NATURAL HABITATS

Objectives

1. The conservation of natural habitats, like other measures that protect and enhance the environment, is essential for long-term sustainable development. MIGA therefore supports the protection, maintenance, and rehabilitation of natural habitats and their functions in its guarantee activities. MIGA supports, and expects project sponsors to apply, a precautionary approach to natural resource management to ensure opportunities for environmentally sustainable development.

2. MIGA supports natural habitat conservation, improved land use and the maintenance of ecological functions as part of a private sector project. Furthermore, MIGA promotes the rehabilitation of degraded natural habitats.

3. MIGA does not support projects that, in MIGA’s opinion, involve the significant conversion or degradation of critical natural habitats.

Project Design and Implementation

4. Wherever feasible, MIGA-guaranteed projects are sited on lands already converted (excluding any lands that in MIGA’s opinion were converted in anticipation of the project). MIGA does not support projects involving the significant conversion of natural habitats unless there are no feasible alternatives for the project and its siting, and comprehensive analysis demonstrates that overall benefits from the project substantially outweigh the environmental costs.

5. If the environmental assessment indicates that a project would significantly convert or degrade natural habitats, the project includes mitigation measures acceptable to MIGA. Such mitigation measures may include, as appropriate, minimizing habitat loss (e.g., strategic habitat retention and post-development restoration) and establishing and maintaining an ecologically similar protected area. In consultation with host country environmental authorities, other suitable mitigation and conservation measures may be required, such as support for protection and management of other types of critical habitat in the area. Appropriate conservation and mitigation measures remove or reduce adverse impacts on natural habitats or their functions, keeping such impacts within socially defined limits of acceptable environmental change. Specific measures depend on the ecological characteristics of the given site. They may include full site protection through project redesign; strategic habitat retention; restricted conversion or modification; reintroduction of species; mitigation measures to minimize the ecological damage; post development restoration works; restoration of degraded habitats; and establishment and maintenance of an ecologically similar protected area of suitable size in the area. Such measures should always include provision for monitoring and evaluation to provide feedback on conservation outcomes and to provide guidance for developing or refining appropriate corrective actions.
6. In deciding whether to guarantee a project with potential adverse impacts on a natural habitat, MIGA takes into account the project sponsor's ability to implement the appropriate conservation and mitigation measures, and the regulatory framework in the host country.

7. In projects with natural habitat components, project implementation includes appropriate environmental expertise to ensure adequate design and implementation of mitigation measures by the project sponsor.

Consultation

8. MIGA expects the project sponsor to take into account the views, roles, and rights of local groups, including local non-governmental organizations and local communities, affected by MIGA-guaranteed projects involving natural habitats, and to involve such people in planning, designing, implementing, and monitoring such projects. Involvement may include identifying appropriate conservation measures, managing protected areas and other natural habitats, and monitoring projects. MIGA encourages the project sponsor to provide such people with appropriate information on the protection of natural habitats.

Definitions

9. The following definitions apply:

a. Natural habitats are land and water areas where (i) the ecosystems' biological communities are formed largely by native plant and animal species, and (ii) human activity has not essentially modified the area's primary ecological functions. All natural habitats have important biological, social, economic, and existence value.

b. Critical natural habitats are:
   (i) existing protected areas and areas officially proposed by governments as protected areas (e.g., reserves that meet the criteria of the World Conservation Union [IUCN] classifications\(^1\)), areas initially recognized as protected by traditional local communities (e.g., sacred groves), and sites that maintain conditions vital

---

1 As indicated in Guidelines for Protected Area Management Categories (Gland, Switzerland, and Cambridge, UK: IUCN, 1994), and the United Nations List of National Parks and Protected Areas (Gland, Switzerland, and Cambridge, UK: IUCN, 1994), or by a similar list acceptable to MIGA, published by another competent organization. IUCN categories are as follows: I-Strict Nature Reserve/Wilderness Area: protected area managed for science or wilderness protection; II-National Park: protected area managed mainly for ecosystem protection and recreation; III-Natural Monument: protected area managed mainly for conservation of specific natural features; IV-Habitat/Species Management Area: protected area managed mainly for conservation through management intervention; V-Protected Landscape/Seascape: protected area managed mainly for landscape/seascape conservation and recreation; and VI-Managed Resource Protected Area: protected area managed mainly for the sustainable use of natural ecosystems.
for the viability of these protected areas (as determined by the environmental assessment process); or

(ii) sites identified on supplementary lists prepared by the World Bank or an authoritative source determined by MIGA. Such sites may include areas recognized by traditional local communities (e.g., sacred groves); areas with known high suitability for biodiversity conservation; and sites that are critical for rare, vulnerable, migratory, or endangered species.  

Listings are based on systematic evaluations of such factors as species richness; the degree of endemism, rarity, and vulnerability of component species; representativeness; and integrity of ecosystem processes.

c. Significant conversion is the elimination or severe diminution of the integrity of a critical or other natural habitat caused by a major, long-term change in land or water use. Significant conversion may include, for example: land clearing; replacement of natural vegetation (e.g., by crops or tree plantations); permanent flooding (e.g., by a reservoir); drainage, dredging, filling, or channelization of wetlands; or surface mining. In both terrestrial and aquatic ecosystems, conversion of natural habitats can occur as the result of severe pollution. Conversion can result directly from the action of a project or through an indirect mechanism (e.g., through induced settlement along a road).

d. Degradation is modification of a critical or other natural habitat that substantially reduces the habitat's ability to maintain viable populations of its native species.

---

2 Rare, vulnerable, and endangered as defined in the IUCN Red List of Threatened Animals.
FORESTRY

Objectives

1. MIGA's involvement in the forestry sector aims to reduce deforestation, enhance the environmental contribution of forested areas, promote afforestation, reduce poverty, and encourage economic development.

2. MIGA will not guarantee commercial logging operations or the purchase of logging equipment for use in primary tropical moist forest. MIGA will not guarantee projects that contravene any relevant international environmental agreement to which the member country concerned is a party.

Project Design and Implementation

3. For projects in the forest sector, MIGA requires project sponsors to identify and consult local interest groups involved in forest management and conservation in the subject forest area. Such consultation may include consideration of alternative income generating activities.

4. MIGA's guarantee operations in the forest sector are conditional on the project sponsor's commitment to undertake sustainable management and conservation-oriented forestry. Such a commitment requires the project sponsor to:
   (a) adopt policies and programs to (i) ensure conservation and sustainable management of existing forests, and (ii) promote active participation of local people in the long-term sustainable management of natural forests;
   (b) adopt a comprehensive and environmentally sound forestry conservation and development plan that clearly defines the roles and rights of the government (where applicable), the project sponsor, and directly affected local people (including forest dwellers);
   (c) undertake social, economic, and environmental assessments of forests being considered for commercial use;
   (d) set aside adequate compensatory preservation forests to protect and conserve biological diversity and environmental services and to safeguard the interests of forest dwellers, specifically their rights of access to and use of designated forest areas; and
   (e) establish an internal capacity to implement and enforce these commitments.

5. MIGA distinguishes projects that are exclusively environmentally protective (e.g., management of protected areas or reforestation of degraded watersheds) or supportive of small farmers (e.g., farm and community forestry) from all other forestry operations. Projects in this limited group may be guaranteed on the basis of their own social, economic, and environmental merits. However, they may be pursued only where broad sectoral reforms are in hand.
6. In forest areas of high ecological value, MIGA guarantees only preservation and light, non-extractive use of forest resources. In areas where retaining the natural forest cover and the associated soil, water, biological diversity, and carbon sequestration values is the object, MIGA may guarantee controlled sustained-yield forest management.

7. MIGA guarantees plantations only on non-forested areas (including previously planted areas) or on heavily degraded forestland.

Definitions

8. The following definitions apply in this statement:
   a. Primary forest is defined as relatively intact forest that has been essentially unmodified by human activity for the previous 60 to 80 years.
   b. Tropical moist forest is generally defined as forest in areas that receive not less than 100 mm of rain in any month for two out of three years and have an annual mean temperature of 24º C or higher. Also included in this category, however, are some forests (especially in Africa) where dry periods are longer but high cloud cover causes reduced evapotranspiration.
   c. Carbon sequestration refers to the process whereby forested areas retain a revolving but stable store of organic carbon in their biomass.
   d. The term local people describes the broad group of people living in or near a forest, with some significant level of dependence upon it. The term includes forest dwellers, indigenous forest-adjacent populations, and recent immigrants.
   e. Sustainable management of natural forests means controlled utilization of the resource to produce wood and non-wood benefits into perpetuity, with the basic objectives of long-term maintenance of forest cover and appropriate reservation of areas for biodiversity protection and other ecological purposes.
   f. A natural forest is an area in which the cover has evolved naturally so as to provide significant economic and/or ecological benefits, or one that is sufficiently advanced in regeneration and recovery from disturbance as to be judged in near-natural condition.
PEST MANAGEMENT

Objectives

1. MIGA supports a strategy that promotes the use of biological or environmental control methods and reduces reliance on synthetic chemical pesticides. In MIGA-guaranteed projects that require pest management as an important component of project implementation, the project sponsor addresses pest management issues in the context of the project's environmental assessment.

2. In the process of guaranteeing a project that will involve pest management, MIGA requires sponsors to promote and support safe, effective, and environmentally sound pest management through the implementation of an integrated pest management policy.

Agricultural Pest Management

3. MIGA uses various means to assess pest management in a specific project and support integrated pest management (IPM) and the safe use of agricultural pesticides. These may include project-specific environmental assessments, participatory IPM assessments, if applicable, and are aimed specifically at supporting the adoption and use of IPM.

4. In MIGA-guaranteed agriculture operations, pest populations are normally controlled through IPM approaches, such as biological control, cultural practices, and the development and use of crop varieties that are resistant or tolerant to the pest. MIGA may support the use of pesticides when their use is justified under an IPM approach.

Criteria for Pesticide Selection and Use

5. The use of any pesticide in a MIGA-financed project is contingent on an assessment of the nature and degree of associated risks, taking into account the proposed use and the intended users. With respect to the classification of pesticides and their specific formulations, MIGA refers to the World Health Organization's Recommended Classification of Pesticides by Hazard and Guidelines to Classification (Geneva: WHO, 1994-95). The following criteria apply to the selection and use of pesticides in MIGA-guaranteed projects:

---

3 IPM refers to a mix of farmer-driven, ecologically based pest control practices that seeks to reduce the reliance on synthetic chemical pesticides. It involves (a) managing pests (keeping them below economically damaging levels) rather than seeking to eradicate them; (b) relying, to the extent possible, on non-chemical measures to keep pest populations low; and (c) selecting and applying pesticides, when they have to be used, in a way that minimizes adverse effects on beneficial organisms, humans, and the environment.

4 This assessment is made in the context of the project's environmental assessment and is recorded in the project documents. The project documents also include (in the text or in an annex) a list of pesticide products authorized for procurement under the project, or an indication of when and how this list will be developed and amended as necessary.

5 Copies of the classification are available from MIGA's Environmental Office.
a. They must have negligible adverse human health effects.
b. They must be shown to be effective against the target species.
c. They must have minimal effect on non-target species and the natural environment. The methods, timing, and frequency of pesticide application are aimed to minimize damage to natural enemies. Pesticides used in projects that have public health program components must be demonstrated to be safe for inhabitants and domestic animals in the treated areas, as well as for personnel applying them.
d. Their use must take into account the need to prevent the development of resistance in pests.

6. MIGA requires that any pesticides used in a project it guarantees must be packaged, labeled, handled, stored, disposed of, and applied according to standards acceptable to MIGA. MIGA does not guarantee projects which use formulated products that fall in WHO classes IA and IB, or formulations of products in Class II, if (i) the country lacks restrictions on their distribution and use; or (ii) they are likely to be used by, or be accessible to, lay personnel, farmers, or others without training, equipment, and facilities to handle, apply, and store these products properly.

---

6 The FAO's Guidelines for Packaging and Storage of Pesticides (Rome, 1985), Guidelines on Good Labeling Practice for Pesticides (Rome, 1985), and Guidelines for the Disposal of Waste Pesticide and Pesticide Containers on the Farm (Rome, 1985) are used as minimum standards.
DAM SAFETY

Objectives

1. Because there are serious consequences if a dam does not function properly or fails, MIGA is concerned about the safety of new and existing dams on which a MIGA-guaranteed project is directly dependent. In all situations in which this policy applies, MIGA must be satisfied that reasonable measures have been taken to ensure dam safety.

Owners and Operators

2. For the life of any dam, the owner or operator is responsible for ensuring that appropriate measures are taken and sufficient resources provided for the safety of the dam, irrespective of its funding sources or construction status. When MIGA guarantees a project that includes the construction of a new dam, MIGA requires that the dam be designed and its construction supervised by experienced and competent professionals. MIGA also requires that the owner or operator adopt and implement certain dam safety measures for the design, construction, operation, and maintenance of the dam and associated works.

3. For the purposes of this policy, MIGA distinguishes between small and large dams.
   a) Small dams are normally less than 15 meters in height.
   b) Large dams are 15 meters or more in height. Dams that are between 10 and 15 meters in height are treated as large dams if they present special design complexities - for example, an unusually large flood-handling requirement, location in a zone of high seismicity, foundations that are complex and difficult to prepare, or retention of toxic materials. Dams under 10 meters in height are treated as large dams if they are expected to become large dams during the operation of the facility.

4. For small dams, generic dam safety measures designed by qualified engineers are usually adequate. For large dams, MIGA requires:
   a) reviews by independent expertise of the design and construction of the dam, and, when appropriate, the start of operations;
   b) preparation and implementation of detailed plans such as: a plan for construction supervision and quality assurance, a monitoring plan (including details of proposed instrumentation), an operation and maintenance plan, and an emergency preparedness plan;\(^7\)
   c) construction to be undertaken by fully qualified companies under proper supervision; and

\(^7\) This definition of "large dams" is based on that in the World Register of Dams, published by the International Commission on Large Dams.
\(^8\) In the dam safety practice of several countries, the operation and maintenance plan includes both the instrumentation plan and the emergency preparedness plan as specific sections. This practice is acceptable to MIGA.
d) periodic safety inspections of the dam after completion.

5. The independent expertise is appointed by the project sponsor and must be acceptable to MIGA. The primary purpose of the independent expertise is to review and advise the project sponsor on matters relative to dam safety and other critical aspects of the dam, its appurtenant structures, the catchment area, the area surrounding the reservoir, and downstream areas. In more complex projects, the project sponsor may be required to extend the scope of expertise required to include matters such as: project formulation; technical design; construction procedures; and, for water storage dams, associated works such as power facilities, river diversion during construction, navigation locks, and fish ladders.

6. The project sponsor contracts the services of the independent expertise and provides the necessary administrative support. Beginning as early in project preparation as possible, the project sponsor arranges for periodic meetings and reviews, which continue through the investigation, design, construction, and initial filling and start-up phases of the dam.

Minority Partners/Lenders/Third Party Owners or Operators

7. In some cases, MIGA may provide insurance to minority partners or lenders, or the dam required for the project’s operation is owned or operated by a third party that is not the project sponsor. If, in such cases, it is a large dam in accordance with this policy, MIGA will require the applicant to ascertain whether independent expertise was used to evaluate design, construction, and operation of the dam. If independent expertise was not used to MIGA’s satisfaction, MIGA may require, as a condition of guarantee, the applicant to arrange for one or more independent dam specialists: (a) to inspect and evaluate the safety status of the existing dam or dam under construction, its appurtenances, and its performance history; (b) to review and evaluate the owner’s operation and maintenance procedures, and (c) to provide a written report of findings and recommendations for any remedial work or safety-related measures necessary to upgrade the existing dam or dam under construction to an acceptable standard of safety.

Existing Dams and Dams under Construction

8. MIGA may guarantee projects that do not include a new dam but will rely on the performance of an existing dam or a dam under construction (DUC), or may require increases in the capacity of an existing dam, or changes in the characteristics of the impounded materials, where failure of the existing dam could cause extensive damage to or failure of the MIGA-guaranteed facilities. If such a project involves an existing dam or

---

9 The number of experts, professional breadth, technical expertise, and level of experience provided by the independent expertise must be appropriate to the size, complexity, and hazard potential of the dam under consideration. For high-hazard dams, the experts should be internationally known in their field. MIGA and the applicant review and agree on the level of expertise required for the project.

10 If MIGA’s involvement begins at a later stage than project preparation, the independent expertise is provided as soon as possible and reviews any aspects of the project that have already been carried out.
DUC that is or will be a large dam, MIGA requires that the applicant arrange for one or more independent dam specialists to (a) inspect and evaluate the safety status of the existing dam or DUC, its appurtenances, and its performance history; (b) review and evaluate the owner's operation and maintenance procedures, and (c) provide a written report of findings and recommendations for any remedial work or safety-related measures necessary to upgrade the existing dam or DUC to an acceptable standard of safety.

9. MIGA may accept previous assessments of dam safety or recommendations of improvements needed in the existing dam or DUC if the applicant provides evidence that (a) an effective dam safety program is already in operation in the country in which the existing dam or DUC is located, and (b) full-level inspections and dam safety assessments of the existing dam or DUC, which are satisfactory to MIGA, have already been conducted and documented.

**Tailings Dams and Ash Lagoons**

10. Tailings dams and ash lagoons in excess of 10 m in height are subject to this policy if:
    a) the impoundment is a cross-valley structure located below the headwaters;¹¹ or
    b) after construction of a starter dam, the impoundment structure is made of whole tailings; or
    c) standard testing methods indicate net acid generating potential of the tailings or ash.

11. Generic dam safety measures designed by qualified engineers are usually adequate for tailings dams and ash lagoons less than 10 m in height if standard testing indicates the tailings or ash have no net acid generating potential, and the impoundment:
    a) is located in relatively flat terrain, highly arid areas, or in permafrost zones; and
    b) not subject to inflow from streams or rivers.

12. Stream diversions and spillways for tailings dams and ash lagoons must be designed at a minimum for the 100-yr flood event during operations, and for maximum probable flood at closure.

13. A closure and abandonment plan must be prepared for all tailings dams and ash lagoons.

---

¹¹ Impoundments in which the only likely external source of water is direct precipitation or surface runoff in the form of sheet flow can be considered to be headwaters. Impoundments which may receive inflow from streams, or would receive such inflow in the absence of stream diversions, are considered to be below the headwaters.
PROJECTS ON INTERNATIONAL WATERWAYS

Objectives

1. MIGA recognizes that the cooperation and goodwill of riparian states is essential for the efficient use and protection of international waterways. Therefore, it attaches great importance to riparian states making appropriate agreements or arrangements for these purposes.

Application

2. For the purposes of this policy, international waterways are defined to include the following:
   a. any river, canal, lake or similar body of fresh water that forms a boundary between two or more states, or a body of surface water that flows through two or more states;
   b. any bay, gulf, strait, or channel bounded by two or more states or, if within one state, is recognized as a necessary channel of navigation between the open sea and other states; and
   c. confined seas such as the Caspian Sea, or seas such as the Mediterranean, Black, and Red Seas, whose outlet to the open sea produce restricted water circulation or tidal flushing.

For the purposes of this policy, states bordering international waterways or through which international waterways flow are considered riparian states.

3. This policy applies to those projects whose construction, operation, or modification can reasonably be predicted by environmental assessment to significantly and adversely affect international waterways with respect to the quantity or quality of water flows to other riparian states, or will significantly and adversely affect present or likely future water use by the other riparian states. In case of doubt regarding the extent to which this policy applies to a proposed guarantee, the members of MIGA's Board of Directors representing the concerned riparian states are informed by MIGA of the prospective guarantee and given two months to reply.

Notification of Other Riparian States

4. If a project is proposed to which this policy applies, the applicant or MIGA (with the projects sponsor's consent) requests the beneficiary state, if it has not already done so, to formally notify at the earliest possible opportunity the other riparian states that may reasonably be expected to be materially affected by the proposed project, and to provide information on the proposed measures to avoid or mitigate significant adverse effects.12

---

12 For the purposes of this notification, MIGA may request the assistance of relevant members of MIGA's Board of Directors. If not available at the time of notification, sufficient project details are made available to other riparian states as soon as possible after notification. Notification will include a description of the nature of forthcoming documentation, such as design specifications for pollution control measures or an environmental impact assessment, and an expected schedule of deliverables.
If the beneficiary state refuses to give notification, and objects to the project sponsor or MIGA doing so in its place, MIGA notifies the concerned members of MIGA's Board of Directors and discontinues underwriting the project.

5. Following notification, if adversely affected riparian states raise objections to the proposed project, MIGA may appoint one or more independent experts to examine the issues. Should MIGA decide to proceed with underwriting despite the objections of the affected riparian states, MIGA informs them of its decision.

**Presentation of Proposed Guarantees to the Board**

6. For every project subject to this policy, the President's Report to the Board will describe the international aspects of the project and state that MIGA staff have considered these aspects and are satisfied that:
   a. in the assessment of MIGA staff, the proposed mitigation measures are sufficient to not cause significant adverse effects on the other riparian states; or
   b. the issues involved are covered by an appropriate agreement or arrangement between the beneficiary state and the potentially affected riparian states; or
   c. the potentially affected riparian states have given a supportive response to the beneficiary state or to MIGA in the form of consent, no objection, support for the project, or confirmation that the project will not harm their interests.

7. If an objection is raised by one of the riparian states, the President's Report will contain an annex that describes the salient features of the objection, the report and conclusions of the independent experts when applicable, and the findings of MIGA staff regarding the issues of concern.
IN VOLUNTARY RESETTLEMENT

Objectives

1. Resettlement is defined for the purposes of this policy as the relocation of permanent, long-term, or seasonal shelter if the latter cannot be considered readily movable assets. For the purposes of this policy, land acquisition that results in the significant loss of income sources or means of livelihood, whether or not the affected persons must move to another location, is also covered. Loss of seasonal access to land or assets by migratory peoples is considered land acquisition if evaluation and assessment of impacts finds that the loss of access is likely to produce economic or social impoverishment.

2. For purposes of this policy, "involuntary" resettlement means without the displaced person's informed consent or power of choice, or where that consent or choice is being exercised in the absence of reasonable alternatives. Resettlement that occurs in the presence of an explicit or implicit threat of expropriation or exercise of eminent domain by the power of the state normally will be considered involuntary resettlement.

3. Impacts of involuntary resettlement, if unmitigated, often give rise to severe economic, social and environmental risks: production systems may be dismantled; people may face impoverishment when their productive assets or income sources are lost; people may be relocated to environments where their productive skills are less applicable and the competition for resources greater; community institutions and social networks may be weakened; kin groups may be dispersed; and cultural identity, traditional authority, and the potential for mutual help may be diminished or lost. This policy requires culturally appropriate measures to address and mitigate these impoverishment risks.

Policy

4. MIGA's policy on involuntary resettlement is that project sponsors should:
   a) avoid involuntary resettlement or minimize it;
   b) mitigate the adverse impacts of involuntary resettlement if it is unavoidable;
   c) provide directly affected people with compensation for their losses and the costs of resettlement, and opportunities for welfare improvements which contribute to sustainable development;
   d) with the help of qualified specialists, consult with directly affected people about what mitigation and development efforts are to be carried out, and how; and
   e) with the help of qualified specialists, either make improvement in living conditions the measure of success, or, in a non-cash economy or when consultations with directly affected people determine otherwise, use as measures

---

13 In most cases, expropriation entails a lengthy legal process, and is the least desirable approach for private sector transactions. MIGA encourages market-based transactions on the basis of willing seller and willing buyer.
of success those reasonable, mutually agreed goals that were identified in consultation with directly affected people.\textsuperscript{14}

5. To achieve the objectives of this policy, particular attention is paid to the needs of vulnerable groups among those displaced, especially those below the poverty line, the elderly, women, children, and indigenous peoples and ethnic minorities that face external barriers to integration into society as a whole. Particular attention is also paid to the unique needs and aspirations of indigenous peoples and ethnic minorities that choose to maintain distinct cultural and social traditions.

**Applicability and Responsibilities**

6. MIGA’s involuntary resettlement policy applies to the investments for which the applicant is applying for a guarantee, and addresses direct economic and social impacts as determined by the environmental assessment prepared for the proposed project.\textsuperscript{15} Involuntary resettlement should be avoided where feasible, or minimized, exploring all reasonable alternative project designs as part of the environmental assessment process.

7. Land acquisition that does not result in resettlement and is not expected to result in social or economic impoverishment is not subject to this policy. Voluntary resettlement is not subject to this policy. Voluntary resettlement occurs when directly affected parties, through informed consent, agree to vacate land, land improvements, and dwellings for mutually agreed and negotiated compensation in the form of a free market transaction. Compensation may be in the form of resettlement, payment in-kind, or cash payment.

8. In cases where planning and implementation of involuntary resettlement are the primary responsibility of the relevant governmental agency, MIGA nevertheless carries out appropriate due diligence to determine whether the outcome of resettlement activities will conform to the objectives of this policy. Where MIGA's review of the resettlement as proposed or implemented by the relevant governmental agency reveals significant deficiencies, MIGA and all relevant parties seek agreement on ways such agency's work can be supported and supplemented. In cases where resolution is not forthcoming, MIGA's Board is notified of the findings of MIGA's due diligence as part of Board consideration of the proposed guarantee.

9. Involuntary resettlement and land acquisition carried out by third parties for associated support facilities that are not part of the applicant's investment may be subject

\textsuperscript{14} Particular attention must be given by project sponsors to work with appropriate community leaders or representatives to address, clarify, and manage expectations of directly affected parties throughout the process.

\textsuperscript{15} Resettlement and land acquisition carried out by third parties and not directly attributable to the applicant's project planning and implementation are not subject to this policy. The following factors provide guidance to MIGA staff in determining applicability of this policy: (i) the length of intervening period between the taking and project planning or implementation; (ii) the relationship between the party that initiated the taking and the project sponsor; and (iii) the legal framework for the taking.
to MIGA's due diligence. In such cases, MIGA's Board is notified of the findings of MIGA's due diligence as part of Board consideration of the proposed guarantee.

10. In all other cases of involuntary resettlement, the project sponsor (or the project company) is responsible for preparing, implementing and monitoring a resettlement program that conforms to this policy. If the applicant is a minority partner or lender, with no significant influence over project implementation, MIGA's due diligence may be limited to evaluating whether the implementation or outcome was or is likely to be consistent with the objectives of this policy. In such cases, MIGA's Board is notified of the findings of MIGA's due diligence as part of Board consideration of the proposed guarantee.

Eligibility

11. Upon identification of the need for involuntary resettlement in a project, a census is carried out to identify the persons who will be affected by the project, and to discourage inflow of people ineligible for assistance. A procedure is set out to establish the criteria by which displaced persons will become eligible for compensation and other resettlement assistance. The procedure includes provisions for consultations with affected persons and communities, local authorities, and, as appropriate, nongovernmental organizations (NGOs), and specifies grievance mechanisms.

12. Displaced persons in the following two groups are entitled to compensation for loss of land or other assets taken for project purposes:
   a) those who have formal legal rights to land or other assets (including customary and traditional rights recognized under the laws of the country); and
   b) those who do not have formal legal rights to land or other assets at the time the census begins but have a claim to such legal rights;\footnote{Such claims could be derived from adverse possession upon the expiration of the statutorily prescribed period, from continued possession of public lands without government action for eviction (that is, with the implicit leave of the government), or from customary and traditional law and usage, etc.} provided that such claims are recognized under the laws of the country or become recognized through a process identified in the resettlement plan.

The absence of legal title to land or other assets is not, in itself, a bar to compensation for lost assets or other resettlement assistance.

13. A third group of displaced persons - those who are occupying land in violation of the laws of the country and who do not fall within the category described in paragraph 12 - is not entitled to compensation for loss of land under this policy. All such displaced persons may be entitled to compensation for loss of assets other than land, in particular, structures and crops, unless they knowingly occupied the land in willful defiance of government prohibitions. Persons who encroach the area after the "census" date\footnote{Normally, this cut-off date is the date the census begins. The cut-off date could also be the date the project area was delineated, prior to the census, provided that there has been an effective public dissemination of information on the area delineated, and systematic and ongoing dissemination subsequent to the delineation to prevent further population influx.} are not entitled to compensation or any other form of resettlement assistance.

\footnote{Such claims could be derived from adverse possession upon the expiration of the statutorily prescribed period, from continued possession of public lands without government action for eviction (that is, with the implicit leave of the government), or from customary and traditional law and usage, etc.}
14. Employees of landowners are not entitled to compensation if current employment may be reasonably expected to continue and the landowner assumes responsibility for providing replacement housing.

**Requirements**

15. Where significant, adverse impacts as described in paragraph 3 are anticipated as part of involuntary resettlement or land acquisition, the following requirements must be met as part of the acquisition and resettlement process. Directly affected and displaced persons are:
   a) informed about their options and rights pertaining to land acquisition and resettlement;
   b) provided timely and effective compensation\(^\text{18}\) for losses directly attributable to acquisition and resettlement;
   c) if resettled, consulted in advance and offered and provided choices among technically and economically feasible resettlement alternatives, and assistance with the costs of relocation at the time of relocation; and
   d) after displacement, support for a transition period based on a reasonable estimate of time needed to restore the livelihoods and standards of living of those displaced.

16. Displaced persons subject to involuntary resettlement must be provided prompt and effective compensation at full replacement cost\(^\text{19}\) for losses of assets\(^\text{20}\) attributable directly to the resettlement. For impacts resulting from involuntary resettlement, necessary measures for the resettlement of the affected people include provision of compensation and other assistance required for relocation prior to displacement. In particular, loss of possession of land and other assets does not take place until these measures are met.\(^\text{21}\) In new resettlement sites or host communities, infrastructure and public services are provided as necessary to improve, restore or maintain accessibility and levels of service for the displaced persons and host communities. Alternative or similar resources are provided to compensate for the loss of access to community resources (such as fishing or grazing areas, fuel or fodder).

17. Displaced persons should be assisted in their efforts to improve their livelihoods and standards of living or at least to restore them, in real terms, to pre-displacement levels.

\(^{18}\) The cost of replacement housing, land, business premises, or agricultural sites to be provided can be set off against all or part of the compensation payable for the corresponding asset lost.

\(^{19}\) "Replacement cost" is the method of valuation of assets which helps determine the amount sufficient to replace lost assets and cover transaction costs. In applying this method of valuation, depreciation of structures and assets should not be taken into account. For losses that cannot easily be valued or compensated in monetary terms (e.g. access to public services, customers and suppliers; or to fishing, grazing or forest areas), attempts are made to establish access to equivalent and culturally acceptable resources and earning opportunities. Where domestic law does not meet the standard of compensation at full replacement cost, compensation under domestic law is supplemented by additional measures necessary to meet the replacement cost standard.

\(^{20}\) If the residual of the asset taken is not economically viable, compensation is provided as if the entire asset had been taken.

\(^{21}\) The replacement assets are provided with adequate tenure arrangements.
levels or to levels prevailing prior to beginning of project implementation, whichever is higher.

Community-Level Involuntary Resettlement

18. Where adverse impacts of involuntary resettlement are expected to be felt at the community level, i.e., over and above the level of directly affected households, involuntary resettlement should be conceived and executed as community development programs to improve the economic and social well-being of the affected communities as well as the directly affected households.

19. In the case of involuntary resettlement, any "host" communities receiving significant numbers of displaced persons, or displaced communities, are provided timely and relevant information, consulted on resettlement options, and offered opportunities to participate in planning, implementing and monitoring resettlement. Patterns of community organization appropriate to the new circumstances are based on choices made by the displaced persons. To the extent possible, the existing social and cultural institutions of resettlers and any host communities are preserved and resettlers' preferences with respect to relocating in pre-existing communities and groups are honored. Appropriate and accessible grievance mechanisms are established for these groups, if not already available.

Options Available

20. Preference should be given to land-based resettlement options for displaced persons whose livelihoods are land-based. These options may include resettlement on public land, or on private land acquired or purchased for resettlement. Whenever replacement land is offered, resettlers are provided with land for which a combination of productive potential, locational advantages, and other factors is at least equivalent to the advantages of the old site. The appropriate combination and balancing of various factors must be subject to consultation with and informed consent of the directly affected parties. Resettlement sites must be prepared and provided with adequate facilities prior to displacement.

21. Options other than land-based options, such as opportunities for employment or self-employment, may be necessary in addition to cash compensation for land and other assets lost, if land is not the preferred option of the displaced persons, or if sufficient land is not available at a reasonable price.

22. Payment of cash compensation for lost assets may be appropriate where: (i) livelihoods are land-based, but the land taken for the project is a small fraction of the affected asset and the residual land is economically viable; (ii) active markets for land, housing and labor exist, displaced persons use such markets, and there is sufficient supply of land and housing; (iii) livelihoods are not land-based; or (iv) through a culturally-appropriate process of informed consent, a directly affected party opts for cash payment as part of resettlement or land acquisition. Cash compensation levels should be
sufficient to replace the lost land and other assets at full replacement cost in local markets. Cash payments may also be acceptable if the project provides alternative sustainable strategies that are not land-based and require initial capital investment (e.g., micro-enterprises).

**Rights-of-Way**

23. In the case of acquisition of rights-of-way, where land may be made available after construction, or after access-related disturbance, to previous or appropriate alternative land uses by current owners or occupants, compensation must, at minimum, meet loss of land use until previous or alternative land uses can be restored.

**Resettlement Planning and Monitoring**

24. Resettlement planning includes early screening, scoping of key issues, conducting the necessary census, and acquiring the information required to prepare the resettlement plan. The scope and level of detail of the resettlement plan vary with the magnitude and complexity of resettlement. In preparing the resettlement plan, social, technical, and legal experts as well as relevant community-based organizations are consulted as appropriate.

25. If resettlement has not yet occurred at the time MIGA receives a definitive application and begins underwriting the investment, a resettlement plan is required for all projects involving involuntary resettlement unless otherwise specified by MIGA. A resettlement policy framework is required for projects with subprojects or multiple components which are likely to require resettlement, but cannot be sufficiently identified prior to project approval. A resettlement framework may also be appropriate where there are valid reasons for delaying the implementation of the resettlement, provided that the implementing party provides an appropriate and concrete commitment for its future implementation. Resettlement plans, or frameworks, involving more than 50 households, or 250 people, will be subject to public disclosure as part of the environmental assessment for the project, in accordance with MIGA’s disclosure policy.

26. The resettlement plan, or framework, specifies the appropriate level of monitoring of the activities carried out in the resettlement, as well as the party responsible for such monitoring. After all requirements set out in the resettlement plan have been fulfilled, an evaluation is made to determine whether the main objectives of the resettlement instrument have been realized. Monitoring and evaluation are based on baseline conditions, resettlement objectives, and performance indicators described in the project documents. Follow up measures, if necessary, are discussed between MIGA and the appropriate party and implemented by such party.

---

22 IFC’s best practice manual provides appropriate guidance to private sector investors on the content and preparation of a resettlement plan.

23 Specific information on compensation paid per household or for unit of land will be deemed confidential unless the project sponsors have made this information local public knowledge.
27. If resettlement has already been carried out by the project sponsor prior to MIGA's involvement in the project, the applicant must submit appropriate documentation to MIGA for purposes of evaluating and monitoring compliance with the objectives of this policy.
PHYSICAL CULTURAL RESOURCES

Objectives

1. Physical cultural resources are important as sources of valuable scientific and historical information, as assets for economic and social development, and as integral parts of a people's cultural identity and practices. Physical cultural resources are seriously threatened throughout the world, partly as a result of modernization and development. The loss of these resources is irreversible, but fortunately, it is often avoidable.

2. MIGA seeks to avoid adverse impacts on physical cultural resources from projects that it guarantees, or to mitigate such impacts when, in the judgment of qualified experts and responsible authorities, the loss or salvage is judged minor or otherwise acceptable.

Cultural Resources Component of the EA

3. The project sponsor is responsible for carrying out an assessment of the project's potential impacts on cultural resources within the framework of the Environmental Assessment (EA) process, taking into consideration national laws and international conventions to which the host country is a signatory. Given that cultural resources may not be known or visible, it is important that a project's potential impacts on cultural resources be considered at the earliest possible stages of project planning and development.

4. Where the project may have adverse impacts on cultural resources, the project sponsor works with qualified experts, responsible authorities, relevant stakeholders and local communities to explore options and agree on measures for mitigating these impacts. These measures may range from full site protection to selective mitigation, including salvage and documentation where a portion or all of the cultural resources may be lost. The sponsor carries out, or arranges to have carried out, these activities in accordance with relevant national laws, with the help of qualified experts.

Consultation

5. The project sponsor consults relevant stakeholders, including project-affected groups, in documenting the presence and significance of physical cultural resources, assessing potential impacts, and exploring mitigation options, unless consultation with responsible authorities concludes that public disclosure would jeopardize the safety or integrity of the cultural resources involved.

---

24 For the purposes of this policy, "cultural resources" (also termed "cultural patrimony", "cultural assets", or "cultural property") refers exclusively to physical cultural resources. This includes 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.
Cultural Resources Encountered During Project Implementation

6. The project sponsor ensures that adequate procedures are in place for the management of physical cultural resources encountered during project implementation and operation (often referred to as 'chance finds'). In the event of significant chance finds, the sponsor ensures that appropriate remedial action is taken in accordance with relevant national laws, and with the help of qualified experts.
INDIGENOUS PEOPLES

Objectives

1. The broad purpose of this policy is to ensure that indigenous peoples do not suffer adverse effects from MIGA-supported projects, and to foster full respect for the dignity, rights, and culture of indigenous peoples. To achieve this, MIGA-supported projects that may adversely affect indigenous peoples will seek their input in design and implementation, aim to avoid and minimize adverse impacts on indigenous peoples, and ensure that compensatory measures or benefits intended for indigenous peoples are culturally appropriate.

2. The policy recognizes that indigenous peoples have social and economic practices that are different from those of the dominant groups of society, and this often leads to the marginalization of indigenous peoples from that society. The economic and social status of indigenous peoples often limit their ability to assert their interests and rights, and to participate in or benefit from development. As a result, indigenous peoples in most countries are among the poorest segments of society. It is further recognized that the identities, cultures, lands, and resources of indigenous peoples are closely intertwined, while the laws of society may not adequately protect the interests of indigenous peoples in this regard. Under this policy, MIGA-supported projects that may adversely impact indigenous peoples are required to take special measures to avoid or minimize and remedy these impacts.

Identification of Indigenous Peoples

3. Depending on the particular country, different names may be used to identify the 'indigenous peoples' that are targeted here. For the purpose of this policy, the primary aim is to identify those that have the particular disadvantage of being excluded from decisions that may affect one's livelihood. Rather than seek a universal definition for indigenous peoples, the policy identifies them by their lack of acculturation and integration with the dominant groups of society. Such groups have social and economic characteristics that limit their capacity to defend their interests in and rights to land and other natural resources, or that make them vulnerable to being disadvantaged in the development process. These characteristics are typically:
   a) close attachment to ancestral territories and the natural resources in them;
   b) self-identification and identification by others as members of a distinct cultural group;
   c) presence of customary social and political institutions that differ significantly from those of the dominant society;
   d) economic systems primarily oriented to subsistence production; and
   e) an indigenous language, often different from the predominant or official language.

4. Indigenous peoples are also recognized through existing general agreements between the World Bank and host country governments on the identification of indigenous peoples, or by host country legislation affording special status to groups with
characteristics such as those in paragraph 3. For additional guidance, other community
groups within the project's area of influence may be consulted.

Applicability of Policy

5. The provisions of this policy apply when indigenous peoples, as identified in
either paragraph 3 or as in paragraph 4, are found in the area of influence\(^{25}\) of a MIGA-
supported project, and if the project is judged by MIGA as possibly having adverse
impacts on the distinctive social, economic or political institutions on which that group of
people depends. The policy does not apply to groups who no longer maintain their
traditional ways of life, such as those who have left their communities of origin to join
the wage economy.\(^{26}\)

Policy Provisions

6. MIGA-supported projects that affect indigenous peoples are required to:
   a) have meaningful consultation with, and timely participation of, affected
      indigenous peoples in the identification, mitigation, and management of likely
      adverse impacts,
   b) incorporate mechanisms into project design and implementation to avoid,
      minimize or mitigate adverse impacts upon indigenous peoples,
   c) document the above steps.

7. Consultation and Participation. The objective of this provision is to gather
   indigenous people's views on possible adverse impacts of the project, and the preferred
   forms of remedies or benefits. Consultation and participation may also yield information
   for MIGA's decision-making on project underwriting. The essence of meaningful
   consultation and participation is demonstrated by the provision of relevant project
   information to affected indigenous peoples in a timely and culturally appropriate manner,
   and the presence of project mechanisms to obtain broad inputs from indigenous peoples.
   The project sponsor should normally:
      a) use culturally appropriate consultation methods which allow indigenous peoples
         to express their views and preferences,
      b) establish a framework for dialogue, including adequate age and gender
         representation, and
      c) involve representative indigenous organizations in discussions, if appropriate.

\(^{26}\) In many cases, indigenous peoples are already relinquishing traditional habits and
indigenous peoples communities are diminishing in size. Although there is no numerical
threshold for this policy to apply, professional judgment is to be exercised. It should be
noted that other MIGA safeguard policies already provide for a level of social impact
mitigation for all project-affected persons. This policy focuses on the interests and special
needs of indigenous peoples not otherwise covered in other MIGA safeguard policies.
8. Project Design. Projects with adverse impacts and projects in which indigenous peoples are among the proposed beneficiaries, require informed participation and the development of commitments to be incorporated into project design. However, processing requirements differ.
   a) For social sector projects (such as in health and education) where indigenous peoples are among the intended beneficiaries, the project design should directly account for indigenous peoples' languages, cultures, religious beliefs, and ways of life.
   b) Where projects are anticipated to have adverse impacts, a social assessment of the nature and extent of impacts is required normally as part of the environmental assessment process. Measures to avoid, minimize or mitigate impacts to indigenous peoples will be developed based on the results. Reasonable views and inputs gathered from indigenous peoples during the consultation process should be considered. In consultation with indigenous people, a program of actions will be developed by the project sponsor and be known as the Indigenous Peoples Plan (IPP). A mechanism should be included to allow for adjustment to the plan as indigenous peoples' circumstances change with time. The IPP will be one of the sponsor's commitments under the project.

Where indigenous peoples live in communities with other people, planning and implementation are carried out in a flexible and pragmatic way to avoid creating unnecessary distinction or inequities between indigenous peoples and other poor residents in the area.

9. Documentation. The primary documentation for the above process is the IPP. If applicable, IPPs may be combined with or incorporated into resettlement action plans, community action plans or other similar instruments as long as key information, decisions, and rationale from the above process are also captured.

Provisions for Lands and Resources

10. The subsistence and social organization of indigenous peoples are often closely tied to their lands and resources. MIGA-supported projects should recognize that indigenous peoples may attribute cultural, religious and sacred values to their lands and resources, and that indigenous peoples may have individual or collective rights to use and develop the lands they occupy, and to manage its resources accordingly.

11. Commercial Use. When MIGA-supported projects involve the commercial exploitation of natural resources (including forests, mineral, and hydrocarbon resources) on lands owned, or customarily used by indigenous peoples, they should:
   a) be informed about the potential impacts to their livelihoods, environment and use of natural resources,

---
28 Guidance on the content and preparation of an IPP may be found in IFC's best practice, or alternatively in O.D. 4.20 to the extent the provisions are applicable to private sector activities.
29 See also MIGA policy on Physical Cultural Resources.
b) be consulted at an early stage on the development of such projects, and be involved in decisions that affect them, and
c) be provided with opportunities to derive culturally appropriate benefits from the project.

12. Cultural Resources. When a MIGA-supported project envisions the commercial use of cultural resources (e.g., tourism), including the knowledge of indigenous peoples, the policy requires that they agree to and derive benefits from the use of such resources. [Table of Contents]