



**Development
Bank of Namibia**

Expect more.

**DBN PS7-RIGHTS & INTERESTS OF
INDIGENOUS PEOPLES
STANDARD**

Contents

a) Version Control.....	2
2. BACKGROUND	4
3. SCOPE	6
4. INTENT.....	6
5. PLANNING	6
6. IMPLEMENTATION AND OPERATION.....	9
7. PERFORMANCE MANAGEMENT	10
8. REVIEW	11
9. GENERAL REFERENCES FOR STANDARD METHODS.....	11
10. BOARD APPROVAL OF STANDARD	12

a) Version Control

The table below serves to track the key revisions made to this document for change control purposes.

Date	Version	Change Description	Author/Editor
08/02/2016	0.01	Initial Draft for first review	Manager: Environment & Social Development
24/04/2016	0.02	Initial Review	Head: Risk and Compliance –John Jacobs
23/05/2016	0.03	2 nd Review	Risk and Compliance Committee
23/05/2016	0.04	Departmental Review	Audit Risk and Compliance
10/10/2016	0.05	Second Review	Senior Manager: Risk and Compliance –Saima Nimengobe
07/11/2016	1.00	DBN Board Approval	Chairperson: DBN Board of Directors
10/01/2019	2.00	Change logo on first page	Manager: Environment & Social Development

1. DEFINITIONS, TERMS & ABBREVIATIONS

CBO	Community Based Organisation
CSO	Civil Society Organisation
DBN	Development Bank of Namibia
ESMS	Environmental, and Social Management System
ESMP	Environmental and Social Management Plan
FREE, PRIOR AND INFORMED CONSENT (FPIC)	Is a specific right originally acknowledged in the case of indigenous peoples, as recognised in the United Nations Declaration on the Rights of Indigenous Peoples. It is triggered by specific circumstances and strictly defined project impacts (e.g. REDD+ financing). The DBN PS10-Stakeholder Engagement Standard gives reference to this process
GENDER DYNAMICS	Refer to the set of social interactions which assign different social, economic and political roles to women and men in a community.
MINORITIES	Population groups sharing an ethnicity, religious beliefs, cultural practices or language or dialect distinct to the majority ethnic, religious, linguistic, cultural identity and practices. Minorities are acknowledged as such, by their sovereign nation-states or the states in which they reside, or by relevant international bodies, ethnic minorities' observatories and monitoring entities
NGO	Non-Governmental Organisations
NON-DISCRIMINATION	A crosscutting and fundamental principle, applying to everyone in relation to their full enjoyment of all human rights and freedoms.
IPDP	Indigenous Peoples Development Plan
INDIGENOUS PEOPLES	<p>Are defined as a distinct social and cultural group, possessing some or all of the following characteristics in varying degrees:</p> <ul style="list-style-type: none"> • Self-identification as indigenous; • A shared experience of oppression or colonisation; • Historical continuity within a given region prior to colonisation or annexation; • Collective entitlement and/or attachment to ancestral lands, territories and natural resources in their habitats and use thereof; • An indigenous language, often different from the national or regional language; • Distinct social, economic and political systems; • Activity in non-dominant sectors of society; • Distinct languages, spiritual traditions, culture, beliefs and knowledge; • Land/natural resources-dependent means of existence; primarily self-sufficient production; and

	<ul style="list-style-type: none"> • A shared wish to maintain and develop a distinctive shared identity, spirituality as well as social economic, cultural and political institutions.
VULNERABILITY	Is determined by (1) the exposure to risks, shocks, and stress situations befalling people, (2) their sensitivity to those risks, shocks and stress situations, and (3) the means they possess to withstand or adjust to damaging loss. Vulnerability can be understood in terms of a lack of resilience to changes that threaten welfare; these can be environmental, economic, social and political, including those linked to project impacts.
VULNERABLE GROUPS	Are population groups that suffer from discrimination, unequal access to rights, unequal access to and control over resources or unequal access to development opportunities. As a result, they may be poorly integrated into the formal economy, may suffer from inadequate access to basic public goods and services, may be excluded from political decision-making, and may therefore face a higher risk of impoverishment and social exclusion.

2. BACKGROUND

The International Finance Corporation (IFC) Performance Standards are an international benchmark for identifying and managing environmental and social risk and has been adopted by many organizations as a key component of their environmental and social risk management.

IFC's Environmental, Health, and Safety (EHS) Guidelines provide technical guidelines with general and industry-specific examples of good international industry practice to meet IFC's Performance Standards.

In many countries, the scope and intent of the IFC Performance Standards is addressed or partially addressed in the country's environmental and social regulatory framework

In 2007, Namibia voted in favour of the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) although it has not ratified ILO Convention No. 169. Namibia is signatory to several other binding international agreements that affirm the norms represented in the UNDRIP, such as:

- The African Charter on Human and Peoples' Rights (ACHPR)
- The Convention on the Rights of the Child (CRC)
- The International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)
- The International Covenant on Civil and Political Rights (ICCPR)

The DBN is committed, in line with the Chapter 3 Fundamental Human Rights and Freedoms; of the Constitution of the Republic of Namibia to the promotion of the full and free enjoyment of all human rights, not to be impeded by instances of discrimination and/or inequality of treatment by the law but, there is no recognition of the rights of indigenous peoples or minorities in the Constitution and the

Namibian government prefers to use the term "marginalized communities" rather than "indigenous peoples".

The principles and practices established in this Standard are firmly embedded in The Namibian Constitution such as the right to non-discrimination, to equality before the law, cultural, religious and linguistic diversity, equality between men and women, the rights of the child, the rights of the elderly and the integration of persons with disabilities.

This Standard recognizes that Indigenous Peoples which makes up about of 8% of the Namibian population such as the San, Nama, Himba, Zemba and Twa, as social groups with identities that are distinct from mainstream groups in national societies, are often among the most marginalized and vulnerable segments of the population.

In many cases, their economic, social, and legal status limits their capacity to defend their rights to, and interests in, lands and natural and cultural resources, and may restrict their ability to participate in and benefit from development. (IFC)

To that end the specific objectives of this Standard is to;

- Affirm, respect, and protect the rights and interests of vulnerable individuals and groups within the designated operational scope, throughout the project lifecycle. Such rights include the right to non-discrimination, the right to equal treatment between women and men and the rights of indigenous peoples;
- Adopt a gender-sensitive approach to the management of environmental and social impacts, that takes into account the rights and interests of women and girls, men and boys, including specific attention to the differentiated burden of impacts that women and girls might face;
- Identify and avoid adverse impacts of DBN financed operations on the lives and livelihoods of vulnerable individuals and groups, including women and girls, minorities and indigenous peoples. Where avoidance is not feasible, to reduce, minimise, mitigate or effectively remedy impacts;
- Ensure that vulnerable individuals and groups are duly and early on identified in DBN financed operations and that engagement is meaningful, taking into account individuals' and communities' specificities, and delivered in an appropriate form, manner and language; and
- Enable vulnerable groups, including women and girls, minorities and indigenous peoples to benefit from DBN financed operations.

3. SCOPE

The applicability of this Standard is established during the environmental and social impacts and risks identification process. The implementation of the actions necessary to meet the requirements of this Standard is managed through the clients/customers overall environmental and social management plan, the elements of which are outlined in DBN PS1-Environmental and Social Management System Standard.

4. INTENT

The intent of this Standard is, to avoid or minimise, or otherwise mitigate and remedy, potential harmful effects of DBN and DBN funded operations to vulnerable individuals and groups whilst seeking that these populations duly benefit from such operations.

As a means to foster those project outcomes, this Standard proposes a framework and tools to address inequalities and other factors contributing to vulnerability, and, as appropriate, to allow for equal access to and enjoyment of project benefits for those individuals and groups.

It is the intention of the Standard to provide information to assist clients/customers and auditors to understand and achieve the requirements of the standard.

5. PLANNING

- 5.1. The client/customer will take the necessary measures to appropriately manage the risks and adverse impacts of DBN financed operations on vulnerable individuals and groups, including on women and girls, minorities and indigenous peoples. In so doing, the client/customer will seek to avoid, minimise, or otherwise mitigate or remedy the exposure of vulnerable populations to project-related risks and adverse impacts.
- 5.2. As a means to foster those project outcomes, the client/customer will properly address discriminatory practices, inequalities and other factors which contribute to vulnerability and will, as appropriate, strengthen the adaptive capacity of vulnerable individuals or groups by promoting inclusive development and benefit sharing.
- 5.3. The need for such measures is particularly critical in situations where discrimination is systemic and entrenched, governance is poor or protection of the rights of vulnerable groups is weak. In particular, the client/customer will report to the DBN from the very outset the confirmed or potential presence of indigenous or tribal population groups in the area of influence of the DBN financed operation.

- 5.4. During the screening phase, the client/customer will identify the individuals and groups who might be vulnerable and at risk of suffering adverse, compounded or disproportionate impacts, be discriminated against or excluded from intended benefits in the given project context.
- 5.5. The client/customer will ascertain the presence of any groups of peoples with particular rights that will need to be respected, for example indigenous peoples, ethnic minority groups, or children. A high-level analysis of the nature and degree of discrimination and vulnerability already experienced by individuals, communities and/or groups in the context of the project will be performed.
- 5.6. Where the screening process determines that (i) potential adverse impacts on vulnerable groups are present or (ii) relevant additional information is required, a more in-depth social assessment should be undertaken by the client/customer. The assessment should specifically probe into the following elements, including through careful analysis of the legal framework and through collection of baseline data, disaggregated by factors such as gender, ethnicities, age, etc.:
- vulnerability profile of affected population;
 - assessment of the specific context, including legal and institutional parameters;
 - analysis and assessment of the historical frequency and severity of discrimination, social, economic or political exclusion and marginalisation suffered by the identified population;
 - the scope and nature of adverse impacts and their effect on the identified population when compounded with their pre-existing vulnerability, and their access to resources and cultural heritage;
 - specific actions, past or future, to avoid, minimise, or otherwise mitigate or remedy negative impacts and, as appropriate, to reinforce positive effects, including identifying opportunities and actions to promote benefit-sharing modalities for the communities; and
 - in line with the DBN PS10-Stakeholder Engagement Standard, an appropriate engagement, consultation and participation plan, describing relevant consultation mechanisms
- 5.7. As set out in the DBN External Communications Policy and the DBN PS10-Stakeholder Engagement Standard, consultations are crucial and should be integrated at each stage of project preparation and implementation. In affirming the human rights-based principles of participation, non-discrimination and transparency in engagement and consultation, the client/customer will provide discriminated and affected vulnerable groups as early as possible with all the relevant information about the project (including an assessment of potential adverse effects and projected benefits of the project).

- 5.8. This is to be done in a culturally appropriate manner. Under-represented groups on account of gender, poverty or other elements of social vulnerability should be given equal opportunity to voice their opinions and concerns, and these should be accounted for in the project decision-making.
- 5.9. The client/customer may provide targeted capacity building or other assistance so as to allow vulnerable individuals or groups impacted by the project to fully and effectively participate in engagement and consultation processes.
- 5.10. Where a DBN financed operation encounter, affect or threaten the customary rights and interests of indigenous peoples, and where specific actions and outputs are required from clients/customers, particular attention to social due diligence is mandated. A gender-sensitive approach endeavouring to promote the rights and interests of women and girls in indigenous communities constitutes a further layer of due diligence required.
- 5.11. In all instances involving indigenous peoples, an Indigenous Peoples Development Plan must be prepared, abiding by the principle of free, prior and informed consent (FPIC) and accounting, amongst others, for the recognition awarded by the state to the indigenous groups or communities affected, the duty of the state to consult them, the safeguarding of both their tangible and intangible cultural heritage, their link to resources and territories, and considerations of benefit sharing arrangements with them.
- 5.12. It is acknowledged that when detailed biodiversity assessments are undertaken as part of an ESIA process in line with the DBN PS6-Biodiversity Standard, indigenous populations often enjoy links to their environment and surrounding natural resources in terms of ancestral land rights, sense of belonging, living grounds, livelihood strategies or cultural heritage ties, which can be of critical significance.
- 5.13. As a result, such an assessment should take into account the views, roles and rights of indigenous peoples groups, of relevant NGOs and local communities affected by the project and involve, to the extent possible, such people in the management of natural resources located within the area of influence of the DBN financed operation. Such assessment ought to ensure that projects take into account the rights and interests of indigenous peoples, as these are related to natural resources, as well as biodiversity conservation concerns.
- 5.14. When projects involve indigenous populations, a detailed social assessment duly tailored to the cultural and socio-economic specificities and sensitivities of indigenous communities must be undertaken.

6. IMPLEMENTATION AND OPERATION

- 6.1. This information should then feed into the formulation by the client/customer of an Indigenous Peoples Development Plan (IPDP) that is consistent with the international human rights of indigenous peoples as well as the expectations of this standard.
- 6.2. The IPDP may be free-standing or a component of a broader social management plan in cases where indigenous communities co-exist in the same area with other affected communities.
- 6.3. Assurances over the timely disclosure of the IPDP, including outputs linked to the FPIC process, should be provided. The client/customer is expected to publicly disclose the final draft of the IPDP to the affected indigenous peoples' communities in an appropriate form, manner, and language.
- 6.4. Once adopted and agreed upon by the indigenous peoples and the DBN alike, the client/customer will make these documents available to the affected indigenous peoples' communities in the same manner as the earlier final draft documents.
- 6.5. The FPIC process should produce a clear endorsement or rejection by the indigenous peoples concerned of the proposed intervention and a statement of all accompanying mitigating and remedial measures and benefit-sharing agreements. As such, it is the main instrument ensuring that at the project level the indigenous peoples' priorities for economic, social and cultural development and environmental protection are promoted, as duly informed by their traditional cultures, knowledge and practices.
- 6.6. It is fundamental to the exercise of their inherent right to self-determination. In those cases where the government has already approved the project considered by the DBN for financing, the client/customer will nonetheless need to verify, by way of the FPIC process, the levels and nature of free, prior and informed consent to the undertaking by the indigenous peoples concerned, as well as the adequacy and compliance with DBN standards of the mitigation measures and benefit-sharing arrangements proposed.
- 6.7. Clients/customers will refer to the relevant section on FPIC in the DBN PS10-Stakeholder Engagement Standard for more elaboration on the principles and requirements guiding the application of FPIC.
- 6.8. In cases where all of the relevant information is not available to develop an IPDP, the client/customer may initially be requested to prepare an Indigenous Peoples Planning Framework (IPPF).
- 6.9. An acceptable IPPF is regarded as a more high-level, strategic document addressing the steps required for the IPDP undertaking, and is expected to outline in broader terms the following:
 - the project background;

- the objectives of the IPPF;
- The strategy for ensuring the effective participation of affected indigenous peoples, including a framework for ensuring free, prior, and informed consent with the affected indigenous peoples' communities at each stage of project preparation and implementation;
- the strategy to ensure that project benefits will accrue to the indigenous peoples, and to mitigate any adverse impacts;
- the institutional arrangements for screening project-supported activities, evaluating their effects on indigenous peoples, preparing an Indigenous Peoples Plan (IPDP), and addressing any grievances;
- a plan for carrying out the social assessment for the IPDP and associated programmes or subprojects;
- the types of programmes and subprojects likely to be proposed for financing under the project;
- the potential positive and adverse effects of such programmes or subprojects on Indigenous Peoples;
- The institutional arrangements for preparing and implementing the IPDP and associated subprojects;
- the disclosure arrangements for the IPDP and associated sub-projects to be prepared under the IPPF;
- the monitoring and reporting arrangements, including reporting mechanisms and benchmarks appropriate to the project; and,
- a budget for formulating and implementing the IPDP and associated sub-projects

7. PERFORMANCE MANAGEMENT

- 7.1. Where this Standard is triggered, the client/customer will ensure that the existing monitoring practices are duly adjusted so as to be effectively responsive to the rights and interests of vulnerable population groups, safeguarding them from instances of discrimination and unequal treatment.
- 7.2. To that end, a custom-made monitoring system, with relevant and disaggregated indicators that capture the specificities of any vulnerable population groups in the project and track the unfolding of engagement and consultation processes, the impact of the project and the implementation of impact management actions should be put in place.
- 7.3. It is further recommended that the client/customer, as part of its monitoring activities, maintains regular contact and consults with the relevant CSOs/CBOs and other relevant locally-based organizations (national human rights institutions, universities and research centres, international agencies, etc.

8. REVIEW

The principles contained in this standard will be reviewed on an annual basis to facilitate improvement.

9. GENERAL REFERENCES FOR STANDARD METHODS

- Chapter 3 of the Constitution of the Republic of Namibia
- Performance Standard 7, Indigenous Peoples, IFC, January 1, 2012
- DBN External Communications Policy
- DBN PS10-Stakeholder Engagement Standard
- African Development Bank Group Integrated Safeguards System (ISS) - Approved 17 Dec 2013
- European Investment Bank (EIB) Environmental and Social Handbook, Environment, Climate and Social Office Projects Directorate, Version 9.0 of 02/12/2013
- DBSA Environmental and Social Safeguard Standards_ESSS_13May2014

10. BOARD APPROVAL OF STANDARD



12 Daniel Munamava Street, Windhoek • PO Box 235, Windhoek, Namibia • Tel: +264-61-290-8000 • Fax: +264-61-290-8049
5626 Main Road, Trade Fair Grounds, Ongwediva • PO Box 3226, Ongwediva, Namibia • Tel: +264-65-236-130 • Fax: +264-65-236-126
206 Sam Nujoma Drive, Erf 735, Central Business District, Walvis Bay • PO Box 4514, Walvis Bay, Namibia Tel: +264-64-220-624 • Fax: +264-64-221-857
E-mail: info@dbn.com.na • Web: www.dbn.com.na

EXTRACT OF THE UNAPPROVED ORDINARY BOARD MINUTES OF THE BOARD OF DIRECTORS' MEETING HELD ON 7 NOVEMBER 2016 AT 12 DANIEL MUNAMAVA STREET, WINDHOEK, NAMIBIA

"7. RISK, COMPLIANCE AND POLICIES

7.1 The Board reviewed and approved without any amendments thereto the following environmental standards,

- 7.1.1 Environmental and Social Management System Standard
- 7.1.2 Occupational Health and Safety, Public Health and Security Standard
- 7.1.3 Rights and Interests of Indigenous People Standard
- 7.1.4 Stakeholder Engagement Standard
- 7.1.5 Labour and Working Conditions Standard
- 7.1.6 Land Acquisition and Involuntary Resettlement Standard
- 7.1.7 Cultural Heritage Standard
- 7.1.8 Emergency Prevention, Preparedness and Response Standard
- 7.1.9 Pollution Prevention and Control Standard
- 7.1.10 Biodiversity and Ecosystems Standard
- 7.1.11 Greenhouse Gas Emissions and Climate Change Standard



Company Secretary

R Brusa

14 December 2016