



# **Community Engagement and Planning Framework for Voluntary Access Restrictions**

LLF ESMS Annex M

---

## CONTENTS

<b>1.</b>	<b>INTRODUCTION .....</b>	<b>1</b>
1.1	Purpose .....	2
1.2	Objective.....	2
<b>2.</b>	<b>APPLICABLE STANDARDS .....</b>	<b>2</b>
<b>3.</b>	<b>KEY DEFINITIONS.....</b>	<b>3</b>
<b>4.</b>	<b>COMMUNITY BASED NATURAL RESOURCE MANAGEMENT APPROACH.....</b>	<b>4</b>
4.1	CBNRM Approach Overview .....	4
4.2	Risks of CBNRM Approaches.....	5
<b>5.</b>	<b>DEVELOPING COMMUNITY ENGAGEMENT AND PLANNING FRAMEWORK FOR VOLUNTARY ACCESS AND USE RESTRICTIONS .....</b>	<b>6</b>
5.1	When to develop CEPF? .....	6
5.2	Roles and Responsibilities.....	6
5.3	Guiding Principles for CEPF Development .....	7
5.4	CEPF Key Elements .....	8
5.4.1	Methodology and Program Background.....	9
5.4.2	Preliminary Assessment of Baseline Conditions .....	9
5.4.3	Preliminary Impact Assessment.....	10
5.4.4	Risk Avoidance and Mitigation .....	10
5.4.5	Compensation and Restoration .....	10
5.4.6	Communication and Negotiation Process .....	11
5.4.7	Grievance Management.....	11
5.4.8	Implementation .....	11
5.4.9	Monitoring, Reporting and Evaluation.....	11
5.5	CEPF Optional Requirements.....	12
5.5.1	Addressing Legacy Issues .....	12
5.5.2	Land Tenure Security Agreements .....	12
5.5.3	Requirements on Voluntary Land Donations (VLD) .....	13
5.5.4	FPIC Guidelines.....	14

## ACRONYMS AND ABBREVIATIONS

Name	Description
CBNRM	Community-Based Natural Resource Management
CCAs	Community Conservation Agreements
CEPF	Community Engagement and Planning Framework
E&S	Environmental and Social
ESMS	Environmental and Social Management System
FPIC	Free Prior and Informed Consent
LAP	Land Acquisition Plan
LL	Legacy Landscapes
LLF	Legacy Landscapes Fund
MoU	Memorandum of Understanding
PAPs	Program Affected People
SEP	Stakeholder Engagement Plan
VFMPs	Village Forestry Management Plans
VLD	Voluntary Land Donations
WB ESS	World Bank Environmental and Social Standards

## DOCUMENT HISTORY

Version	Revision	Prepared by	Reviewed by	Approved by	Date	Comments

## 1. INTRODUCTION

In many legacy landscapes (LL) there are strict regulations imposed by government or park authorities about who can access and use land areas within the park or conservation area. Those rules often result in involuntary access and use restrictions<sup>1</sup>. However, in many cases access and use restrictions may also come voluntarily and the approach of community-based management of land and natural resources can be regarded on the other end of the conservation spectrum.

Community-based natural resource management (CBNRM) can come in many forms, for example as co-management arrangements within PA-boundaries or in PA-buffer zones, or fully collaborative forest management or fish catchment management where communities enter into official agreements (sometimes even formalized land tenure titles) with authorities over the use and exploitation of certain resources. Despite its diversity in form and function, one common feature is that CBNRM is by definition a people-centered approach to conservation. CBNRM recognizes the role and traditional knowledge of local communities who live in and depend for their livelihoods on the natural resources around them and, thereby, places them at the centre of the management approach.

As such, CBNRM projects will not impose involuntary restrictions of access to land and/or natural resources or acquire land under eminent domain. Instead, in these kinds of projects restrictions on land use and access to natural resources will be decided at community level as a result of a participatory consultation process and without imposition of changes from external actors.

Thus, CBNRM projects in a strict sense do not fall under purview of WB ESS 5.

While certainly a promising avenue to conservation, CBNRM approaches should not be considered a panacea to achieve “double sustainability” for people and environment. This is on the one hand because community-based conservation approaches may not be applicable in certain situations where rigid law enforcement and involuntary access and use restrictions would be required. On the other hand, empirical evidence from CBNRM projects throughout the world illustrate that these types of projects do not come without risks and that care must be taken to confirm that restrictions are genuinely voluntary as well as legitimate, rights are protected and distributional and procedural justice is ensured.

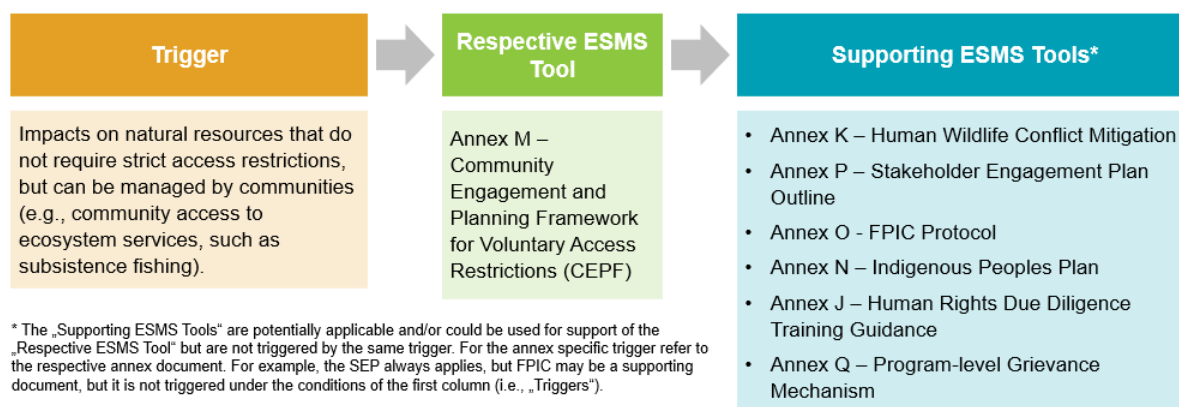
This document provides guidance on the development of a community engagement and planning framework for voluntary access and use restrictions (CEPF), which should be developed for legacy landscapes (LL) programs that incorporate CBNRM components. Such CBNRM measures might involve access and use restrictions on natural resources, however, when agreed via a community-based decision-making process such restrictions are voluntary. Despite their voluntary nature, there should be processes and procedures in place, in order to regulate CBNRM actions and ensure, that the rights of all community members, especially of vulnerable and marginalized groups are upheld. This will be best guaranteed by the grantee providing a framework document that will guide CBNRM projects within LL.

**Note:** This document provides a guidance that are aligned with the applicable standards listed in LLF ESMS manual. In all cases, the grantee and/or the party developing a community engagement and planning framework for voluntary access and use restrictions (CEPF) must comply with the local/national requirements; then, the guidance provided in this document (including the other recommended publications) should be utilized to determine how to align the LL program with the applicable standards. If the LL program (or the grantee organization) already have similar framework and/or templates developed and/or currently implemented, the grantee should conduct the gap analysis exercise between the existing framework and/or template and this LLF guidance. The identified gaps should be closed following the rule – stricter applies.

The requirement to develop the CEPF might be stated in the environmental and social action plan (ESAP) that is part of the grant agreement between the grantee and LLF. Alternatively, such

<sup>1</sup> For further information on involuntary access or use restrictions please refer to the LLF ESMS documents, [Annex L – Process Framework for Involuntary Access and Use Restrictions](#).

requirement will be triggered by legacy landscape (LL) program activity during the lifecycle of the LL program.



Comments
<p>CBNRM components in programs take a people-centered approach to conservation and incorporates traditions and knowledge of local communities into a locally-led conservation management process, therefore relevant stakeholders need to be identified and included in the process (SEP).</p> <p>For cases involving indigenous people that will trigger FPIC, there should be a section describing how the CEPF will incorporate applicable standards regarding FPIC and involvement of indigenous people (IPP).</p> <p>Insights from human wildlife conflict (HWC) management suggest, that HWC mitigation measures are more efficiently, if there is co-ownership of local communities, therefore CBNRM components should be integrated in HWC management strategies.</p> <p>CEPF requires a preliminary impact assessment using a risk assessment matrix that is referred to in the HRDD training guidance.</p> <p>The grievance mechanism should clearly describe, how it will account for indigenous people’s customary laws and dispute resolution processes, as well as the effective capacity of indigenous peoples under national laws to denounce violations and secure remedies for the same in domestic courts and administrative processes.</p>

## 1.1 Purpose

The purpose of this guidance document is to serve to the grantee during the development of the CEPF for the LL programs with CBNRM components<sup>2</sup>. The CEPF and the environmental and social (E&S) requirements contained herein, need to be translated by the grantee into practical concrete actions through a systematic and participatory process in order to ensure that all program beneficiaries are consulted on, and meaningfully participate in, the LL program design and implementation, especially if recommended and/or required by the program environmental and social action plan (ESAP).

## 1.2 Objective

The CEPF aims to provide a framework for stakeholder and community engagement for LL programs that do not have involuntary access restrictions, but still have some form of potential E&S risks and impacts. Furthermore, the objective of the CEPF is to ensure that all program beneficiaries are consulted on, and meaningfully participate in, program design and implementation. Participating communities will play a key role in defining management and mitigation actions which may be needed to address any negative impacts that could arise from program-supported interventions, including changes in access to and use of natural resources in the protected area (PA).

## 2. APPLICABLE STANDARDS

The full list of the applicable standards for developing the CEPF is indicated in the LLF ESMS manual document. However, it should be noted that, while the World Bank ESS (2017) explicitly state their

<sup>2</sup> Such components might be amongst other community-based land use plans or community conservation agreements (CAA).

non-application to access restrictions regarding natural resources under CBNRM projects, this is only the case under the precondition that

*“an assessment satisfactory to the Bank establishes that the community decision-making process is adequate and reflects voluntary, informed consensus, and that appropriate measures have been agreed and put in place to mitigate adverse impacts, if any, on the vulnerable members of the community.”<sup>3</sup>*

Under consideration of Footnote 9 an “assessment satisfactory to the Bank” should ensure that any form of community engagement is compliant with the basic principles of ESS 10 and that cases involving indigenous people, the procedural requirements for establishing FPIC in accordance with ESS 7 are respected. Furthermore, the provision in Footnote 9 entails substantial elements of ESS 5 in regards to a process framework and shall safeguard that appropriate measures are foreseen to mitigate, compensate and/or restore adverse impacts on vulnerable community members and in particular on individuals that would disproportionately suffer from any livelihood losses.

Hence, the assessment necessary to ensure compliance with this requirement has to fulfil two conditions:

- The use of an adequate community decision-making process based on voluntary, informed consensus; and
- The adoption of appropriate measures to mitigate adverse impacts on vulnerable community members and in particular on program affected persons(PAPs) that would disproportionately suffer from livelihood losses.

### 3. KEY DEFINITIONS

Table 3-1 below elaborates on key terms used in this CEPF guidance note:

**Table 3-1 Key Terms**

Term	Definition
<b>Access Restriction</b>	In the context of conservation, limiting or eliminating people’s access to land, water or other natural resources within a protected area or reserve, whether for non-local stakeholders who used the area to vacation or transit through, or for local stakeholders who resided within the area or maintained livelihood activities within the area prior to the implementation of restrictions.
<b>Area of Influence</b>	The area within which program’s activities have the potential to create E&S changes, including the: <ul style="list-style-type: none"> <li>■ Zone of direct impact, an area, often demarcated by a LL boundary, where land access restrictions will be in place and enforced, and where program facilities may be constructed.</li> <li>■ Zone or zones of indirect impact, areas where stakeholders affected by a program’s reside, work or farm, including areas that experience economic growth, increased traffic or influx as a result of program’ activities.</li> </ul>
<b>Community</b>	Usually defined as a group of individuals broader than the household, who identify themselves as a common unit due to recognized social, religious, economic, or traditional government ties, or through a shared locality

<sup>3</sup> See WB ESS 5 Footnote 9

Term	Definition
<b>Free, Prior and Informed Consent</b>	Free, prior and informed consent (FPIC) is a collective human right of Indigenous Peoples <sup>4</sup> to give or withhold their consent prior to the commencement of any activity that may affect their rights, land, resources, territories, livelihoods, and food security. This right is exercised through representatives of their own choosing and in a manner consistent with their own customs, values, and norms. FPIC exists to promote, protect, and safeguard the full enjoyment and exercise of numerous underlying, fundamental human rights, including the rights to property, culture, and self-determination <sup>5</sup> .
<b>Grantee</b>	A NGO(-s) and/or party that is in contractual agreement with LLF and receiving grant funds through the Grant Agreement.
<b>Host Community</b>	People living in or around areas to which people physically displaced by a program will be resettled who, in turn, may be affected by the resettlement and must be compensated for any resettlement-related impacts
<b>Land Access or Land Acquisition</b>	The processes by which a program acquires land from affected individuals or households in exchange for compensation at replacement value.
<b>Legacy Landscape Program/Program activity</b>	All activities <sup>6</sup> related to the legacy landscape and/or stakeholders that are planned, implemented and/or supervised by the grantee and/or their contractor.
<b>Legacy Landscape Staff</b>	All staff related to the legacy landscape program and/or program activity development and implementation (e.g., grantee, contractors, park management, etc.)
<b>Program Affected Persons (PAPs)</b>	Any person experiencing loss of asset, access to income whether of a temporary or permanent nature due to the land acquisition process regardless of whether they are physically displaced or relocated or not
<b>Stakeholders</b>	Any and all individuals, groups, organizations, and institutions interested in and potentially affected by a program or having the ability to influence a program.
<b>Vulnerable People and Groups</b>	Those who are less able to access a program benefits and / or more likely to experience adverse impacts from a program's activities as a result of a given status, which may stem from their ethnicity, color, gender, sexual identity, language, religion, political or other opinion, national or social origin, property, birth or perceived social status

## 4. COMMUNITY BASED NATURAL RESOURCE MANAGEMENT APPROACH

### 4.1 CBNRM Approach Overview

In many national parks, protected or conservation areas there are strict regulations imposed by government or park authorities about who can access and use land areas within the park or conservation area. Those rules often result in involuntary access and use restrictions (for further information on involuntary access or use restrictions please refer to the LLF ESMS documents, [Annex L – Process Framework for Involuntary Access and Use Restriction](#)). Another approach

<sup>4</sup> [The LLF follows WB standard definition of IP \(compare also FPIC guidance note\) and requires the application of FPIC as defined per ESS 7. As best practice and also to avoid potential conflicts in communities where indigenous and non-indigenous people live in mixed settings, programs might and are encouraged to adopt FPIC to those mixed communities, as well as to other local communities and vulnerable groups affected by the program.](#)

<sup>5</sup> For further elaboration on definitions and explanations of IP/LC: Accountability Framework Initiative. Operational Guidance on Free, Prior and Informed Consent. Accountability Framework, 2019.

<sup>6</sup> The CEPF shall cover not only LLF funded activities for the program, but all activities in the program specific legacy landscape and surroundings.

with the overall aim of environmental conservation is CBNRM components in programs, which take a people-centred approach to conservation and incorporates traditions and knowledge of local communities into a locally-led conservation management process.

Such approaches can take various forms, such as:

- Co-management arrangements within protected area boundaries or buffer zones;
- Official agreement with government authorities over resource use and exploitation;
- Village forestry management plans (VFMPs);
- Community conservation agreements (CCAs);
- Designation of new protected or conserved areas or status change.

In such approaches, there will be no involuntary access and use restrictions but rather voluntary restrictions regarding resource access and use that are decided upon by local communities and/or indigenous communities in a participatory process and without the interference of external actors. This means that CBNRM programs in a strict sense do not fall under the scope of WB ESS5. Nonetheless, chapter 2 provides a justification and assess the applicable standards that are relevant for CBNRM programs.

CBNRM programs are a promising approach to conservation, since they enable the preservation of traditional conservation methods and involve local communities by making-them part of the decision-making and implementation process. Furthermore, insights from human-wildlife conflict (HWC) management suggest, that HWC mitigation measures are more efficiently, if there is co-ownership of local communities, who play an essential part in finding mitigation measures that work, implementing mitigation strategies and contribute to effective monitoring and evaluation (for further information, please refer to the LLF ESMS documents, [Annex K – Human Wildlife Conflict Mitigation](#)). Furthermore, conservation approaches involving local communities are likely to have higher community acceptance, given that risks stemming from a community-based approach are effectively controlled and mitigated. Additionally, there is increasing evidence of effective community based and indigenous management.

Lastly, it should be noted, that CBNRM is not always a suitable approach, since in some cases strict access and use restrictions might be the only possible way of conserving nature effectively. Therefore, prior to making a choice of which approach to take with the overall aim of conserving the LL, it should be carefully assessed, whether CBNRM is a feasible option.

## 4.2 Risks of CBNRM Approaches

As abovementioned, CBNRM approaches potentially could have inherent risks. Some of the most important factors that could lead to problems are as follows:

- **External Coercion:** In many occasions CBNRM approaches will need the initiation of an external actor (e.g., government, or park management). Therefore, such initiation needs to be conducted carefully, in order to assure that the LL program using a CBNRM approach is indeed suggested to and not forced upon the community. It should be noted that such an imposition of the LL program can be also done unconsciously. Any imposed programs/approaches entail the risk of not adequately reflecting the actual community needs, traditions, knowledge etc. and therewith, leading to seemingly community-originated approaches that are however, not reflecting the community's needs nor have their broad support.
- **Elite Control:** If the CBNRM process is not substantially community-led, but rather controlled by community representatives or elites, there is the potential for dominance and corruption of community-level planning and governance. The LL program decisions are then at risk of being controlled by a small group and economic benefits might be allocated disproportionately to the disadvantage or the wider community.



- **Social Exclusion:** Vulnerable community members are at risk of being excluded from the community-based decision-making process. In many cases community leaders are men and decisions at community levels are male-dominated or age dominated. Other marginalized groups might be indigenous groups that are living apart from the mainstream local communities. This exclusion may also affect underrepresented IPLC groups or be the result of exclusion for political reasons.
- **Uncontacted IP groups:** The program shall ensure that uncontacted groups remain in self-isolation and are not forced to endure contact. Their living areas should be excluded from all sorts of program activities.

Since those risks might lead to the corruption of the efficiency of CBNRM approaches, there is the need to regulate community-based approaches to natural resource management, in order to minimize possible risks to the greatest extent possible. In order to regulate possible risks, the LL programs should develop a community engagement and planning process that will regulate access and use restrictions imposed by CBNRM approaches. The following sections of this guidance note will further elaborate on the framework for establishing, implementing and monitoring a community engagement and planning process.

## 5. DEVELOPING COMMUNITY ENGAGEMENT AND PLANNING FRAMEWORK FOR VOLUNTARY ACCESS AND USE RESTRICTIONS

### 5.1 When to develop CEPF?

CBNRM solutions should be considered when there is an impact on local, traditional and/or indigenous communities that will affect their natural resource-based livelihoods. However, the application of such approaches is very context dependent and may not be applicable in certain situations where rigid law enforcement and involuntary access and use restrictions would be required (e.g., in conflict zones). Nevertheless, the two approaches involuntary and voluntary access restriction can happen in the same area (e.g., the case of special use zone or community managed zone within strictly protected areas)<sup>7</sup>. Furthermore, in case only IP are affected, the CBNRM approach might be included into an indigenous peoples plan (IPP)<sup>8</sup>. In this case, a separate CEPF might not be necessary.

### 5.2 Roles and Responsibilities

Before initiating a CBNRM program, it is important to assign relevant roles and responsibilities, to avoid intimidation and corruption of the process. All engagement and planning processes should be led by a neutral third party that is sufficiently trained and experienced in participatory community engagement procedures, and that remains involved throughout program implementation of the LL program (or the relevant sub-program/part that involved CBNRM). If indigenous people are affected by the LL program, the independent third party should be experienced in FPIC facilitation.

In addition to an external facilitator the grantee should train a designated person with knowledge of CBNRM, that will be responsible to coordinate the CBNRM program process in close cooperation with the third party facilitators (if applicable/required), local project management, and relevant other authorities.

---

<sup>7</sup> Refer to LLF ESMS document [Annex L – Process Framework for Involuntary Access and Use Restrictions](#)

<sup>8</sup> Refer to LLF ESMS document [Annex N – Indigenous Peoples Plan](#)

### 5.3 Guiding Principles for CEPF Development

In order to ensure the cultural appropriateness of the applied engagement and planning processes the CEPF should build as much as possible on the existing local institutional settings and procedures in place, while at the same time adhering to the following guiding principles:

- **Non-implementation in dispute and conflict zones:** The LL program will not be implemented in areas under territorial land disputes or conflict or where community consent to participate in the program cannot be established as part of the “first contact” and program introduction;
- **Good Faith Negotiations:** All communities/villages will be approached in the spirit of honest and constructive collaboration, have the rationale for the LL program, its purpose, activities, potential benefits and potential losses clearly explained and are given the right to consent or withdraw at any time and in every stage of the program;
- **Established Local Institutions and Procedures:** The engagement, planning and decision-making process, as well as institutional arrangements for grievance redress, will aim to work through established local institutions and procedures at the village, district and state levels, as applicable, and augment these only to ensure the full inclusion of all relevant community members;
- **Early Engagement:** Communication will begin early in the LL program preparation stage, occur regularly throughout the program cycle in a consistent and transparent manner and allow for the timely disclosure of relevant information and comprehensive discussion of social and environmental impacts;
- **Documentation:** Consultation shall be well-documented, adequately resourced, capture stakeholder views to inform decision about the LL program (i.e., two-way communication) and allow adequate time for community decision-making;
- **Vulnerable Groups:** Engagement preparation shall take into consideration issues of gender equity, illiteracy, disability, ethnicity and socially excluded groups to ensure that dialogue is inclusive, tailored to meet the needs of vulnerable persons and carried out in the appropriate language(s) and methods to ensure an adequate understanding of the activity is achieved;
- **Inclusion:** All community members, disregarding whether they are belonging to an indigenous or ethnic minority group or not, will be fully included in the engagement process, including land tenure mapping, baseline survey, design of livelihood measures, to seek their consent and are eligible for the same risk management (mitigation, compensation and/or restoration), as applicable;
- **Holistic Understanding of Potential Impacts:** Potential impacts on all groups in the LL programs’ area of influence (Aoi) are perceived completely (e.g., the loss of access to natural resources, and associated loss of income, that could arise from improved protected area law enforcement, human wildlife conflicts, perception of unfair treatment, unclear eligibility criteria or potential discrimination of certain groups all of which might fuel social conflicts etc.);
- **Avoidance of Resettlement:** Compulsory acquisition of land or the physical resettlement of people through eminent domain will not be undertaken and allocation of small private land plots for livelihood activities or other infrastructure developments will be done either through offering alternate replacement land, compensation at full replacement cost or through voluntary land donations by the community or individual members as in line with the respective requirements for land donations by ESS 5;
- **Collective Agreement:** All restrictions caused by the LL program activities regarding access to natural resources and conversion of environmentally adverse land use practices will only be taken up if a collective agreement and/or voluntary land contributions has been established by a community in a participatory manner and based on the consent of communities;

- **Eligibility Criteria Approval:** Eligibility criteria to be considered for the risk management and for receiving program benefits are approved by all affected groups, including marginalized groups and all villages as well as the individuals that are to be significantly impacted by restrictions of access to natural resources within the program’s domain;
- **Avoidance of Adverse Impacts:** All adverse impacts on livelihoods – especially when they are significant and/or if they fall on vulnerable community members, will need to be avoided and if avoidance cannot be achieved they will be mitigated, compensated (as required for lost assets or structures) and restored through appropriate measures to be negotiated and agreed with the communities;
- **Inclusion of External PAPs:** User groups who are not members of participating communities, but are using the affected lands or will be affected by potential down-stream effects, will need to be identified through stakeholder analysis and impact mapping. These groups and individuals should also be considered as program affected persons and targeted with appropriate measures so that their livelihoods are not adversely impacted;
- **Community-based MRE:** Monitoring, Reporting and Evaluation (MRE) will be conducted with the communities to ascertain that agreements are hold up and the collectively decided approach to risk management is adhered to, incl. fulfilment of any mitigation, compensation or restoration of adverse impacts, with particular focus on the most vulnerable and most affected community members.

## 5.4 CEPF Key Elements

Given the above information on CBNRM approaches and applicable provisions to such approaches contained in the WB ESS, the following sections will further elaborate on necessary steps and components for the establishment of a community and engagement framework (CEPF) for voluntary access and use restrictions imposed by CBNRM programs in LLF funded LL programs. Figure 5-1 below presents nine key steps in the development of a CEPF that are further elaborated in the following sections.



**Figure 5-1 CEPF Key Elements**

### 5.4.1 Methodology and Program Background

As a first step, there should be an overview of steps taken to develop the CEPF based on desktop research, lessons learned from other programs and especially outline all stakeholder engagement activities that were conducted on the ground to inform the document, as well as relevant information from the program environmental and social due diligence process (ESDD). As pointed out in section 5.1 when it is evident that the grantee could have the potential for CBNRM program-components, a trained third party expert should be involved in the engagement process as early as possible. In addition to that, a brief program description, including background and objectives, as well as program components and activities that may involve new or more stringent restrictions on natural resource use should be provided early in the document to set the scene.

### 5.4.2 Preliminary Assessment of Baseline Conditions

The social, cultural and ecological context should be elaborated on in a consecutive section, including community profiles of affected communities. The community profiles should be developed from a rapid socio-economic survey for each selected community and shall cover, but is not limited to, the following aspects:

- Identification of PAPs and other relevant stakeholders (see LLF ESMS documents, [Annex P – Stakeholder Engagement Plan Outline](#));
- The cultural, socio-economic setting and the characteristics of PAP households, incl. demographics:
- The types and extent of community use of natural resources, key local economy and subsistence activities as well as livelihood patterns, level of PAPs' dependency on natural resources, customary tenure, boundaries, access rights, including the resources and lands that may be affected by access and use restrictions, the stakeholders' dependency (sensitivity) on these for their livelihoods as well as existing coping strategies (adaptive capacities);
- The village boundaries, customary territories and customary use rights;
- Review of existing regulatory, and policy regimes, as well as local customary procedures;
- Local governance structures, including decision-making on natural resources, with focus on PAPs;
- Challenges and trends that could endanger the sustainability of the respective program, including the threats to and impacts on the biodiversity from various activities in the area;
- Areas and/or resources under dispute (intra-, inter-communal and transboundary) as well as root cause analysis.

Furthermore, international requirements should be reviewed and how they will be implemented under the CEPF. This should be followed by a gap analysis to establish divergences between national legislation and requirements of the relevant applicable standards and respective suggestions how to bridge those gaps. If possible, data should be disaggregated (e.g., gender, age, or socio-economic status, and focus on groups that would be particularly affected by access and use restrictions).

In case indigenous peoples customary communities or ethnic minorities are present in the program AoI, there should be a section elaborating on the following:

- Description of the community or communities constituting the affected peoples (e.g., names, ethnicities, dialects, estimated numbers, etc.);
- Description of the resources, lands and territories to be affected and the affected peoples' connections/relationship with those resources, lands and territories; and
- Identification of any vulnerable groups within the affected peoples (e.g., uncontacted and voluntary isolated peoples, women and girls, disabled and elderly, etc.)

### 5.4.3 Preliminary Impact Assessment

The CEPF should then give an outline of potential positive and negative impacts resulting from restrictions of access to natural resources and of environmentally adverse land use practices and associated loss of income and livelihoods, which could arise from the grantee LL program activities. Arising risks should be assessed using a risk matrix assessment as presented below, that will allocate risks according to their significance. Risk scoring is dependent on the two primary dimensions of risk assessment which are severity of risks and impacts, as well as likelihood of occurrence. Each impact should be assessed and rated according to one of the five levels, of impact and risk severity (insignificant to severe) and likelihood of occurrence (rare to almost certain).

The highest level of severity (severe), for example would be assessed, if the impacts will be grave, impacting core human rights such as the right to life or health (scale), many people will be affected (scope) and there is a low chance to restore people impacted to a situation that is equivalent or better than before the impact (remedy). The final risk score (from very low to extreme) will help setting and prioritize certain high-risk areas.

		Severity of Risk and Impact				
		Insignificant	Minor	Significant	Major	Severe
Likelihood of Occurrence	Almost Certain	Medium	High	Very High	Extreme	Extreme
	Likely	Medium	Medium	High	Very High	Extreme
	Moderate	Low	Medium	Medium	High	Very High
	Unlikely	Very Low	Low	Medium	Medium	High
	Rare	Very Low	Very Low	Low	Medium	Medium

Figure 5-2 Risk Assessment Matrix

### 5.4.4 Risk Avoidance and Mitigation

After risks have been assessed and prioritized according to their significance, the results provide the required entry points for the respective risk management strategy to limit the identified risks as far as possible and by following the mitigation hierarchy. As a priority the CEPF shall describe the measures foreseen to avoid and mitigate unavoidable impacts to acceptable levels. Furthermore, there should be an entitlement matrix be developed for compensation measures.

### 5.4.5 Compensation and Restoration

Any risks beyond an acceptable level needs to be compensated and restored. Therefore, the CEPF should set out eligibility criteria for entitlement to livelihood restoration and compensation measures. It is important to set a cut-off date and communicate this date clearly to all relevant stakeholders and interested parties having a legitimate interest in the LL program. After the set cut-off date, there will be no eligibility to make further claims for compensation measures.

According to WB ESS, “*legitimate interest*” can be hold by displaced people, households, and communities with:

- Formal legal ownership and use rights recognized under national law;
- Informal or customary ownership and use rights recognized under national law;
- No recognizable legal right or claim to assets used as part of livelihood formation;

Based on eligibility of PAPs the CEPF will then establish the respective compensation and restoration measures in form of an entitlement matrix presented in Table 5-1 below.

**Table 5-1 Entitlement Matrix Template**

<b>Eligibility Criteria and Entitlements for Compensation and Livelihood Restoration</b>					
Eligibility criteria and category of PAP	Main Impacts	Loss category	Entitled person	Compensation entitlements according to National Law	Proposed compensation and livelihood assistance entitlement as top-ups for compliance with the Relevant international Standards

#### **5.4.6 Communication and Negotiation Process**

The core part of the CEPF should describe the process how groups or communities will be involved in determining, preparing and approving land use plans, access and use restrictions as well as the corresponding measures for livelihood restoration to mitigate economic displacement impacts. If possible, the CEPF could present this process in a flow chart or diagram and other culturally sensitive ways. Each planned step in community engagement should be described with respective communication approaches and target groups.

#### **5.4.7 Grievance Management**

Addressing grievances is an important aspect and should be incorporated in the CEPF. There should be a section describing the procedures available within the community or procedures that will be established for the purpose of the CEPF to address grievances brought by the affected people arising from the LL program implementation. The grievance mechanism should clearly describe, how it will account for indigenous people’s customary laws and dispute resolution processes, as well as the effective capacity of indigenous peoples under national laws to denounce violations and secure remedies for the same in domestic courts and administrative processes (refer to LLF ESMS documents, **Annex Q – Program-level Grievance and Feedback Mechanism**). Furthermore, available remedies and how they will be implemented shall be described. If feasible, grievances considering the CEPF can be submitted via the general program-level GM.

#### **5.4.8 Implementation**

After the communication and negotiation process and setting up an efficient grievance mechanism the steps for implementing the outcomes of the CEPF process should be described at the village-level. Administrative and financial responsibilities should be established and described in this section. The roles and responsibilities concerning the LL program implementation of different stakeholders should be outlined and if possible, presented in a flowchart. Also, any recommendations for capacity building for the implementation of the CEPF should be included in this section.

Another important factor is accounting for costs and budget for the implementation of the CEPF. Financing sources must be clarified and verified during the programs planning process. There should be enough budget calculated to account for measures stipulated by the entitlement matrix and allocate sufficient resources for implementing such measures. When negative impacts on livelihoods can be anticipated there should be enough budget be allocated for risk management efforts.

Along with the budget there should be an official implementation schedule that gives a detailed overview of which measures should be taken when and allocated budget for implementation of such measures.

#### **5.4.9 Monitoring, Reporting and Evaluation**

The final section should describe measures that will be taken to monitor the CEPF measures described in the implementation section and what reporting mechanisms will be in place. Monitoring

should evaluate the effectiveness of measures taken to improve (or at minimum restore) incomes and living standards and if not, suggest adaptations for improvement. Participatory monitoring is an essential tool for developing community “ownership” of a program, to assess how various agreements or plans, are being implemented, and to learn how to improve them. This process can also contribute to building local capacity to do such monitoring and related analyses. A village wide meeting shall be held on a regularly basis where villagers discuss concerns and grievances, as well as measures to enhance program benefits.

## 5.5 CEPF Optional Requirements

### 5.5.1 Addressing Legacy Issues

LLF is likely to provide funding to protected areas that are long established but had no direct or indirect LL program involvement in the past. In such cases there might be a great potential for legacy issues and/or historic injustices arising with LLF involvement. Such cases should be assessed and possible measures included as part of the LL program’s mitigation strategy. Legacy issues could entail, but are not limited to the following:

- Forced evictions from territories of PAs or from other sites related to the LL program and which resulted in demolition of permanent or temporary shelter and assets etc. without adequate compensation;
- Physical resettlement of people and/or restrictions of access and/or use of natural resources without adequate compensation;
- Discrimination of local community’s rights in relation to restrictions on traditional lands, territories, resources or cultural heritage, in particular regarding indigenous peoples’ rights due to the infringement of the FPIC principle etc.;
- Human rights violations in the conduct of anti-poaching and/or law enforcement activities which result in death, serious injuries or substantial damage to/confiscation or loss of community or private property, torture in custody, other forms of violence involving program personnel, contractors/subcontractors and/or members of state security agents (police, gendarmerie, military etc.) related to program activities etc.;
- Gender-based violence associated with personnel employed or engaged by the LL program executing entity or through third parties, such as sexual exploitation, sexual abuse, or sexual harassment, physical violence against women etc.;

While past injustices should be addressed, they always bear the risk of stirring up conflicts and tensions, since they require investigations and assessments of past activities. Therefore, the grantee should not aim at providing remedy for all past injustices, but rather address them in accordance to ESS1 and focus on vulnerable people and cumulative impacts. Therefore, a general understanding of relevant legacy issues is required and they should be addressed using careful community engagement and specific livelihood restoration measures.

### 5.5.2 Land Tenure Security Agreements

In case of affected community lands there should be a section describing procedures on how to ensure land tenure security for participating communities through formal agreements between the communities and governmental institutions. This could be done through a memorandum of understanding (MoU) or an official agreement with government authorities over resource use and exploitation.

### 5.5.3 Requirements on Voluntary Land Donations (VLD)

Requirements on voluntary land donations will not always be part of the CEPF, since it will not always be part of the CBNRM program. Thus, it rather be relevant in few cases in which as part of the LL program the land to be used is donated on a voluntary basis by individuals.

ESS 5 Footnote 10 provides further guidance on criteria that need to be satisfied for voluntary donations of land (VLD). In such cases, the grantee will have to provide sufficient proof that:

- The potential land donor or donors have been appropriately informed and consulted about the LL program and the choices available to them;
- The potential land donors are aware that refusal is an option, and have confirmed in writing their willingness to proceed with the donation;
- The amount of land being donated is minor and will not reduce the donor's remaining land area below that required to maintain the donor's livelihood at current levels;
- No household relocation is involved;
- The land donor is expected to benefit directly from the LL program; and
- For community or collective land, donation can only occur with the consent of individuals using or occupying the land.

Furthermore, in addition to the criteria set out in WB ESS 5 the following criteria should be met:

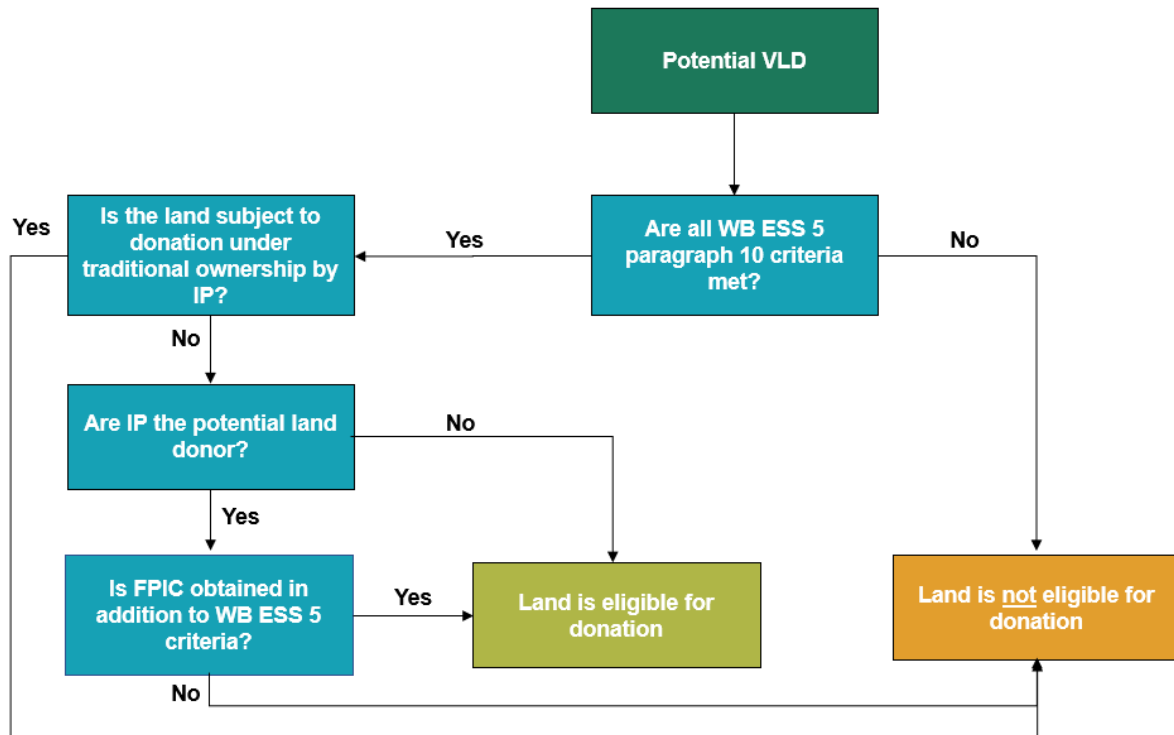
- No land that is donated is used by IP either traditionally or customarily;
- Meaningful consultation has been conducted in good faith with all potential land donors. Documented verification that land donors agree with the scheme and scheme benefits. Separate discussions to be held with women and minority groups as required to facilitate meaningful participation. If IP are involved<sup>9</sup> their FPIC needs to be obtained following the FPIC guidelines as set out below;
- Assurance that a community mechanism for scheme implementation is operational and has a fair system of grievance redress, as well as a system for monitoring and reporting, and
- All due diligence measures taken must be documented in a report and monitoring measures must be implemented respectively.

Figure 5-3 provides an overview of the decision making process that should be used for the VLD application. It should be considered that there are different agreements for the VLD, such as land session agreements, donations, a sales agreement with reduced compensation<sup>10</sup> etc. While the applicable standards do not exclude a specific mode of transfer agreement for a voluntary donation, it is recommended to complete a donation agreement in the case IP are the voluntary donor. The rationale for this lies in the nature of a donation agreement, that can be linked to an agreed timeline. For example, a donation agreement of land can be concluded for a certain period, after which the land is returned to the initial owner (i.e., IP). Such time-bound agreements align with the FPIC provisions that stipulate that achieving FPIC once does not mean it lasts forever and to generate an ongoing dialogue throughout the LL program lifecycle. Therefore, the temporary donation of land in the ownership of IP in form of a timebound donation agreement should be the preferred type of agreement for any VLD by IP.

<sup>9</sup> E.g., if IP want to donate a small portion of their lands that they do not use.

<sup>10</sup> According to WB ESS GN 4.11 such sales agreements can be classified as a voluntary land donation, because the transfer of assets takes place without payment of compensation at replacement value.





**Figure 5-3 Voluntary Land Donations Decision Tree**

Furthermore, it should be noted, that IP will only qualify as voluntary donors in very few cases, since land tenure ownership is a necessary requirement to be an eligible donor. In many cases, IP have customary or traditional ownership rights of their lands, however, such rights are not always recognized by the government, as for IP to have the authority to make donations of such lands. However, in cases where IP have ownership certificates of the lands in question and want to make a voluntary donation of a small portion of land to their own benefits (e.g., a voluntary land donation for the land needed to construct of a school) they should not be excluded from this potential benefit based on their indigeneity.<sup>11</sup>

#### 5.5.4 FPIC Guidelines

For cases involving indigenous people that will trigger FPIC, there should be a section describing how the CEPF will incorporate applicable standards regarding FPIC and involvement of indigenous people. The CEPF should consider all relevant provisions that are outlines in the LLF ESMS documents, [Annex O – FPIC Protocol](#) as well as [Annex N – Indigenous Peoples Plan](#).

<sup>11</sup> However, VLD by IP must be considered carefully in each case and all safeguards have to be met in order to avoid any possible abuse of such an agreement.