the sensitivity of the proposed site in the following table according to the given criteria. Higher ratings do not necessarily mean that a site is unsuitable. They do indicate a real risk of causing undesirable adverse environmental and social effects, and that more substantial environmental and /or social planning may be required to adequately avoid, mitigate or manage potential effects

Issues	Site Sensitivity			Rating
	Low	Medium	High	
<b>Natural Habitats</b>	No natural habitats of any kind is present	No critical natural habitats; other natural habitats occur	Critical natural habitats present	
<b>Water quality and water resource availability and use</b>	Water flows exceed any existing demand; Expected low intensity of water use conflicts; No potential water quality issues	Medium intensity of water use; Multiple water users; Water quality issues are important	Intensive water use; Multiple water users; High potential conflicts; Water quality issues are important	
<b>Natural hazards vulnerability, floods, soil stability/erosion</b>	Flat terrain; No potential stability/ erosion problems; No known volcanic/ seismic/ flood risks	Medium slopes; Some erosion potential; Medium risk from volcanic/ seismic/ flood hurricanes	Steep slopes; Severe potential soil erosion; Severe volcanic, seismic, flood and hurricanes	
<b>Cultural Property</b>	No known or suspected cultural heritage sites	Suspected cultural heritage sites; Known heritage sites in broader areas of influence	Known heritage sites in project area	

<b>Involuntary resettlement</b>	Low population density; dispersed population; legal tenure is well defined water rights	Medium population density; mixed ownership and land tenure; well-defined water rights	High population density; major towns and villages; low income families and/or illegal ownership of land; communal properties; unclear water rights	
<b>Indigenous Peoples</b>	No indigenous population	Dispersed and mixed indigenous populations; highly accumulated indigenous population	Indigenous territories, reserves and/or lands; vulnerable indigenous populations	

**Completeness of Subproject Applications:**

Does the subproject application document contain, as appropriate, the following information?

		YES	NO	N/A
1	Description of the proposed project and where it is located			
2	Reason for proposing the project			
3	The estimated project cost			
4	Information about how the site was chosen, and what alternative were considered			
5	A map of drawing showing the location and boundary of the project including any land required temporarily during the project			
6	The plan for any physical works (e.g. layout, buildings, other structures, construction materials)			
7	Any new access arrangements or changes to existing road layouts			
8	Any land that needs to be acquired, as well as who owns it, lives on it or has rights to use it			
9	A work program for construction (if any), operation and decommissioning the physical works, as well as any site restoration needed afterwards.			
10	Construction methods (if any)			
11	Resources used in construction (if any) and operation (e.g. materials, Water, energy)			
12	Information about measures included in the subproject plan to avoid or minimize adverse environmental and social impacts			
13	Details of any permits required for the project			

		YES	NO	N/A
<b>A</b>	<b>Type of Activity – Will the subproject:</b>			
1.	Support water supply and sanitation Schemes?			
2.	Build or rehabilitate any road?			

3.	Involve solid waste management?			
4.	Involve Community forestry?			
	<i>If the answer to any of the questions 1-4 is "Yes", please refer to the Annexes for guidance on how to avoid or minimize typical impacts and risks</i>			
<b>B.</b>	<b>Environment – will the subproject:</b>			
5.	Risk causing the contamination of drinking water?			
6.	Cause poor water drainage and increase the risk of water- related disease such as malaria or biharzia?			
7.	Harvest or exploit a significant amount of natural resources such as trees, fuel wood or water?			
8.	Be located within or nearby environmentally sensitive areas (e.g. intact natural forests, mangroves, wetlands) or threatened species?			
9.	Create a risk of increased soil degradation or erosion?			
10.	Create a risk of increasing soil salinity?			
11.	Produce, or increase the production of solid or liquid wastes (e.g. water, medical, and domestic or construction wastes)?			
12.	Affect the quantity or quality of surface waters (e.g. rivers, streams, wetlands), or groundwater (e.g. wells)?			
13.	Result in the production of solid or liquid waste, or result in an increase in waste production, during operation?			
	<i>If the answer to any of questions 5-13 is "Yes" , please include an Environmental Management Plan (EMP) with the subproject application</i>			
<b>C</b>	<b>Land acquisition and access to resources – Will the subproject:</b>			
14.	Require that land (public or private) be acquired (temporarily or permanently) for its development			
15.	Use land that is currently occupied or regularly used for productive purpose (e.g. gardening, farming, pastures, fishing locations, forests			
16.	Displaced individuals, families or businesses?			
17.	Result in the temporary or permanent loss or crops, fruit trees or household infrastructure such as granaries, outside toilets or kitchens?			
18.	Result in the involuntary restriction of access by people to legally designated parks and protected areas?			
	<i>If the answer to any of the questions 14-18 is "Yes", please discuss with Bank/Project Social Specialist and prepare a Resettlement Action Plan (RAP)</i>			
<b>D</b>	<b>Indigenous People – Are there:</b>			
19.	Any indigenous Peoples' groups living within the boundaries of, or nearby, the project?			
20.	Members of these indigenous groups in the area who could benefit from the project?			
	<i>If the answer to questions 19 or 20 is "yes", please discuss with Bank Social Specialist and prepare an Indigenous Peoples Plan (IPP)</i>			

**CERTIFICATION**

We certify that we have thoroughly examined all the potential adverse effects of this subproject. The best of our knowledge, the subproject plan as described in the application and associated planning reports (e.g. EMP, RAP, IPP,) if any, will be adequate to avoid or minimize all the adverse environmental and social impacts.

**Community representative (signature):**

**Representative of line Ministry (signature):**

**Date:**

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**Desk Appraisal by Review Authority:**

**The subproject can be considered for approval.** The application is complete, all significant environmental and social issues are resolved, and no further subproject planning is required.

**A field appraisal is required.**

**Note: A field appraisal must be carried out if the subproject:**

- Needs to acquire land, or an individual or community's access to land or available resources is restricted or lost, or any individual or family is displaced.
- May restrict the use of resources in a park or protected area by people living inside or outside of it
- May affect a protected areas of a critical natural habitat
- May encroach onto an important natural habitat, or have an impact on ecologically sensitive ecosystems (e.g. river, streams, wetlands)
- May adversely affect or benefit a Indigenous People's groups
- Involves, or results in: a) diversion on use of surface waters; b) construction or rehabilitation of latrines, septic or sewage systems; c) production of waste (e.g. slaughter house waste, medical waste) or d) new or rebuilt irrigation or drainage systems; or e) small dams, weirs, reservoirs or water points.

The following issues need to be clarified at the subproject site:

.....  
.....  
.....

A Field Appraisal report will be completed and added to the subproject file.

Name of desk appraisal officer (print):

Signature:

Date:

**Annex 4: Example Environmental and Social Field Appraisal Form**

Name Of Project

Application Number

**Part: Identification**

1. Project Name: (for example “Kilwa Primary School, Rehabilitation”)
2. Project Location: (for example: Ngoro District, Western Kenya”)
3. Reason for Field Appraisal: Summarize the issues from the ESMF Checklist that determined the need for a Field.
4. Date(s) of Field Appraisal:
5. Field Appraisal Officer and Contact Information:
6. Representative of Line Ministry and Contact Information:
7. Community Representative and Contact information:

**Part 2 Description of the Project**

8. Project details: Provide details that are not adequately presented in the subproject application. If needed to clarify subproject details, attach sketches of the subproject component(s) in relation to the community and to existing facilities.

**Part 3: Environmental and Social Issues**

9. Will the project:
  - Need to acquire land? Yes  No
  - Affect an individual or the community’s access to land or available resources? Yes  No
  - Displace or result in the involuntary resettlement of an individual or family? Yes  No

If “Yes”, tick one of the following boxes:

- The Resettlement Action plan (RAP) included in the subproject application is adequate. No further action required
- A RAP must be prepared and approved before the application can be considered further

10. Will the project:
  - Encroach onto an important natural habitat? (Y/N)
  - Negatively affect ecologically sensitive ecosystems?

If “Yes”, tick one of the following boxes:

- The Environmental Management Plan (EMP) included in the subproject application is adequate. No further action required.
- The EMP included in the subproject application must be improved before the application can be considered further.

An EMP must be prepared and approved before the application can be considered further.

11. Are there indigenous people living in the subproject area that could benefit from, or be adversely affected by, the subproject? Yes  No

If “Yes”, tick one of the following boxes:

The Indigenous People Plan (IPP) included in the subproject application is adequate. No further action required.

The IPP included in the subproject application must be improved before the application can be considered further.

12. Will this project involve or introduce pesticides? Yes  No

**If “Yes” tick one of the following boxes:**

The Pest management Plan (PMP) included in the subproject application is adequate. No further action is required.

The PMP must be prepared and approved before the application can be considered further.

A PMP must be prepared and approved before the application can be considered further.

13. Will this project involve or result in

Diversion or use of surface waters? Yes  No

Construction and/or rehabilitation of latrines, septic or sewage systems? Yes  No

Production of waste (e.g. slaughterhouse waste, medical waste, etc.) Yes  No

New or rebuilt irrigation or drainage systems? Yes  No

**If “Yes”, tick one of the following boxes:**

The application describes suitable measures for managing the potential adverse environmental effects of these activities. No further action required.

The application does not describe suitable measures for managing the potential adverse environmental effects of these activities. An environmental Management Plan must be prepared and approved before the application is considered further.

The resettlement Action Plan (RAP) included in the subproject application is adequate. No further action required.

The RAP included in the subproject application must be improved before the application can be considered further.

A RAP must be prepared and approved before the application can be considered further.

14. Are there any other environmental or social issues that have not been adequately addressed?

If "Yes", summarize them:

.....  
.....

**..and tick one of the following boxes:**

Before it is considered further, the application needs to be amended to include suitable measures for addressing these environmental or social issues.

An Environmental Management Plan needs to be prepared and approved before the application is considered further.

**Part 4: Field Appraisal Decision**

The subproject can be considered for approval.

Based on a site visit and consultations with both interested and affected parties, the field appraisal determined that the community and its proposed project adequately address environmental and/or social issues as required by the Project's ESMF.

Further subproject preparation work is required before the application can be considered further.

The field appraisal has identified environmental and/or social issues that have not been adequately addressed. The following work needs to be undertaken before further consideration of the application:

.....  
.....  
.....

All required documentation such as an amended application, EMP, RAP, and IPDP or PMP will be added to the subproject file before the subproject is considered further.

Name of field appraisal officer (print):

Signature..... Date:

## Annex 5: Environmental Management Plan

### A. Mitigation

Subproject Activity (refer to Table 2.2 in the Manual)	Potential Environmental and Social Impacts	Proposed Mitigation measure(s) (Inc. legislation & regulations)	Institutional Responsibilities (Incl. enforcement & coordination)	Cost Estimates	Comments (e.g. secondary impacts)
Pre-Construction Phase					
Construction Phase					
Operation and maintenance Phase					

## B. Monitoring

Proposed Mitigation Measure	Parameters To be Monitored	Location	Measurements (Incl. methods & equipment)	Frequency Of Measurement	Responsibilities (Incl. Review and reporting)	Cost (equipment & individuals)
Pre-Construction Phase						
Construction Phase						
Operation and maintenance Phase						
Total Cost For all Phases						