

# **Operationalization of the Oyo Centre of Excellence for Renewable Energy and Energy Efficiency in the Republic of the Congo**

Project ID: 190379

Planned start and end date: 01.01.2023 – 31.12.2027



## **Environmental and Social Management Plan (ESMP)**

## Executive Summary

This Environmental and Social Management Plan (ESMP) has been prepared for the project “Operationalization of the Oyo Centre of Excellence for Renewable Energy and Energy Efficiency in the Republic of the Congo” (Project ID 190379). The Republic of the Congo, in collaboration with the United Nations Industrial Development Organization (UNIDO) and Eni Congo, established the Oyo Centre of Excellence for Renewable Energy and Energy Efficiency (Oyo Centre) in the Republic of the Congo. The Oyo Centre is envisaged to become a national centre with a regional outlook, with the ultimate objective of contributing to the development of an integrated and inclusive sustainable energy market in the country and the wider region.

As this project is supported by UNIDO in its role as a technical expert provider, the project has been screened against UNIDO’s Environmental and Social Safeguards Policies and Procedures (ESSPP). The risk assessment identified moderate risks for most project activities. Therefore, the project has been determined to be a Category B (Moderate Risk) project. As such, an ESMP has been prepared for the project. The Operational Safeguards (OS) triggered by the project include OS 8: Labour and Working Conditions; OS 9: Resource Efficiency and Pollution Prevention and OS 10: Community Health, Safety and Security.

The ESMP has been prepared to comply with UNIDO’s ESSPP. This ESMP intends to ensure that environmental and social concerns are integrated into the project. It further suggests ways of preventing, minimizing, mitigating and/or compensating possible adverse environmental and social impacts which may arise due to the project activities. This ESMP also provides monitoring actions to ensure effective implementation of the mitigation measures of the identified risks.

This ESMP will be reviewed and updated as the project is implemented.

### Document Control

<b>Contact Person</b>	
<b>Date Approved</b>	
<b>Signed</b>	
<b>Planned Date of Review</b>	NA

## Table of contents

Executive Summary .....	2
Acronyms .....	4
1. Introduction .....	5
1.1. Financing Sources .....	5
1.2. Purpose of the ESMP and key objectives.....	5
1.3. Project Environmental and Social Risks Screening Outcome.....	6
2. Project background.....	8
2.1. Description of the Project.....	8
2.2. Project/ Site location .....	10
2.3. Benefits of the project and targeted beneficiaries .....	11
2.4. Potential adverse effects of the project.....	14
2.5. Climate Change Risks .....	17
2.5.1. Vulnerability to climate change .....	17
2.5.2. Risks of projects activities to climate change .....	17
3. Policy, legal and administrative framework.....	18
3.1 National legal framework.....	18
3.2 International legal framework .....	18
3.3 Conformity of the project with the Republic of the Congo’s law on environmental and social audits .....	20
4. Environment and social risks and mitigation measures .....	21
5. Environment and social sustainability monitoring.....	25
6. Capacity Development .....	28
6.1. Management structure .....	28
6.2. ESMP Roles and Responsibilities .....	29
6.3. Institutional Strengthening .....	29
7. Communication and Stakeholder Engagement .....	29
Annex A: assessment template for centre-led activities.....	31
Appendix to the assessment (Annex A): UNIDO Environmental and Social (E&S) Scorecard for pilot projects .....	33
Annex 1 to the Appendix: UNIDO ESSPP – Key guidance .....	41
Annex B: Collection of international and national texts relating to the environment in the Republic of Congo.....	46
Annex C: Guidelines for Terms of Reference for an Environmental and Social Compliance Audit (in French).....	66

## Acronyms

AFDB: African Development Bank Group

APUA: Association of Power Utilities in Africa

CEREEAC: Centre for Renewable Energy and Energy Efficiency for Central Africa

EB: Executive Board

ECCAS: Economic Community of Central African States

ECOWAS: Economic Community of West African States

EE: Energy Efficiency

EU: European Union

ESSPP: Environmental and Social Safeguards, Policies and Procedures

EHS: Environmental Health and Safety

EMA: Environmental Management Act

ESMP: Environmental and Social Management Plan

GCF: Green Climate Fund

GEF: Global Environment Facility

GHG: Greenhouse gas

GIIP: Good International Industry Practice

GN-SEC: Global Network of Regional Sustainable Energy Centres

GRM: Grievance Redress Mechanism

IPPs: Independent Power Producers

IRENA: International Renewable Energy Agency

MSMEs: micro, small and medium enterprises

MESRSIT: Ministry of Higher Education, Scientific Research and Technological Innovation

NDC: Nationally Determined Contribution

NORTEC: Northern Technical College

NCS: National Conservation Strategy

OHS: Occupation Health and Safety

OS: Operational Safeguards

PSC: Project Steering Committee

PMU: Project Management Unit

RE: Renewable Energy

R&E: Research and Development

SC: Scientific Council

SDGs: Sustainable Development Goals

SMEs: Small and Medium Enterprises

UNIDO: United Nations Industrial Development Organization

VTC: Vocational Training Centre

## 1. Introduction

The Republic of the Congo, in collaboration with the United Nations Industrial Development Organization (UNIDO) and Eni Congo, are aiming to establish the Oyo Centre of Excellence for Renewable Energy and Energy Efficiency (Oyo Centre) in the Republic of the Congo, in order to contribute to the creation of an integrated and inclusive sustainable energy market in the country and the wider region.

The project is located in the Republic of the Congo and its scope of intervention is defined as follows:

- Support and execute renewable energy (RE) and energy efficiency (EE) and energy nexus activities and projects in the Republic of the Congo.
- Focus primarily on national and local projects which demonstrate high potential for scale up and replication in view of increasing the overall outreach.
- Ensure activities are focused on rural areas as well as assists in the development of large scale RE and EE developments as well as its application on energy nexus, which benefit the country as a whole, covering urban, peri-urban and rural areas.
- Support the development of an integrated and inclusive sustainable energy market in the Republic of the Congo and the wider region. In line with the institutional structure of the Centre for Renewable Energy and Energy Efficiency for Central Africa (CEREEAC), the Oyo Centre is envisaged to serve as one of the thematic hubs of the CEREEAC for applied research and capacity building.

The mission of the Oyo Centre is to promote and undertake projects and applied research about RE, EE and the nexus area, as well as to support local/international researchers and institutional capacity building, contributing to the creation of an integrated and inclusive sustainable energy market in the Republic of the Congo and the wider region. The centre is incorporated within the structure of the Ministry of Higher Education, Scientific Research and Technological Innovation (MESRSIT).

### 1.1. Financing Sources

The Oyo Centre is expected to be primarily funded through the Republic of Congo, Eni Congo and UNIDO. It is envisaged that, with the Centre establishment and the development of its programmes and projects, Eni Congo's grant will be totally spent by the end of the 1st Operational Phase. The share of other donors should gradually increase from Year 1 to Year 5. Moreover, the Centre aims at mobilizing around 10-20% of its annual budget through commercial services and investment shares (fee-for-service) from Year 5.

In addition, a funding agreement was concluded with the European Union. This funding consists of a national envelope to support capacity building activities of the Oyo Centre and a regional envelope to support capacity building and research at a regional level, backstopping the activities of the CEREEAC in Angola.

### 1.2. Purpose of the ESMP and key objectives

The principal aim of this Environmental and Social Management Plan (ESMP) is to identify and evaluate potential environmental and social impacts associated with the Oyo Centre Project activities and to provide mitigation and monitoring measures for such impacts. The project by its nature is likely to have moderate adverse impacts on human populations and the environment. As such, this ESMP has been developed to:

- i. Ensure the project is compliant with applicable national (Congolese) environmental and

social legal requirements, and UNIDO’s Environmental and Social Policies and Procedures.

- ii.** Identify the required mitigation measures that are needed to prevent and minimize the negative environmental and social impacts.
- iii.** Ensure that all mitigation measures for the project impacts are incorporated into the workplan.
- iv.** Outline the mitigation, monitoring, consultative and institutional measures required to prevent, minimize, mitigate, or compensate for adverse environmental and social impacts and/or to enhance project related beneficial impacts.
- v.** Address human resource requirements to ensure implementation of the ESMP is possible.

### 1.3. Project Environmental and Social Risks Screening Outcome

As this project is supported by UNIDO in its role as a development partner providing technical expertise, the project has been screened against UNIDO’s Environmental and Social Safeguards, Policies and Procedures (ESSPP) and has been deemed as a “Moderate Risk” (Category B) project. UNIDO requires its development projects to apply its ESSPP in order to manage the environmental and social risks. UNIDO’s Operational Safeguards (OS) represent a set of twelve principles for assessing environmental and social impacts of projects. Based upon the assessment, Table 1 highlights the applicable OS to the project.

Additionally, the Oyo Centre will also ensure that its activities, whether operational or in delivering programmes, uphold national and international standards in terms of environmental and social safeguards, including the UNIDO ESSPP. Integration of aspects such as environmental management and health and safety protocols will form the basis for any projects undertaken by the Oyo Centre, with clear standards being developed in the Centre’s Start-Up Phase to ensure that there is a clear governance structure and that those standards are communicated to all staff, teams and project partners. Annex A outlines key questions to assess the environmental and social risks associated with new activities/projects.

Table 1: Operational Safeguards Trigger Screening

<b>OS Triggered at Screening</b>	<b>Reasoning for triggering OS at E&amp;S Screening</b>	<b>Reasoning on whether OS remains relevant through the project Implementation</b>	<b>Confirmation of the Applicability of OS</b>
OS 8: Labour and Working Conditions	Some of the projects' activities (i.e. research in the laboratories) could result in students being injured.  SMEs supported under Outcome 5 of the project will have to be screened against UNIDO ESSPP (see annex A)	As the project is still planned as initially envisaged, the reasons remain relevant. In particular, for the research and pilot-project-related activities, which will be the priority in the initial stages of project implementation.	Yes
OS 9: Resource Efficiency and Pollution Prevention	The Project will involve the utilization of resources (chemicals, equipment), and generate waste	Both the activities of the centre (i.e. research) and of the pilot projects may involve use of equipment and resources with potential adverse impacts on the environment. The development of the curricula, research projects, and the selection of pilot projects to be supported will determine how relevant these risks are, and how to best mitigate them (see annex A)	Yes
OS 10: Community Health, Safety and Security	The centre will host a community (students) that is involved in activities that can impact their health and security	OS 10 is linked to OS 8 and OS 9 in regard to safety of equipment used for research activities. In addition, health preventive measures for youth hosted at the centre premises should be put in place.	Added after the original screening

## 2. Project background

### 2.1. Description of the Project

The majority of the Congolese population lacks modern energy services. In 2021, the average electricity access rate was 49,7% and average access rate to clean cooking fuels was 36%, which are below what would be required to reach the Sustainable Development Goals (SDGs) – SDG 7, universal access to electricity and clean cooking by 2030. The Republic of the Congo has submitted its revised Nationally Determined Contribution (NDC) in 2021, which includes a 39.88% and a 17.09% reduction in greenhouse gas (GHG) emissions by 2025 in the conditional and unconditional scenarios, respectively. By 2030, the NDC targets a reduction of 32.19% in the conditional scenario and 21.46% in the unconditional scenario (Ministère de l'Environnement, du Développement Durable et du Bassin du Congo, 2021).

Considering the experience gained from establishing and running similar centres worldwide and more specifically in Africa, UNIDO is very well suited to make use of its regional and global experiences to support the Oyo Centre, ensuring its effectiveness and sustainability. In addition, UNIDO's involvement will bring international recognition to the centre, which can be instrumental in mobilizing support from development partners. In sum, the services to be provided by the Oyo Centre squarely fit into UNIDO's mandate.

In order to promote public-private sector collaboration to achieve the SDGs, UNIDO has partnered with Eni, which is an energy company operating in 68 countries worldwide, including the Republic of the Congo. In June 2022, UNIDO and Eni SpA signed a joint declaration to strengthen cooperation in areas of common interest, which includes renewable energy and youth employment. The proposed Oyo Centre is in line with Eni SpA and Eni Congo's mission to contribute to achieving the SDGs in the countries of presence.

The establishment of the Oyo Centre was made official with the *Loi n° 4-2023* of 19th April 2023, concerning the creation of the Oyo Centre<sup>1</sup>, promulgated by the President of the Republic of the Congo and adopted by the National Assembly and the Senate. The Oyo Centre was officially inaugurated on 23<sup>rd</sup> April 2023 during a high-level ceremony, co-organized by the Government of the Republic of the Congo and Eni Congo.

The mission of the Oyo Centre is to promote and undertake projects and applied research about RE, EE and the nexus area, as well as to support local/international researchers and institutional capacity building, contributing to the creation of an integrated and inclusive sustainable energy market in the Republic of the Congo and the wider region. This mission is aligned with the vision of the Republic of the Congo to transform the Oyo Centre into a public institution that will be a reference in RE, EE and related nexus area research and development within the country and the wider region.

The project will achieve its objective through seven interrelated outcomes and interrelated outputs

#### **OUTCOME 1a: The Oyo Centre is legally established and formally launched in cooperation with key partners**

*Output 1a.1:* ProDoc/Agreements between the Republic of the Congo, Eni Congo, UNIDO, CEREAC and other key partners are signed

*Output 1a.2:* Oyo Centre fully legalized and two governance structures (as per section 3.3) established

*Output 1a.3:* Staff Centre is recruited

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<sup>1</sup>journal officiel n°2023-16 du 20/04/2023, available at: <https://www.sgg.cg/fr/journal-officiel/le-journal-officiel.html?page=1&row=1462>



*Output 1a.4:* Long and short-term planning, implementation and Monitoring and Evaluation (M&E) framework of the Centre is established and implemented

*Output 1a.5:* The Centre is officially inaugurated, and the infrastructure handed over from Eni Congo to the Government of the Republic of the Congo (MESRSIT)

#### **OUTCOME 1b: The Oyo Centre is fully operational (Management and Mobilization)**

*Output 1b.1:* The Oyo Centre office is established, a secretariat (staff team) is recruited, and the internal procedures and regulations are implemented

*Output 1b.2:* The Oyo Centre office is operational with staff and internal procedures and regulations

*Output 1b.3:* Core activities and functions of the Centre are operational

*Output 1b.4:* Gender and youth dimensions are integrated into Oyo Centre governance structure, programme/project management level (Gender and Youth)

*Output 1b.5:* Environmental and Social Management Plan (ESMP) is developed for the project; Environmental and Management Standards are developed and integrated into Oyo Operations and Programmes/Projects

#### **OUTCOME 2: The Oyo Centre acts as an R&D centre in the Republic of the Congo (Applied Research)**

*Output 2.1:* Solutions to energy and nexus related issues affecting the population of the Republic of the Congo in urban and rural areas provided

*Output 2.2:* Implementation and validation of at least four (4) research concepts in real-world settings

*Output 2.3:* Partnerships and networking with local, regional and international research institutes and universities established

#### **OUTCOME 3: Improve the legal framework and act as a think tank on energy sector issues and its nexus (Policy and Regulatory Work)**

*Output 3.1:* Assist with the development and implementation of RE and EE policies, regulations and standards

*Output 3.2:* Oyo Centre works as a think-tank and clearinghouse for policy and regulatory advice

#### **OUTCOME 4: Capacities of national and regional stakeholders on energy and nexus issues strengthened (Training and Capacity Building)**

*Output 4.1:* A capacity building framework for the qualification, certification and testing of RE and EE products and services is developed

*Output 4.2:* A partnership with APUA for technical and financial support for capacity building activities established

*Output 4.3:* A network of certified RE and EE trainers for the country and the region established

*Output 4.4:* National and regional key market enablers (at least 40% being women) trained on RE and EE aspects of high relevance for the Republic of the Congo / region

#### **OUTCOME 5: Private sector participation and innovation is stimulated (Promoting SMEs and Innovation)**

*Output 5.1:* Promote awareness of business opportunities and innovation for RE and EE solution through conferences and status reports on the SMEs and Innovation in RE and EE

*Output 5.2:* Local innovation and Research and Development (R&D) frameworks and network with private sector orientation strengthened with a focus on the water-energy-food nexus

*Output 5.3:* Promote local RE and EE entrepreneurship and innovation as well as its application on nexus related markets

### **OUTCOME 6: Improved RE&EE data and information management processes and awareness raising**

Output 6.1: An information platform with national level RE and EE information made available

Output 6.2: Raise awareness and promote the Oyo Centre activities as well as RE and EE topics

### **OUTCOME 7: Investment is facilitated**

Output 7.1: Facilitate and promote finance, private participation and foreign direct investment in RE and EE projects

#### 2.2. Project/ Site location

The project will be implemented in Oyo, Republic of Congo. In the heart of the Republic of Congo, Oyo is located more than 400 km from Brazzaville and 100 km from Owando further north. It is connected by a paved road to Brazzaville and to Owando and served by the Oyo Ollombo Airport and a river port on the Alima River.



*Figure 1: Map and geo coordinates of the Oyo Centre*

Oyo enjoys a tropical climate, characterized by distinct wet and dry seasons. The rainy season typically runs from September to October while the dry season spans from November to August. Oyo's economy is primarily driven by agriculture, with staple crops like cassava, corn, and plantains being the mainstay of local livelihoods. Tourism is another emerging sector, attracting visitors to explore Oyo's cultural heritage. The town boasts a 5-star luxury hotel: the Pefaco Hôtel Alima Palace, located on the banks of the Alima River, between the town of Oyo and Ollombo airport.

Agriculture plays a pivotal role in Oyo's economy, providing sustenance for the local population and generating income for farmers. The fertile soils and abundant rainfall support a diverse range of crops, including cassava, corn, plantains, and vegetables. Traditional farming methods are often supplemented by modern techniques, such as irrigation and crop rotation, in an effort to enhance productivity and adapt to climate change. Oyo's population is estimated to be around 8,000, as of 2018. The majority of the population is engaged in agriculture, while a growing number are pursuing education and seeking employment in the service sector.

Access to reliable and affordable energy remains a challenge in Oyo. The town is connected to the national grid via a 220kV line linking the Gamboma and Oyo substations. There is also a 4.32MW gas-oil power station. The city relies primarily on diesel generators for electricity, which are expensive to operate and contribute to environmental pollution. Efforts are underway to expand the use of solar and hydropower technologies, aiming to provide cleaner and more sustainable energy solutions. Today, Oyo is primarily destined to host one of the country's future special economic zones: plateformes Industrielles du Congo - Oyo is a special integrated industrial zone developed to facilitate rapid growth of the Congolese economy, by creating strong economic activities focused on both sustainability and competitiveness.

The centre is included within the structure of the Ministry of Higher Education, Scientific Research and Technological Innovation (MESRSIT). The infrastructure covers an area of 10,000 square meters, which houses eight (8) laboratories, thirteen (13) offices, one (01) canteen, one (01) large conference room, three (03) meeting rooms, twenty-five (25) student apartments and four (4) staff apartments.



*Figure 2: Pictures of the Oyo Centre*

### 2.3. Benefits of the project and targeted beneficiaries

The Oyo Centre aims to fulfil its objective and mandate by working together with stakeholders acting in the Republic of the Congo and wider region focusing on coordinating and creating synergies with different national/regional activities. It will serve as a catalyst for the implementation of RE, EE and nexus related projects that will have a direct impact on transforming the Republic of the Congo's energy landscape. This will be carried out through stakeholder engagement as well as through the provision of several services to different clients and target groups:

- Support the CEREAC in regional research and projects related to RE, EE and nexus related topics.
- Act as facilitator to implement established national sustainable energy targets.
- Act as service provider to assist the Republic of the Congo to implement its RE, EE and nexus related policy commitments in practice (e.g. laws, standards, incentive schemes).
- Work closely with and strengthen already existing national energy institutions.
- Be a strong link between international climate finance and implementation on the ground.

- Act as “think-tank” for sustainable energy issues in the Republic of the Congo.
- Act as provider of reliable sustainable energy investment and market data.
- Promote the Republic of the Congo as attractive place to invest in RE, EE and nexus related markets.
- Act as implementer of awareness raising campaigns.
- Act as manager of call for proposals for sustainable energy projects and businesses.
- Support local businesses to take advantage of sustainable energy investment opportunities.
- Act as coordinator of train-the-trainer networks and applied research networks and projects.
- Act as executor of national RE, EE and nexus related programmes, projects and activities in cooperation with international partners (e.g. UN, EU, AfDB, donors, IRENA, GEF, GCF).
- Act as promoter of knowledge and technology transfer within the country.

The main target beneficiaries of the activities of the Oyo Centre shall consist primarily of RE, EE and nexus related market players and enablers in the Republic of the Congo and the wider ECCAS region. More specifically, the following stakeholders will benefit from the Centre’s activities:

- Policy makers in energy and related sectors: as a result of the project, these actors will have better capacity to develop, implement and operationalize policies, strategies that are conducive to the dissemination of RE, EE and nexus related technologies in the country.
- Private sector like micro, small and medium enterprises (MSMEs), entrepreneurs, equipment manufacturers, project developers financing institutions: as a result of the project, these actors will be trained on various aspects including RE, EE and nexus related project identification, development, implementation, funding mobilisation, equipment manufacturing etc.
- Institutions charged with promoting RE, EE and nexus related activities, who will benefit from the project through targeted training programmes (including equipment standards and performance labelling schemes, policy implementation and rural energy planning.
- Regulators, Independent Power Producers (IPPs), generating companies, utilities and grid operators: as result of the project, these actors will benefit from an improved policy and regulatory framework. Collaboration between stakeholders will be promoted, which will ultimately aid the development of RE and the adoption of EE strategies as well as their application on nexus related areas.
- Policy makers, private sector, national institutions: these actors will benefit from awareness raising programmes on RE and EE and its application on nexus related markets.
- Ultimately, the population of the Republic of the Congo (and wider region) will benefit from increased access to modern energy services (through increased market penetration of RE and EE technologies and services). The population will also benefit from the application of RE and EE in nexus-related areas such as food and water sectors.
- Lack of access to modern energy services tends to affect women and youth disproportionately. Therefore, the activities of the Oyo Centre will alleviate the plight of women and children through reduced time and labour in collection firewood and exposure to indoor air pollution, creation of opportunities of engaging in productive activities, among others.
- More specifically, vocational training activities will participate to the empowerment of youth and to their employment.

As part of its research activities, the Centre will select PhD and MSc students to develop research projects, offering opportunities for collaborative research to these students.

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- Private sector like micro, small and medium enterprises (MSMEs), entrepreneurs, equipment manufacturers, project developers financing institutions: as a result of the project, these actors will be trained on various aspects including RE, EE and nexus related project identification, development, implementation, funding mobilisation, equipment manufacturing etc.
- Institutions charged with promoting RE, EE and nexus related activities, who will benefit from the project through targeted training programmes (including equipment standards and performance labelling schemes, policy implementation and rural energy planning).
- Regulators, Independent Power Producers (IPPs), generating companies, utilities and grid operators: as result of the project, these actors will benefit from an improved policy and regulatory framework. Collaboration between stakeholders will be promoted, which will ultimately aid the development of RE and the adoption of EE strategies as well as their application on nexus related areas.
- Policy makers, private sector, national institutions: these actors will benefit from awareness raising programmes on RE and EE and its application on nexus related markets.
- Ultimately, the population of the Republic of the Congo (and wider region) will benefit from increased access to modern energy services (through increased market penetration of RE and EE technologies and services). The population will also benefit from the application of RE and EE in nexus-related areas such as food and water sectors.
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- More specifically, vocational training activities will participate to the empowerment of youth and to their employment.
- As part of its research activities, the Centre will select PhD and MSc students to develop research projects, offering opportunities for collaborative research to these students.

## 2.4. Potential adverse effects of the project

*Table 2: Potential Environmental and Social Adverse Impacts per Output*

<b>Output</b>	<b>Identified Risk</b>	<b>Triggered Operational Safeguards (OS)</b>
<p>Output 2.1: Solutions to energy and nexus related issues affecting the population of the Republic of the Congo in urban and rural areas provided</p>	<p><b>Health and Social Misconduct Risk:</b></p> <p>Possible COVID-19 outbreak or other spreadable disease clusters through physical contacts causing health risks among stakeholders, including sexually transmitted infections</p> <p><b>Labour and Working Conditions Risk:</b></p> <p>Poor labor conditions, risk of abuse of power, harassment</p> <p>Low participation rates of women and youth and other vulnerable groups may deepen existing inequalities and exacerbate vulnerabilities</p> <p><b>Safety risk:</b></p> <p>Proofing these research concepts, including the prototyping and validation, in the Oyo Centre laboratory environment, will require to use</p>	<p>OS 8: Labour and Working Conditions</p> <p>OS 9: Resource Efficiency and Pollution Prevention</p> <p>OS 10: Community Health, Safety and Security</p>

	<p>equipment that could pose a safety risk</p> <p>Environmental Risk:</p> <p>Research concepts will be tested in real-world conditions, providing solutions to energy and nexus related issues affecting the population in urban and rural areas. However, these projects can also have environmental impacts, which should be assessed beforehand, and affect the selection of projects</p>	
<p>Output 2.2: Implementation and validation of at least four (4) research concepts in real world settings</p>	<p>Environmental Risk:</p> <p>Research concepts will be tested in real-world conditions, providing solutions to energy and nexus related issues affecting the population in urban and rural areas. However, these projects can also have environmental impacts, which should be assessed beforehand, and affect the selection of projects</p>	<p>OS 9: Resource Efficiency and Pollution Prevention</p>
<p>Output 4.4: National and regional key market enablers trained on RE and EE aspects of high relevance for the Republic of the Congo / region</p>	<p>Health and Social Misconduct Risk:</p> <p>Possible COVID-19 outbreak or other spreadable disease clusters through physical contacts causing health risks among stakeholders, including sexually transmitted infections</p>	<p>OS 8: Labour and Working Conditions</p> <p>OS 10: Community Health, Safety and Security</p>

	<p>Poor labor conditions, risk of abuse of power, harassment</p> <p>Low participation rates of women and youth and other vulnerable groups may deepen existing inequalities and exacerbate vulnerabilities</p> <p>Safety Risk: The operation of various equipment and machinery and can lead students to capacity building-related accidents and injuries</p>	
<p>Output 7.1: Facilitate and promote finance, private participation and foreign direct investment in RE and EE projects</p> <p>and</p> <p>Output 5.1: Promote awareness of business opportunities and innovation for RE and EE solution through conferences and status reports on the SMEs and Innovation in RE and EE</p>	<p>Environmental Risk: the centre will identify and support a number of RE, EE and nexus related businesses. These projects can have environmental impacts, which should be assessed beforehand, and affect the selection of projects</p> <p>Labour and Working Conditions Risk:</p> <p>Poor labor conditions, risk of abuse of power, harassment</p>	<p>OS 9: Resource Efficiency and Pollution Prevention</p> <p>OS 8: Labour and Working Conditions</p>



## 2.5. Climate Change Risks

### 2.5.1. Vulnerability to climate change

The Republic of the Congo is already experiencing some of the impacts of climate change. In recent years, the country has experienced more frequent and intense droughts, floods, and storms. These events have caused damage to infrastructure, agriculture, and houses. They have also displaced people from their homes and caused food shortages.

- **Agriculture:** Climate change is threatening the productivity of agriculture in the Republic of the Congo. Droughts and floods are becoming more frequent and changing precipitation patterns are making it difficult to grow crops. This is putting a strain on food security in the country.
- **Infrastructure:** Climate change is also causing damage to infrastructure in the Republic of the Congo. Floods and storms are damaging roads, bridges, and other infrastructure. This is making it difficult for people to get around and access essential services.
- **Human health:** Climate change is also posing a threat to human health in the Republic of the Congo. Rising temperatures and changing weather patterns are increasing the risk of heat stress, vector-borne diseases, and malnutrition. This is particularly a problem for vulnerable groups, such as children and the elderly.
- **Sea level rise:** Rising sea levels threaten coastal communities and infrastructure. They can also increase the risk of saltwater intrusion into freshwater sources.
- **Changes in precipitation patterns:** Changes in precipitation patterns can lead to more droughts in some areas and more floods in others. This can have a major impact on agriculture and food security.
- **Disease outbreaks:** Climate change can increase the risk of disease outbreaks, such as malaria and dengue fever.

However, the extent to which these climate change risks influence the results of the project should be limited. Students could possibly experience some climate change related challenges, such as through logistic disturbances, disruptions to production, increased utility prices and costs of insurance, finance or imports.

### 2.5.2. Risks of projects activities to climate change

The project activities will have a marginal impact on climate change, for instance the project will involve an increase in transportation activities involving the movement of equipment and personnel, as the Oyo Centre is located 5 hours away from Brazzaville, the capital of the country. This increase in transportation-related emissions can marginally exacerbate climate change risks by adding more greenhouse gases to the atmosphere. Any future activity with the potential to result in CO<sub>2</sub> emissions will be assessed and consequently monitored.

### 3. Policy, legal and administrative framework

#### 3.1 National legal framework

The legislative and regulatory texts relevant to the project's activities are composed of laws, decrees and orders, and are mainly enacted and/or implemented by the Ministry in charge of the Environment. The table below presents them in chronological order. For more information, please refer to Annex B of this document.

*Table 3: National texts on Environment*

N°	NATIONAL TEXTS ON ENVIRONMENT
1.	Law n° 003/91 of April 23, 1991 on environmental protection
2.	Law n° 003/91 of April 23, 1991 on environmental protection
3.	Decree no. 2009-415 of 20 November 2009 laying down the scope, content and procedures for the environmental and social impact study and notice.
4.	Order no. 1450 of 18 November 1999 relating to the application of certain provisions on classified installations of law 003/91 on environmental protection
5.	Order No 4406/MTE/CAB of 1 April 2014 setting the conditions for approval to carry out environmental and social assessments.
6.	Order no. 3196/MTE/CAB of 14 July 2008 on the nomenclature of classified facilities under law 003/91 of 23 April 1991 on environmental protection.

#### 3.2 International legal framework

The Congo has ratified and acceded to a number of multilateral, regional and sub-regional international agreements on sustainable development and environmental protection, notably on biodiversity, climate change, chemicals, hazardous waste, desertification, ozone layer protection, nuclear energy, cultural heritage, land-use planning, etc.

The international agreements relevant to the project's activities are listed in the table below. For more information, please refer to Annex B of this document.

*Table 4: International Agreements*

N°	TITLE/ ABBREVIATIONS	DATE & PLACE OF ADOPTION	DATE ENTRY (EFFECTIVE)	STATUS
1	African Convention on the Conservation of Nature and Natural Resources	2003, Maputo, Mozambique	29/04/1981	S (signed) : 27/02/2004
2	Convention for the Protection of	1972, Paris, Austria	10/05/1998	R (ratified) : 10/12/1987

	World cultural and natural heritage (WHC)			
3	United Nations Framework Convention on Climate Change (UNFCCC)	1992, New York/ USA	25/06/1996	R : 14/10/1996
4	Kyoto Protocol	1997, Kyoto, Japan	16/02/2007	R : 13/05/2007
5	Paris Climate Agreement	2015, Paris, Austria	22/04/2016	R : 22/04/2017
6	Vienna Convention for the Protection of the Ozone Layer	1985, Vienna, Austria	01/03/1994	R : 16/11/1994
7	Montreal Protocol on Substances that Deplete the Ozone Layer	1987, Montreal, Canada	01/03/1994	A (acceded) : 16/11/1994
8	London amendments to the Montreal Protocol on Substances that Deplete the Ozone Layer	June 29, 1990, London, England	10/08/1992	A : 16/11/1994
8	Copenhagen Amendments to the Montreal Protocol on Substances that Deplete the Ozone Layer	1992, Montreal, Quebec, Canada	14 /06/ 1994	A : 19/10/2001
9	Montreal Amendments to the Montreal Protocol on Substances that Deplete the Ozone Layer	1997, Montreal, Québec, Canada	10 /11/ 1999	A : 19/10/2001
10	Beijing amendments to the Montreal Protocol on Substances that Deplete the Ozone Layer	1999, Beijing, China	25/02/2002	A : 19/10/2001
11	Kigali amendments to the Montreal Protocol on Substances that Deplete the Ozone Layer	2016, Kigali, Rwanda	01/01/2019	A : 14/10/2006
12	International Labour Organization Convention No. 168 concerning Employment Promotion and Protection against Unemployment	1988, Geneva, Switzerland	17/10/1991	A : 26/11/1999
13	Stockholm Convention on Persistent Organic Pollutants	2001, Stockholm, Sweden	13/06/2007	R : 13/05/2007
14	Protocol of 1992 to amend the International Convention on Liability for Oil Pollution Damage, 1969.	1992, London, England	30 /05/ 1996	A : 07/08/2002
15	Protocol on Cooperation in Combating Pollution in Cases of Emergency	1981, Abidjan, Ivory Coast	05/08/1984	R : 19/12/1987

The legislative and regulatory texts relevant to the project's activities are composed of laws, decrees and orders, and are mainly enacted and/or implemented by the Ministry in charge of the Environment. The table below presents them in chronological order. For more information, please refer to Annex B of this document.

### 3.3 Conformity of the project with the Republic of the Congo's law on environmental and social audits

In the Republic of Congo, it is mandatory for economic projects to undergo an Environmental and Social Management Audit process. This requirement stems from the observation that numerous economic ventures are being established across the national territory without prior environmental and social impact assessments, which contravenes Article 2 of Law No. 003/91 dated April 23, 1991, concerning environmental protection and its subsequent regulations. The Terms of Reference guidelines for the audit are available in Annex C of this document.

The Oyo Centre will have to ensure its compliance with the regulatory framework described above. For any further activities carried out by the Oyo Centre, the rules of the Republic of Congo will apply to determine if these activities require the drafting of an environmental and social compliance audit. This process involves several steps:

1. Drafting TORs outlining the audit content according to national guidelines.
2. Submission of TORs to the Directorate General of Environment in the Ministry of Environment for validation, with validation fees varying based on project classification.
3. Contracting of an approved consultancy firm by the Ministry of Environment
4. Submission of the report to the Directorate General of Environment for validation and issuance of a conformity certificate, with validation fees contingent on project classification.

## 4. Environment and social risks and mitigation measures

This section describes relevant environmental and social risks identified during the design phase of the project. Since the ESMP should serve as an active tool, additional risks that are identified during the project implementation will be included as they are identified.

*Table 5: Mitigation of Environment and Social Risks*

<b>E&amp;S risks</b>	<b>Mitigation measure</b>	<b>Technical details of the mitigation technology, process equipment, design and operating procedures</b>	<b>Location, Timeline, including frequency, start and end date</b>	<b>Responsibility</b>	<b>Cost of mitigation</b>
Fire Risk: Occupation and Safety Risk associated with fire on site	Firefighting equipment in place	Put in place firefighting measures at workshops. Train employees in firefighting techniques and undertake regular fire drills	Classrooms, during workshops, ongoing	Executive Director	Included in outcome 1 of the budget
Environmental risk: increasing GHG emissions, pollution, waste and other environmental impact deriving from the activities of SMEs and research projects supported	E&S screening criteria for SMEs and research projects supported (SMEs screening still to be developed)	Every application will follow an assessment process conducted to preempt negative impacts (see annex A for pilot projects)	Before activity linked to the selection of SMEs and pilot projects	Executive Director	Included in outcome 5 of the budget
	Advice and training on how	Awareness campaigns at the centre	Centre, ongoing	Executive Director	Included in outcome 1 of the budget

Increase in carbon emissions due to travel	to minimize carbon footprint	Within the trainings delivered by the centre, elements of E&S will be included	Centre, ongoing		Included in outcome 4 of the budget
Safety risk: The operation of various equipment and machinery and can lead students to capacity building-related accidents and injuries	Minimizing injuries by providing trainings focused on security	Practical trainings on how to operate the equipment available  Provide First Aid kits on site at all times	Centre and classrooms	Executive Director	Included in outcome 4 of the budget
Social misconduct Risk: poor labor conditions, risk of abuse of power, harassment	Ensure treating workers according to the legal conditions  Provide a healthy working environment	Implement anti-harassment and anti-discrimination policies, provide awareness initiatives  Provide clear reporting channels	Centre, ongoing	Executive Director	Included in outcome 1 of the budget
Health Risk: Possible COVID-19 outbreak or other spreadable disease clusters through physical contacts causing health risks among stakeholders, including sexually transmitted infections	Conduct awareness programs,  Provide interventions to minimize the spread of diseases	Educate workers and students on how to avoid Sexually Transmitted Infections, Covid-19  Recognize common symptoms of diseases, and provide treatment	Centre, ongoing	Executive Director	Included in outcome 1 of the budget

		<p>via confidential referral systems</p> <p>Publicize the existence of anonymous VCT services (testing, pretest, and posttest counselling)</p> <p>Frequently disinfect workshops and classrooms to prevent Covid-19 transmission</p>			
<p>SMEs, research projects and pilot projects lack the capacity/awareness to properly identify and mitigate the E&amp;S risks</p>	<p>Provide assistance to the SMEs on E&amp;S risks</p>	<p>Inclusion of E&amp;S training support and impact assessment</p>	<p>During activity linked to the selection of SMEs and pilot projects</p>	<p>Executive Director</p>	<p>Included in outcome 5 of the budget</p>
<p>Low participation rates of women and youth and other vulnerable groups may deepen existing inequalities and exacerbate vulnerabilities</p>	<p>Gender mainstreaming</p>	<p>For direct project-dependent activities, gender-responsive communications activities and actions will be put in place to encourage the participation of women. Also, specific targets for women participation will be set in the Project</p>	<p>Centre, ongoing</p>	<p>Executive Director</p>	<p>Included throughout the project's budget</p>

		<p>Results Framework and M&amp;E Plan.</p> <p>The Oyo Centre will adopt the ECCAS Gender Policy in its activities and programmes and develop specific activities to foster the implementation of the ECCAS Gender Policy, as well as an Action Plan in the Republic of the Congo</p>			
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5. Environment and social sustainability monitoring

Table 6: Monitoring of Environment and Social Sustainability

E&S risks	Parameters to be used	Monitoring and procedures used (e.g.: sampling)	Timing/ frequency of measurement	Detection limit	Definition of thresholds	Sampling/ Monitoring location	Responsibility
Fire Risk: Occupation and Safety Risk associated with fire on site	Number of fire incidences	Incidence register	As they happen	Any fire	n/a	Centre and classrooms	Executive Director and Oyo Centre Staff
Environmental risk: increasing GHG emissions, pollution, waste and other environmental impact deriving from the activities of SMEs and research projects supported	Assessment of environmental risk carried out: every application will need to meet E&S screening criteria	Questionnaire	As SMEs and projects are assessed	To be defined depending on the project	To be defined depending on the project	To be defined depending on the project	Executive Director & SMEs

Safety risk: The operation of various equipment and machinery can lead students to capacity building-related accidents and injuries.	Checking the number of injury incidences.	Incidents register/ and Safety in induction records	Continuous (statistics to be provided as part of annual reports)	To be defined	To be defined	Centre and classrooms	Executive Director
Health Risk: Possible COVID-19 outbreak and clusters through physical contacts causing health risks among stakeholders, including sexually transmitted infections	Number of cases	Incident reports	Continuous (statistics to be provided as part of annual reports)	To be defined	To be defined	Centre	Executive Director
Social Misconduct: poor labor conditions, risk of abuse of power, harassment	Monitor reported incidents	Review complaints conduct surveys	Continuous (statistics to be provided as part of annual reports)	n/a	n/a	Centre	Executive Director
Low participation rates of women may deepen existing	Number (and %) of women involved in	Recording of all numbers (men and women)	Continuous (statistics to be provided as part of	n/a	Above 50%= excellent Between 35% and 50%= good	n/a	Executive Director

inequalities and exacerbate vulnerabilities	project activities	involved in the project	annual reports)		Below 35%= doesn't meet requirements		
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# 6. Capacity Development

## 6.1. Management structure

### Governance structure

The institutional structure of the Oyo Centre is presented in the figure below:

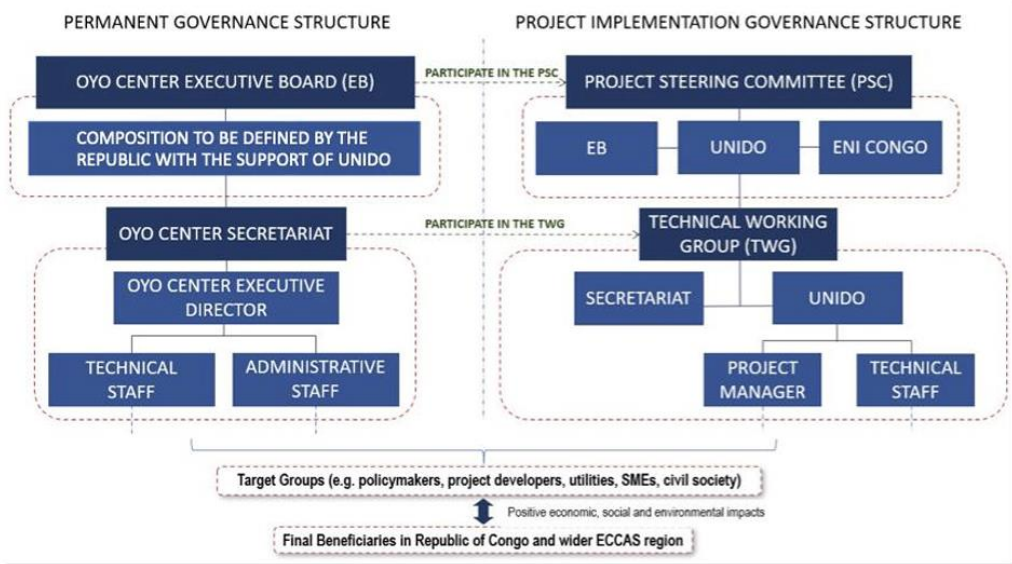


Figure 3 : Governance structure of the Oyo Centre

The PSC oversees the project implementation acting as the decision-making body guided by unanimous decisions. It consists of representatives from the Executive Board (EB), UNIDO and Eni Congo. The Steering Committee is responsible for making executive decisions for the project. The PSC will therefore be updated on the progress made towards addressing the project’s environmental and social risks when a meeting is called upon. Since the PSC is responsible for successful closure of the project, the Committee will be responsible of ensuring that ESMP is implemented in a satisfactory manner. Upon closure of the project, the responsibilities of the PSC will be transferred to the EB.

### Oyo Centre Secretariat

In the beginning, the Oyo Centre will start with a small team, which will be expanded depending on the mobilized funding and developed programmes and projects (form follows function). In the future, it is expected that the Centre will employ permanent core staff and temporary project financed staff. During the first year, it is envisaged to recruit the Oyo Centre Executive Director, one RE and EE Expert, one Gender and Youth Expert, one Communication Expert, one Administration/Finance Senior Secretary and one Administrative Assistant. UNIDO will provided support through a seconded International Energy Expert during the Start-Up Phase and first two (2) years of the 1st Operational Phase as well as backup support from its team in headquarters. Further staff will be hired during the 1st Operational Phase, depending on the availability of funding and in line with the organizational chart below.

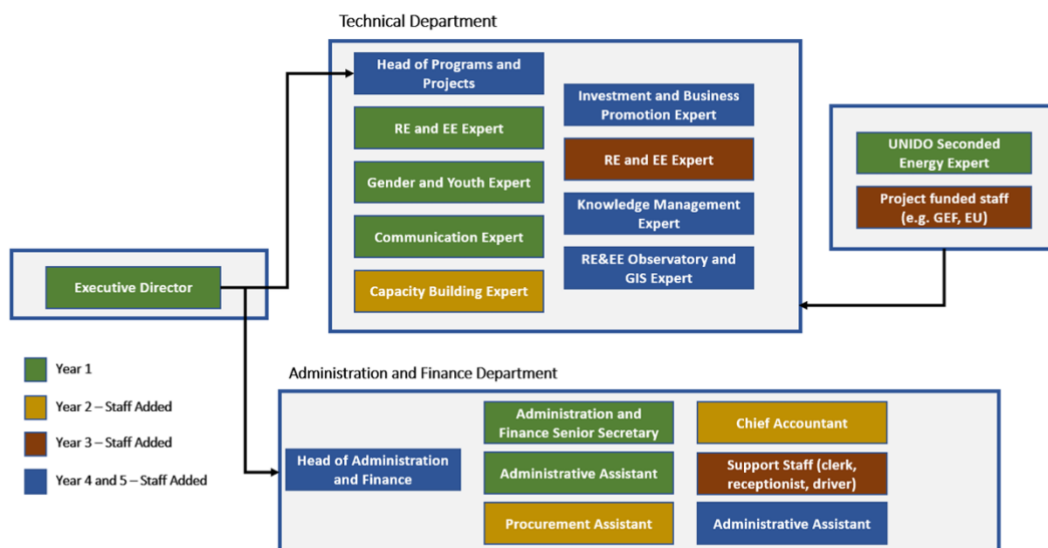


Figure 4: Oyo Centre Organizational Chart

## 6.2. ESMP Roles and Responsibilities

The Oyo Centre Secretariat, and more specifically the Executive Director, will be responsible for the implementation of the ESMP, as well as any activities that will follow the actions stipulated in the ESMP. The Executive Director will be responsible for the revision and updates of this document during the course of the Project but can delegate this function to a member of the secretariat. The ESMP and its associated measures will be updated on a yearly basis, as the project progresses and expands.

UNIDO will provide specialist advice and oversight on the implementation of the ESMP to address environmental and social risks. The ESMP will be part of project activities and any tender action. It is the responsibility of the Project Coordinator to ensure the ESMP is up to date. PMU will also perform the following specific roles:

- Ensuring inclusion of Environmental and Social safeguard clauses (requirements) in contractors Terms of References.
- Review mitigation measures and recommend corrective action.
- Reports on ESMP implementation to the PSC.
- Carry out the assessment of any new activity.

## 6.3. Institutional Strengthening

The PMU has the responsibility for ensuring systems are in place so that relevant partners, employees, contractors, and other workers are aware of the environmental and social risks of the centre's activities. The implementation of the ESMP is a responsibility of every project team member. All workers and students engaged in any activity with the potential to cause serious harm will receive task-specific training as needed.

## 7. Communication and Stakeholder Engagement

Communication and disclosure of project progress and performance to stakeholders is critical in the implementation of the ESMP. From the inception, the project was discussed with a wide range of stakeholders. It is therefore envisaged that communication with project stakeholders will continue throughout the project implementation and possibly beyond the project tenure.

UNIDO will annually communicate implementation progress on issues that involve ongoing risk to or impacts on the project stakeholders, and on issues that the consultation process or grievance mechanism has identified as of concern to those stakeholders. The ESMP will be disclosed on the UNIDO public website, under the following link: <https://open.unido.org/index.html>.

Table 7: Communication activities

Consultation	Purpose	Participants	Lead	Schedule
Project Launch	Raising awareness of the project ESMP: <ul style="list-style-type: none"> <li>• Project Overview Project</li> <li>• Raising Awareness of ESMP and GRM for the project</li> </ul>	Executive Director & staff	Executive director	Project launch
Public consultations and site visits	<ul style="list-style-type: none"> <li>• Present compliance report of ESMP to PSC</li> <li>• Receive any feedback to include any changes on the mitigation measures</li> <li>• Receive suggestions for any corrective actions</li> <li>• Review the implementation of Corrective action Plan and mitigation measures to ensure effectiveness of mitigation measures</li> </ul>	PSC stakeholders Executive Director & staff	Executive director	Yearly
Addressing community concerns	Consultation on Grievances received	Executive Director Affected community members	Executive director	As and when need arise

## Annex A: assessment template for centre-led activities

Strict environmental and social (E&S) impact criteria will be applied to all pilot projects. Pilot projects will be expected to respond to each of the points with how they are meeting the criteria or mitigating any risks. No technology that may have adverse impacts regarding the environment and human health will be selected. The procedure follows a step-by-step approach to assess the applications and to determine their eligibility and risk category (high/medium/low) in terms of environmental and social impacts.

### Step 1: Exclusionary criteria

This step aims at excluding those proposed nature-based pilot projects that fall under any of the categories included in the exclusion checklist shown in the table below. Those pilot projects that involve or support any of the activities described in table 6 will not be selected by the centre.

Table 8: Exclusion checklist

Exclusion checklist		Source
nuclear origin	notwithstanding their climate benefits	decision of the Scientific Council 4 (SC4) (2018)
carbon capture and storage		decision of the SC4 (2018)
combustion of fossil fuels		decision of the SC4 (2018)
waste incineration		decision of the SC4 (2018)
gas venting and flaring		decision of the SC4 (2018)
project is likely to infringe on the protection of critical habitats		UNIDO ESSPP
project uses banned pesticides and/or chemicals		UNIDO ESSPP
project causes involuntary resettlement or physical and economic displacement		UNIDO ESSPP
project is likely to alter, damage, or remove any cultural heritage and/or sites		UNIDO ESSPP
project uses forced, trafficked, or child labour		UNIDO ESSPP

### Step 2: Risk level definition and project categorization

If the pilot-projects have successfully passed Step 1, they will be assessed for their potential E&S impacts to determine their risk category. It is proposed that the pilot projects proponents complete the UNIDO E&S Scorecard, to be then verified by the executive director. UNIDO’s E&S Scorecard is attached as an Appendix, which categorizes the projects in Category “A”, “B” or “C”. If the sub-projects have already completed a similar risk categorization process for another multilateral agency or development bank (e.g., World Bank) which provides a categorization result, the Executive Director will assess if the assessment criteria and resulting category matches the criteria demanded by UNIDO’s ESSPP and E&S Scorecard. If it matches, then the risk category resulting from the applied process should be adopted. If it doesn’t match, then the most stringent category should be adopted or the Executive Director could recommend to fill in UNIDO’s E&S Scorecard to determine the sub-project risk category.

### Step 3: Complementary E&S criteria

The following criteria aim at complementing the E&S assessment but do not have an impact on the categorization result previously conducted through Step 2. The goal of this additional step is to identify additional potential benefits that the pilot projects may entail or other areas for improvement.

Check additional environmental criteria (if not included in step 2 already):

- 1) Compliance with local environmental laws and national environmental laws, as well as international agreements (e.g., the reduction on the use of ozone depleting substances (ODS) by the Montreal Protocol), where applicable
- 2) GHG reduction potential
- 3) Extent and use of scarce resources and TAs for conservation / recycling of those resources
- 4) Extent and use of hazardous materials and their disposal and management plans
- 5) Waste management proposals, including recycling, reuse, and reduction plans
- 6) Water use and conservation plans

Check additional social criteria (if not included in step 2 already):

- 1) Compliance with the occupational, safety and health at work legislation (if applicable)
- 2) Environmental, health and safety risks to workers (working conditions, health and safety) and surrounding communities and risk levels for beneficiaries
- 3) Potential severe health risks from massive disease outbreaks (e.g., Covid-19, Ebola virus, other)
- 4) Inclusion of gender and diversity and potential adverse impacts of the activities on their livelihoods
- 5) Compliance with international best practices attaining public involvement, disclosure of information and consultation processes with stakeholders at all levels, including vulnerable groups (women, the landless, informal land users, indigenous peoples, etc.)



# Appendix to the assessment (Annex A): UNIDO Environmental and Social (E&S) Scorecard for pilot projects

UNIDO Environmental and Social Safeguards Policy and Procedures (ESSPP) require that all UNIDO projects and any subprojects<sup>2</sup> (proposal, investment, project submissions...in this case, a pilot project, also called pilot project) that result from UNIDO projects, e.g. from those that set up financial mechanisms, accelerator/incubator schemes, business models and the like, undergo environmental and social risk (E&S) assessments.

The objective of the **E&S Scorecard for pilot projects** is to help the Oyo Centre to (i) decide whether a project should be supported/selected (**projects that would categorize as NO PROJECT are non-compliant with UNIDO ESSPP and will not be selected by the centre**), and (ii) assess whether any additional environmental and social assessments (e.g., ESIA, ESMP, or FPIC) should be undertaken at later stages, e.g. by determining the environmental and social risk category of subprojects. The completed and signed E&S Scorecard for pilot projects should form an integral part of the selection criteria for of any mechanisms/schemes/models.

To complete the E&S Scorecard for subprojects, basic understanding of UNIDO ESSPP is expected. ESS categorization guidance is provided in Annex 1 of this appendix.

<b>Title of the proposed pilot project:</b>	
<b>Project Number/Identifier (if applicable):</b>	
<b>Entity implementing the pilot project (e.g. name of company, Ministry, civil society organization, etc.):</b>	
<b>Sector of entity implementing the pilot project and short description</b>	
<b>Name of pilot project co-financiers/donors (e.g. World Bank, UN Entity, private bank) if applicable<sup>3</sup></b>	
<b>Proposed ESS category of pilot project (optional):</b>	

<sup>2</sup> A “subproject” is the ultimate project or activity that is supported through any intervention, investment or mechanism implemented by UNIDO, regardless of whether the project is directly executed by UNIDO, or another Project Executing Entity (PEE), or any sub entity.

<sup>3</sup> In subprojects that are co-implemented or co-financed by other United Nations agencies, or multilateral and/or regional development banks, the most stringent environmental and social safeguard standards and procedures will apply.

**TABLE A - Screening to determine required further E&S assessments of pilot project**

The aim of the environmental and social screening process is to determine if and what additional environmental and social assessments are needed for this subproject.

**Please respond to the below questions with “No” or “Yes”, taking note of the guidance provided.**

	No	Yes	Guidance
1. Did the pilot project follow international best practices with regards to <b>public involvement, disclosure of information, consultation with stakeholders</b> at all levels, including surrounding communities and vulnerable groups?			<b>If you answered “no”,</b> a detailed <b>stakeholder engagement and consultation plan</b> , either as a part of the ESMP/ESIA, or as a self-standing document should be developed.  Guidelines for <i>OS 11: Information Disclosure and Stakeholder Consultation</i> are outlined in detail in Annex C of UNIDO ESSPP.
2. Has a combined <b>environmental and social impact assessment/review</b> for the proposed pilot project already been completed, either by the entity who will implement the subproject, or any other third entity (National Partner, Project Execution Partner, or other donor) within the last year, or is it planned to be done within the coming year?			<b>If you answered “no”,</b> follow the steps below.
3a. Would the proposed pilot project potentially involve or lead to adverse impacts on the situation of <b>women, men, girls and boys</b> ? This includes adverse impacts on gender equality, gender-based violence (GBV) and/or sexual exploitation and abuse (SEA).  3b. Could the pilot project positively or negatively impact any other <b>vulnerable groups</b> <sup>4</sup> either <i>directly</i> or <i>indirectly</i> ?			<b>If you answered “yes”,</b> include affected vulnerable groups in <b>stakeholder consultation and engagement plan</b> . You may also consider filling out a Gender marker form for this project and/or consulting an expert to assess any potential impacts on women and other vulnerable groups as a part of subsequent E&S assessments (ESMP, ESIA).

<sup>4</sup> Any group that is likely to face harder conditions as a result of the project, owing to such factors as gender, economic status, ethnicity, religion, cultural behavior, sexual orientation, language or health condition.

4. Has a climate risk assessment for the <b>subproject’s vulnerability to projected climate impacts</b> been carried out or is it planned to be carried out?			<b>If you answered “no”, refer to Table C.</b>
5. Has the subproject’s <b>carbon footprint</b> been assessed or will it be assessed as an inherent part of pilot project selection process to avoid unwarranted increases in greenhouse gas emissions?			<b>If you answered “no”, consider the need for a carbon footprint assessment in the context of the subproject.</b>
<b>ESS categorization of pilot projects</b>	<b>No</b>	<b>Yes</b>	<b>Guidance</b>
6. Is the proposed pilot project: <ul style="list-style-type: none"> <li>- Likely to infringe on the protection of a <b>critical habitat</b><sup>5</sup>?</li> <li>- Introducing or using potentially <b>invasive, non-indigenous alien species</b>?</li> <li>- Manufacturing, trading, and/or using pesticides and/or chemicals <b>subject to international action bans or phase-outs</b><sup>6</sup> (OS5)?</li> <li>- <b>Causing involuntarily resettlement or physical and economic displacement</b> of populations, including vulnerable groups and Indigenous People?</li> <li>- Altering, damaging or removing any <b>cultural heritage and/or sites</b>?</li> <li>- Using <b>forced, trafficked or child labour</b>?</li> <li>- Employing <b>children</b> under the age of 18 in hazardous work?</li> </ul>			<p><b>If you answered “yes”, the proposed pilot project will be categorized as “Category NO PROJECT”. It is <b>non-compliant with UNIDO’s ESSPP</b>.</b></p> <p>National stakeholders and pilot project proponents will be informed accordingly that <b>the Oyo Centre cannot support the development of this subproject</b>.</p> <p>Alternatively, further discussions and redesign of the project is required for the pilot project to be reassessed for UNIDO support.</p>
7. Is the proposed pilot project scope including: <ul style="list-style-type: none"> <li>- Actual establishment and/or relocation of a <b>new large-scale facility</b> such as a large-scale manufacturing and/or processing plant, landfill site, dam above 15m in height, etc.?</li> <li>- Actual establishment and/or relocation of <b>industrial zones or industrial parks</b>?</li> </ul>			<b>If you answered “yes”, the proposed pilot project will be categorized as “Category A”. Please refer to Annex 1 for further details and guidance.</b>

<sup>5</sup> Please refer to Annex I for a definition of ‘critical habitat’ and other terms used in Table A.

<sup>6</sup> For example, DDT, PCBs and other chemicals listed in international instruments such as the WHO Recommended Classification of Pesticides by Hazard (Classes IA, IB, or II); the Stockholm Convention on Persistent Organic Pollutants; or the Montreal Protocol.

<ul style="list-style-type: none"> <li>- Deploying <b>new large-scale</b> technology installations such as large-scale waste(water) treatment plants, large-scale power generation and distribution systems, etc.?</li> <li>- Activities that would <b>adversely or seriously affect</b> indigenous peoples (IP) – including those living in voluntary isolation – and other <b>vulnerable groups</b><sup>7</sup> rights, lands, natural resources, territories, livelihoods, knowledge, social fabric, traditions, governance systems, and culture or heritage inside and/or outside the project area?</li> <li>- Activities that require an Environmental and Social Impact Assessment (<b>ESIA</b>) <b>by national law/regulations</b>?</li> <li>-Activities that would involve a conversion <b>of the land use category</b><sup>8</sup> and/or <b>land acquisition</b>?</li> </ul>			
<p>8. Is the proposed pilot project scope including: Any <b>physical intervention</b>, e.g.:</p> <ul style="list-style-type: none"> <li>- <b>Upgrading/optimization of processes/introduction of alternative technologies</b> at an <b>existing facility</b> such as treatment and disposal of POPs at existing facilities, pilot resource efficient technology transfer and installation at existing facilities, etc.?</li> <li>- Deploying <b>new small-scale technology installations</b> such as limited bioenergy or other small- and medium-scale renewable energy installations, small-and medium scale agro- and food-processing installations, etc.?</li> </ul> <p>Or any activity that may produce adverse impacts on <b>indigenous people, women</b> and other <b>vulnerable groups</b> (including unintended side-effects, or exclusion from project benefits) that can readily be avoided or minimized?</p>			<p><b>If you answered “yes”,</b> the proposed pilot project will be categorized as <b>“Category B”</b>. Please refer to Annex 1 of this appendix for further details and guidance.</p>
<p>9. Is the proposed pilot project scope including:</p>			<p><b>If you answered “yes”,</b> the proposed project will be categorized as <b>“Category C”</b>. Please refer to Annex 1 for further details and guidance.</p>

<sup>7</sup> Any group that is likely to face harder conditions as a result of the project, owing to such factors as gender, economic status, ethnicity, religion, cultural behavior, sexual orientation, language or health condition.

<sup>8</sup> Consult ESSPP Annex I (for definition of land use categories) or: <https://www.state.nj.us/dep/gis/digidownload/metadata/lulc02/anderson2002.html>

<ul style="list-style-type: none"> <li>- Development of <b>feasibility studies</b>,<sup>9</sup> <b>roadmaps, inventories, strategies, business plans, studies</b>, etc.?</li> <li>- Provision of <b>policy advice, capacity building / awareness raising</b>, etc.?</li> <li>- Organization of <u>forums</u>, etc.?</li> <li>- Setting-up of <b>financial mechanisms, accelerators/incubators, business models</b>, etc.?</li> </ul>			
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<sup>9</sup> If a full feasibility study is to be developed for a planned Category A subproject, an ESIA needs to be included (if not already undertaken or to be undertaken by another pilot project stakeholder).

**TABLE B - E&S Categorization Outcome**

**Based on the answers provided in Table A, please select from the following:**

<input type="checkbox"/> <b>Category NO PROJECT</b>	The proposed pilot project is non-compliant with UNIDO's ESSPP OS2/OS3/OS5/OS6/OS8. Further discussions, alternative design, and reassessment of the pilot project is required or further pilot project development cannot be supported by the Oyo Centre
<input type="checkbox"/> <b>Category A</b>	The proposed pilot project is likely to induce significant and/or irreversible adverse environmental and/or social impacts that are sensitive, diverse, or unprecedented. A full ESIA and ESMP will need to be completed during Project Formulation or Inception.
<input type="checkbox"/> <b>Category B</b>	The proposed pilot project is likely to have less adverse impacts on human populations or environmentally important areas than those of Category A subprojects. Likely impacts will be few in number, site-specific, and few if any will be irreversible. An ESMP will need to be completed during pilot project Formulation or Inception.
<input type="checkbox"/> <b>Category C</b>	The proposed pilot project is likely to have minimal or no adverse social and/or environmental impacts. No further specific environmental and/or social assessment is required

**TABLE C – Climate Risk Screening of pilot projects**

Consideration of climate risk is an important aspect of pilot project selection. In case climate risks do not yet form an integral part of selection criteria of subprojects, the below questions would need to be answered at the pilot project selection. Additional analysis can be provided as a part of additional studies (ESIA, ESMP) if needed. You may want to consult the following publications and tools:

- STAP guidance on climate risk screening<sup>10</sup>**
- Climate Expert – specifically for SMEs and Industrial Zones<sup>11</sup>**
- World Bank Climate and Disaster Risk Screening Tools<sup>12</sup>**

**Please respond to the below questions, taking note of the guidance provided.**

<p>(i) Has the <b>sensitivity to climate change</b>, and its impacts, been assessed?</p> <p>Consider including:</p> <ul style="list-style-type: none"> <li>• Information on the overall vulnerability (the product of exposure, sensitivity and adaptive capacity) of <b>targeted natural resources</b> in the project area to climate change.</li> <li>• Information on the vulnerability and exposure of the <b>local communities</b> in the project area to a changing climate.</li> <li>• Information on the role of climate change as a driver to the <b>problem being addressed</b>, if applicable.</li> </ul>	<p><b>Please provide details:</b></p>
<p>(ii) How will the <b>project’s objectives or outputs address</b> climate risks?</p> <p>Consider including:</p> <ul style="list-style-type: none"> <li>• Information on how the <b>proposed project</b> may contribute to <b>reducing the vulnerability</b> to climate risks.</li> <li>• Evaluation of the possibility that the proposed interventions <b>increase vulnerability</b> to climate risks or lead to maladaptation, and measures for preventing this (<b>highly recommended for adaptation projects</b>).</li> </ul>	<p><b>Please provide details:</b></p>

<sup>10</sup> Available at: <https://stapgef.org/sites/default/files/publications/Climate%20Risk%20Screening%20web%20posting.pdf>

<sup>11</sup> Available at: <https://www.climate-expert.org/en/home/>

<sup>12</sup> Available at: <https://climatescreeningtools.worldbank.org/>

<p>(iii) Have <b>resilience practices and measures</b> to address projected climate risks and impacts been considered? How will these be dealt with?</p> <p>Consider including:</p> <ul style="list-style-type: none"><li>• How proposed <b>climate risk management options</b> address the identified current and projected climate risks, including the risk of maladaptation.</li></ul>	<p><b>Please provide details:</b></p>
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## Annex 1 to the Appendix: UNIDO ESSPP – Key guidance

Environmental and social sustainability is fundamental to the achievement of development outcomes and is systematically mainstreamed into UNIDO’s project cycle through consistent application of an environmental and social screening and assessment procedure. Opportunities to strengthen the environmental and social sustainability of projects need to be identified and realized. A precautionary approach shall be applied, and potential adverse impacts and risks need to be avoided or minimized if possible and mitigated if not.

UNIDO’s Integrated Safeguards Policy Statement (ISPS) sets out the Organization’s commitments to and responsibilities for ensuring environmental and social sustainability, and its pledge to reducing the risk of non-compliance with UNIDO’s environmental and social safeguards. UNIDO is committed to ensuring that its projects comply with the Organization’s safeguards by assessing environmental, climate change and social risks and impacts as early as possible in the project cycle, disclosing relevant information and providing effective monitoring and supervision of agreed environmental and social management and mitigation measures during project implementation. If the Organization finds that the environmental or social impacts of any of its proposed projects are not likely to be adequately addressed, it may choose not to proceed with the project.

UNIDO assists its Member States with technical assistance type projects, which largely provide capacity building, training and awareness raising, strategic planning, policy reform, institution strengthening, technology conversion and rehabilitation services. Investment projects supported by UNIDO are predominantly demonstration-scale interventions, such as pilot demonstrations of specific technologies. On occasion, UNIDO also engages in the (co-) development of inclusive and sustainable industrial parks. Within the context of its technical assistance projects and operations, UNIDO is committed to full compliance with the following safeguard standards:

### **OS 1: Environmental and Social Assessment**

OS 1 is an overarching safeguard providing the framework for the required environmental and social screening and assessment that all UNIDO projects should undergo. This OS also determines whether proposed projects could potentially involve activities or components that pose any specific risks covered by OS 2 to OS 10 and whether any of these Operational Safeguards need to be triggered.

### **OS 2: Protection of Natural Habitats and Biodiversity**

This OS recognizes that protecting and conserving biodiversity, maintaining ecosystem services, and sustainably managing living natural resources are fundamental to sustainable development. Depending on the nature and scope of proposed activities, UNIDO may engage in projects targeting or located in *critical habitats*<sup>13</sup>, so long as these projects do not infringe on the protection of the critical habitats. Moreover, UNIDO does not engage in any projects that introduce or use potentially invasive, non-indigenous alien species. UNIDO uses a precautionary and ecosystem-centred approach to natural resource conservation and management to ensure opportunities for environmentally sustainable development. The safeguard reflects the importance of biodiversity and the value of key ecosystems to the population, emphasizing the need to respect, conserve and maintain the knowledge, innovations and practices of indigenous and local communities, and to protect and encourage customary use of biological resources in accordance with traditional cultural practices that are compatible with conservation or sustainable use requirements.

### **OS 3: Involuntary Resettlement and Land Acquisition**

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<sup>13</sup> For a definition of the term ‘critical habitat’ and the other terms used in Annex 1, please refer to ESSPP Annex I

The objective of this OS is to avoid physical and economic displacement as a result of project-related land use. This safeguard ensures that projects potentially involving land acquisition resulting in involuntary physical and/or economic displacement are either re-designed to include viable alternatives or are not approved for further development by UNIDO.

#### **OS 4: Indigenous People**

UNIDO ensures that, consistent with the rights and responsibilities set forth in the United Nations Declaration on the Rights of Indigenous Peoples and other international instruments relating to indigenous peoples,<sup>14</sup> projects are designed and implemented in a way that fosters full respect for indigenous peoples, including those living in voluntary isolation, and for their dignity, human rights, and cultural uniqueness so that they (a) receive culturally appropriate social and economic benefits; and (b) do not suffer adverse effects during the development process.<sup>15</sup>

#### **OS 5: Pest Management**

UNIDO ensures that, in any project applying or promoting the use of pesticides, the environmental and health risks associated with pesticide use are minimized and managed, and that safe, effective, and environmentally sound pest management is promoted and supported. The principles of integrated pest management<sup>16</sup> and integrated management of vectors and intermediate hosts<sup>17</sup> are applied, to the extent feasible. UNIDO does not support the use of any pesticides, products or chemicals specified under the Stockholm Convention on Persistent Organic Pollutants or classified by the World Health Organization (WHO) as Classes IA, IB, or II. Additionally, UNIDO ensures that its projects follow the minimum standards described in the *Code of Conduct on the Distribution and Use of Pesticides* of the Food and Agriculture Organization of the United Nations (FAO).

#### **OS 6: Cultural Heritage**

UNIDO recognizes the vital importance of cultural heritage<sup>18</sup> for current and future generations. This OS is designed to ensure that effective and active measures are taken to avoid support for projects involving the alteration of, damage to or removal of any type of tangible or intangible cultural heritage. Should such potential adverse impacts on a type of cultural heritage be identified during the development period, UNIDO management will decide, in consultation with national counterparts, either to relocate the project to a different site or to stop any further project development.

#### **OS 7: Safety of Dams**

The objective of this OS is to ensure quality and safety in the design, construction, operation, and maintenance of new dams and in the rehabilitation of existing dams. UNIDO does not usually engage in large-scale water management infrastructure investment projects that involve the construction or rehabilitation of large and complex dams, i.e. dams of height above 15 meters.

#### **OS 8: Labour and Working Conditions**

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<sup>14</sup> Including the International Labour Organization Convention 169 on Indigenous and Tribal Peoples (1989); United Nations Declaration on the Rights of Indigenous (2007); UNDG Guidelines on Indigenous Peoples' Issues (2008); United Nations Permanent Forum on Indigenous Issues (under the Economic and Social Affairs department), Inter-Agency Support Group on Indigenous Issues, and United Nations International Decade of the World's Indigenous Peoples Plan of Action.

<sup>15</sup> For a definition of 'indigenous peoples' and 'indigenous peoples living in voluntary isolation', please refer to Annex 1. For further details please see: <http://www.oas.org/en/iachr/indigenous/docs/pdf/Report-Indigenous-Peoples-Voluntary-Isolation.pdf>.

<sup>16</sup> For a definition of 'integrated pest management', please refer to ESSPP Annex I.

<sup>17</sup> For a definition of 'integrated management of vectors and intermediate hosts', please refer to ESSPP Annex I.

<sup>18</sup> For a definition of 'cultural heritage', please refer to ESSPP Annex I.

The objective of this OS is to ensure that UNIDO supported projects comply with national labour laws, and with the objectives of the International Labour Standards of the International Labour Organization (ILO), which include: (i) to promote fair treatment, non-discrimination, and equal opportunity for workers; (ii) to promote compliance with national employment and labour laws, which comply with the mentioned standards; (iii) to protect workers, including vulnerable categories of workers such as children, women, and migrant workers; (iv) to promote safe and healthy working conditions and the health of workers; and to avoid the use of forced labour, trafficked labour or child labour.

### **OS 9: Resource Efficiency and Pollution Prevention**

While UNIDO's ESSPP is governed by a precautionary approach and most UNIDO projects aim to foster resource efficiency and/or pollution prevention, this OS ensures the adoption of a project-level approach to resource efficiency, cleaner production processes and pollution management, in line with internationally disseminated technologies and practices.<sup>19</sup> The objective of this OS is, therefore, to avoid or minimize the adverse impacts of pollution on human health and the environment by avoiding or minimizing project-level wastes, emissions, and pollution. Additionally, the OS strives to promote a more sustainable use of resources, including materials, energy, land and water.

### **OS 10: Community Health, Safety and Security**

This OS recognizes that project activities, equipment, and infrastructure can increase the exposure of project-affected communities and beneficiaries to health, safety and security risks and impacts, and ensures that these health, safety, and security risks and impacts are avoided or minimized and that the safeguarding of personnel and property is carried out in accordance with relevant human rights principles. The objective of this OS, therefore, is to anticipate and avoid adverse impacts on the health, safety and security of project-affected communities and beneficiaries during the project lifetime from both routine and non-routine circumstances.

### **OS 11: Information Disclosure and OS 12: Accountability and Grievance System**

Framework Operational Safeguards, OS 11 and OS 12, provide overarching frameworks on UNIDO's information disclosure requirements and the accountability and grievance system. As such, they are not directly relevant for completing E&S Screening. However, OS 11 and OS 10 are applicable to all UNIDO projects, even those with minimal or no adverse environmental or social impacts. The requirements of these operational safeguards also apply to UNIDO project executing entities.

## **ESS Categorization Guidance**

Project<sup>20</sup> categorization is based on a combination of project type, characteristics of potential impacts, and sensitivity of the receiving environment, i.e. planned project site. In the meantime, the following provides an indication of how UNIDO projects might be categorized and a framework for the screening decision. However, many factors come into play during screening, and the below should not be used as the sole basis for decision-making. Project concept screening results in the determination of one or more of the following categories:

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<sup>19</sup> As reflected in internationally recognized standards such as the World Bank Group's *Environmental, Health, and Safety Guidelines*, available at <http://www.ifc.org/ehsguidelines>. These standards contain performance levels and measures that will normally be acceptable and applicable to projects. When national regulations differ from these levels and measures, the project will achieve whichever are more stringent. If less stringent levels or measures are appropriate in view of specific project circumstances, the project will provide full and detailed justification for any proposed alternatives, provided that such alternatives are consistent with the ESSPP.

<sup>20</sup> When reference is made to 'project', this also encompasses 'programme'.

**Category A:** A proposed project is classified as Category A if it is likely to induce significant and/or irreversible adverse environmental and/or social impacts that are sensitive, diverse, or unprecedented, or that affect an area broader than the sites or facilities subject to physical works.

A. Projects that would usually be identified as Category A are large-scale infrastructure development investment projects supported by multilateral and regional development banks. The projects or components included in this list could potentially have adverse impacts and normally warrant the subsequent conducting of an Environmental and Social Impact Assessment (ESIA) and an agreement on a proper Environmental and Social Management Plan (ESMP):

- Projects involving resettlement of populations;
- Projects with construction of new dams of height above 15 meters;
- Projects on large-scale aquaculture and mariculture;
- Projects on large-scale energy production and distribution facilities;
- Resource recovery facilities projects (e.g. large-scale mining operations, large-scale recycling plants);
- Large-scale agro-industry projects;
- Large-scale afforestation/reforestation, including logging operations, use of Mangroves and wetlands projects;
- Large-scale forest industry operations projects, such as sawmills and pulp and paper mills;
- Projects that establish new and/or relocate industrial zones and/or industrial parks;
- Projects that establish new and/or relocate large-scale manufacturing, processing and/or treatment plants (e.g. wastewater, POPs, etc.);
- Projects that may have potentially significant adverse impacts on physical cultural resources;
- Large-scale natural resource extraction activities such as farming, irrigation, mining or fishing; and
- Activities that require an ESIA by national law are also classified as A.

**Category B:** Category B projects often differ from Category A projects only in scale. They are likely to have less adverse impacts on human populations or environmentally important areas than those of Category A projects. Likely impacts will be few in number, site-specific, and few if any will be irreversible. In most cases impacts can be readily minimized by applying appropriate management and mitigation measures or incorporating internationally recognized design criteria and standards.

The following projects and components may have environmental and/or social impacts that would result in less serious risks, and warrant the development of ESMPs instead of ESIA:

- Energy efficiency and energy conservation projects;
- Projects with rehabilitation of dams of height above 15 meters;
- Small- and medium-scale agro-industries projects;
- Small- and medium-scale irrigation and drainage projects;
- Projects on small and medium-scale aquaculture, including small and medium-scale industrial and artisanal fisheries;
- Renewable energy projects (incl. new hydroelectric dams 15 metres or below in height);
- Rural electrification projects, including mini-grids;
- Limited bioenergy projects;
- Climate adaptation projects;
- Chemicals and waste recovery, recycling and destruction projects (e.g. projects dealing with phase-out and handling of persistent organic pollutants, ozone depleting substances, e-waste, mercury and other heavy metals, etc.) at existing facilities;
- Small- and medium-scale reforestation/afforestation projects;

- Small- and medium-scale rural water supply and sanitation projects; and
- Projects that may have potentially minor adverse impacts on physical and cultural resources.

**Category C:** A proposed project is classified as Category C either if it is likely to have minimal or no adverse social and/or environmental impacts (e.g. studies, mapping, strategy development, business plan development, feasibility study development, policy advice, inventory work, and awareness raising / capacity building activities) and/or has only a minor budget allocation.<sup>21</sup> Moreover, projects that centre on the setting-up of financial mechanisms, accelerators/incubators, business models and the like are classified as Category C.<sup>22</sup> All Category C projects that develop full feasibility studies for Category A projects will need to include an ESIA within the feasibility study, unless an ESIA, meeting the standards of ESSPP, has been or will be undertaken by another project stakeholder.

No further specific environmental and/or social assessment is required for a Category C project beyond the ESS screening. It is, however, important to note that Category C projects, particularly those with procurement components, may still have potential environmental and social sustainability considerations. These should be addressed as part of the regular project design activities and through UNIDO's procurement processes, as applicable.

**Category "NO PROJECT":** (i) is likely to infringe on the protection of a critical habitat;<sup>23</sup>; (ii) introduces or uses potentially invasive, non-indigenous alien species; (iii) uses banned pesticides and/or chemicals, (iv) causes involuntary resettlement or physical and economic displacement; (v) is likely to alter, damage, or remove any cultural heritage and/or sites; or (vi) uses forced, trafficked, or child labor. Projects categorized as NO PROJECT cannot be supported by UNIDO, since they are not in compliance with UNIDO's Standards. Further discussions with stakeholders are required to re-design and/or relocate the project in order to re-categorize the project. Failing this, the proposal will not be considered for further development.

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<sup>21</sup> Please note that projects shall neither be divided into two or more separate projects nor deliberately under-budgeted for the purpose of meeting this criterion

<sup>22</sup> However, the design of selection criteria for such mechanisms/schemes/models should include ESS considerations, in line with the requirements set out in the ESSPP, while the selected financial intermediaries are expected to have their own environmental and social management systems in place in order to address any identified ESS risks. This ensures that resulting proposal, investment, and project submissions towards the said mechanisms/schemes/models undergo separate environmental and social screenings and assessments.

<sup>23</sup> For an exact definition please refer to ESSPP Annex I

## Annex B: Collection of international and national texts relating to the environment in the Republic of Congo

### International legal framework

The Congo has ratified and acceded to a number of multilateral, regional and sub-regional international agreements on sustainable development and environmental protection, notably on biodiversity, climate change, chemicals, hazardous waste, desertification, ozone layer protection, nuclear power, cultural heritage, adhe planning, etc.

The list of international agreements signed, ratified or acceded to by Congo in relation to the project. International agreements relevant to project activities are listed in the table below.

N°	TITLE/ ABBREVIATIONS	DATE & PLACE OF ADOPTION	DATE ENTRY EFFECTIVE	STATUTES
1	African Convention on the Conservation of Nature and Natural Resources	2003, Maputo, Mozambique	29/04/1981	S : 27/02/2004
2	Convention for the Protection of World cultural and natural heritage (WHC)	1972, Paris, Austria	10/05/1998	R : 10/12/1987
3	United Nations Framework Convention on Climate Change (UNFCCC)	1992, New York/ USA	25/06/1996	R : 14/10/1996
4	Kyoto Protocol	1997, Kyoto, Japan	16/02/2007	R : 13/05/2007
5	Paris Climate Agreement	2015, Paris, Austria	22/04/2016	R : 22/04/2017
6	Vienna Convention for the Protection of the Ozone Layer	1985, Vienna, Austria	01/03/1994	R : 16/11/1994
7	Montreal Protocol on Substances that Deplete the Ozone Layer	1987, Montreal, Canada	01/03/1994	A : 16/11/1994
8	London amendments to the Montreal Protocol on Substances that Deplete the Ozone Layer	June 29, 1990, London, England	10/08/1992	A : 16/11/1994
8	Copenhagen Amendments to the Montreal Protocol on Substances that Deplete the Ozone Layer	1992, Montreal, Quebec, Canada	14 /06/ 1994	A : 19/10/2001
9	Montreal Amendments to the Montreal Protocol on Substances that Deplete the Ozone Layer	1997, Montreal, Québec, Canada	10 /11/ 1999	A : 19/10/2001

10	Beijing amendments to the Montreal Protocol on Substances that Deplete the Ozone Layer	1999, Beijing, China	25/02/2002	A : 19/10/2001
11	Kigali amendments to the Montreal Protocol on Substances that Deplete the Ozone Layer	2016, Kigali, Rwanda	01/01/2019	A : 14/10/2006
12	International Labour Organization Convention No. 168 concerning Employment Promotion and Protection against Unemployment	1988, Geneva, Switzerland	17/10/1991	A : 26/11/1999
13	Stockholm Convention on Persistent Organic Pollutants	2001, Stockholm, Sweden	13/06/2007	R : 13/05/2007
14	Protocol of 1992 to amend the International Convention on Liability for Oil Pollution Damage, 1969.	1992, London, England	30 /05/ 1996	A : 07/08/2002
15	Protocol on Cooperation in Combating Pollution in Cases of Emergency	1981, Abidjan, Ivory Coast	05/08/1984	R : 19/12/1987

Relevant sections of international agreements signed, ratified or acceded to by the Congo in relation to the project

### **Maputo African Convention on the Conservation of Nature and Natural Resources**

This convention aims to protect and rationally use natural resources in accordance with the criteria of sustainable development. It reviews, clarifies and completes the Algiers Convention of the same title. It elaborates various articles and enriches them with new knowledge in the field of nature conservation, rational use of natural resources and sustainable development, as well as the harmonization of policies and cooperation required. The broad outlines cover the protection and sustainable management of soil, water and vegetation, genetic diversity, species protection, the creation of protected areas, economic incentives, the integration of the environmental dimension into planning, access to information, intellectual property and indigenous knowledge, research and training, and bi- and multilateral cooperation.

It thus takes into account the most appropriate obligations of other (regional and global) conventions on environmental conservation.

The Convention has been enriched by numerous contributions, giving it a more global scope. Here are a few examples of this normative enrichment:

- It sets out the right of peoples to a satisfactory environment conducive to their development, echoing the 1981 African Charter on Human and Peoples' Rights;
- It prescribes new obligations, such as the conservation of plant and animal genetic diversity; the control of processes and activities likely to have an impact on the environment; impact assessments, plans, projects and activities detrimental to the environment; and the protection of the environment against damage caused by military activities and armed conflicts;
- It integrates the principles of sustainability across the board, with the result that environmental protection and sustainable development are now closely interwoven into the overall structure of the Convention;

- It crystallizes recent trends in the EIS, for example: (i) it affirms the principles of prevention and precaution; (ii) it enshrines the rights of environmental democracy - access to information, participation in decision-making, access to justice.

### **Convention concerning the Protection of the World Cultural and Natural Heritage**

According to Article 1 of this convention, the following are considered as "cultural heritage":

- Monuments: architectural works, monumental sculpture or painting, elements or structures of an archaeological nature, inscriptions, caves and groups of elements, which are of outstanding universal value from the point of view of history, art or science;
- Groups of buildings: groups of separate or connected buildings which, because of their architecture, their unity or their place in the landscape, are of outstanding universal value from the point of view of history, art or science;
- Sites: works of man or combined works of man and nature, as well as areas including archaeological sites that are of outstanding universal value from the historical, aesthetic, ethnological or anthropological point of view.

According to article 2 of this convention, the following are considered as "natural heritage":

- Natural monuments consisting of physical and biological formations or groups of such formations which are of outstanding universal value from the aesthetic or scientific point of view;
- Geological and physiographical formations and strictly delimited areas constituting the habitat of threatened animal and plant species, which are of outstanding universal value from the point of view of science or conservation;
- Natural sites or strictly defined natural areas of outstanding universal value from the point of view of science, conservation or natural beauty.

### **United Nations Framework Convention on Climate Change (UNFCCC)**

This convention aims to stabilize greenhouse gas concentrations in the atmosphere. It also recognizes that the climate system is a shared resource whose stability may be affected by industrial emissions of carbon dioxide and other heat-trapping gases.

#### **Kyoto Protocol**

Under the Kyoto Protocol, which supplements the UNFCCC, countries must limit the total amount of greenhouse gas emissions. The greenhouse gases concerned are :

- Carbon dioxide (CO<sub>2</sub>) comes mainly from the combustion of fossil fuels and deforestation;
- Methane (CH<sub>4</sub>), whose main sources are ruminant breeding, rice cultivation, household waste dumps and oil and gas production;
- Halocarbons (HFCs and PFCs), which are the refrigerant gases used in air conditioning and refrigeration systems and aerosol propellants;
- Nitrous oxide (N<sub>2</sub>O), which comes from the use of nitrogen fertilizers and certain chemical processes;
- Sulfur hexafluoride (SF<sub>6</sub>), used in electrical transformers, for example.

#### **Paris Climate Agreement**

The Paris Agreement is the first universal climate/global warming agreement. It follows the negotiations held at the 2015 Paris Climate Change Conference (COP21) of the United Nations Framework Convention on Climate Change.

The main objectives of the Paris Agreement are :

- A reduction in average global temperature (keeping the rise in temperature well below 2°C, and striving to limit it to 1.5°C);



- Better adaptation to climate change (building adaptive capacity), and ;
- Greener" finances.

It stresses that the agreement will be applied in accordance with fairness and the principle of common but differentiated responsibilities and respective capabilities, taking into account different national contexts.

### **Vienna Convention for the Protection of the Ozone Layer**

The aim of this convention is to protect the ozone layer. States have undertaken to "take appropriate measures to protect human and environmental health against adverse effects resulting or likely to result from human activities which modify or are likely to modify the ozone layer".

The main provisions are as follows:

- The contracting parties undertake to cooperate and to undertake scientific research in order to better understand and evaluate the effects of human activities on the ozone layer as well as the effects on human health and the environment due to the modification of the ozone layer (Art.3) ;
- The contracting parties undertake (according to their possibilities) to take measures to regulate and reduce activities subject to their jurisdiction which may affect the ozone layer;
- The contracting parties undertake to cooperate and exchange information;
- The contracting parties cooperate to adopt measures, procedures and standards for the adoption of protocols and annexes.

### **Montreal Protocol on Substances that Deplete the Ozone Layer**

This protocol concerns substances that deplete the ozone layer. It has been revised four times by the London, Copenhagen, Montreal and Beijing amendments.

It falls within the framework of the Vienna Convention. Article 6 provides for a review of regulatory measures every four years (starting in 1990), on the basis of the latest available data on the scientific, environmental, technical and economic aspects of ozone layer depletion. It thus establishes an evolutionary system so that international regulations can be adapted to the level of development of scientific knowledge and the state of deterioration of the ozone layer.

### **London Amendments to the Montreal Protocol on Substances that Deplete the Ozone Layer**

This amendment aims to regulate ten fully halogenated CFCs, carbon tetrachloride and trichloroethane. It provides for strengthened technology transfer provisions and a funding mechanism to facilitate technology transfer.

### **Copenhagen Amendments to the Montreal Protocol on Substances that Deplete the Ozone Layer**

This amendment extends the list of controlled substances to include Hydrobromofluorocarbons (HCFCs), Hydrobromofluorocarbons (HBFCs) and methyl bromide.

### **Montreal Amendments to the Montreal Protocol on Substances that Deplete the Ozone Layer**

In particular, this amendment requires the parties to set up an authorization system for the import and use of all categories of ozone-depleting substances and new, used, recycled or reclaimed substances.

### **Beijing amendments to the Montreal Protocol on Substances that Deplete the Ozone Layer**

This amendment modifies the regulations concerning hydrobromofluorocarbons. It introduces new measures to regulate the production of HCFCs (until now, measures only concerned the consumption of this substance) and provides for the elimination of a new substance, bromochloromethane, by January 1, 2002.

### **Kigali amendments to the Montreal Protocol on Substances that Deplete the Ozone Layer**

At their twenty-eighth Meeting of the Parties to the Montreal Protocol held on October 15, 2016 in Kigali, the Parties to the Montreal Protocol on Substances that Deplete the Ozone Layer (Montreal Protocol) reached agreement on a progressive reduction in their consumption and production of hydrofluorocarbons (HFCs).

### **Stockholm Convention on Persistent Organic Pollutants**

The aim of the Convention is to control, reduce or eliminate the release, emission or escape of persistent organic pollutants (POPs), in order to protect human health and the environment (Art. 1). The Convention sets out the control mechanisms governing the production, use, import and export, emissions and disposal of these POPs at international level.

### **Protocol of 1992 to amend the International Convention on Liability for Oil Pollution Damage, 1969.**

The 1969 International Convention applies to pollution damage caused by the development of persistent hydrocarbons by tankers in the territory of a State party to the Convention. Damage caused by non-persistent hydrocarbons such as gasoline and kerosene oil is not covered by this convention. The convention applies to tankers.

### **International Labor Organization (ILO) Convention No. 168 concerning Employment Promotion and Protection against Unemployment**

The Convention on Employment Promotion and Protection against Unemployment stresses the importance of work and productive employment in any society, not only because of the resources they create for the community, but also because of the income they bring to workers, the social role they play and the sense of personal satisfaction they provide. Approved November 26, 1999.

### **Protocol for Cooperation in Combating Pollution in Cases of Emergency**

The aim of this protocol is to protect the marine environment, coastal zones and related inland waters under the jurisdiction of states in the West and Central Africa region from pollution in the event of an emergency.

Under this Protocol: The Parties undertake to cooperate in all matters relating to the protection of their respective coastlines and related interests against the threat and effects of pollution resulting from maritime emergencies, in particular by exchanging relevant information (art. 4, 5, 6, 7, 8 and 10). They agree to assist each other, upon request, in the event of a maritime emergency (art. 8). Finally, they will endeavour to maintain and promote marine emergency plans (art. 9) and to take appropriate measures to prevent, reduce, combat and control the effects of pollution (art. 10).

### **National legal framework**

#### **Multi-sectoral laws and regulations**

The legislative and regulatory texts with a multi-sectoral scope that are relevant to the project's activities are made up of laws, decrees and orders, and are those mainly enacted and/or implemented by the Ministry in charge of the Environment. Table 4-1 presents them in chronological order.

N°	NATIONAL ENVIRONMENTAL LEGISLATION
1.	Constitution of October 25, 2015
2.	Law n° 003/91 of April 23, 1991 on environmental protection

3.	Décret n°.2009-415 du 20 Novembre 2009 fixant le champ d'application, le contenu et les procédures de l'étude et de la notice d'impact environnemental et social
4.	Order no. 1450 of November 18, 1999 on the implementation of certain provisions of law 003/91 on environmental protection relating to classified facilities.
5.	Order No. 4406/MTE/CAB of April 1, 2014 setting the conditions for approval to carry out environmental and social assessments.
6.	Arrêté n°3196/MTE/CAB du 14 juillet 2008 portant nomenclature des installations classées de la loi 003/91 du 23 avril 1991 sur la protection de l'environnement.

## **Relevant sections of multisectoral laws and regulations**

### **The constitution of October 25, 2015**

The Republic of Congo is currently governed by the Constitution of October 25, 2015. In the latter, the provisions of articles 41, 42, 43 and 44 are applicable to environmental protection:

- Article 41: Every citizen has the right to a healthy, satisfactory and sustainable environment, and has the duty to defend it. The State shall ensure the protection and conservation of the environment.
- Article 42: The conditions for the storage, handling, incineration and disposal of toxic, polluting or radioactive waste from factories and other industrial or craft units located on national territory are laid down by law. Any pollution or destruction resulting from an economic activity gives rise to compensation. The law determines the nature of compensatory measures and how they are to be implemented.
- Article 43: The transit, import, storage, burial, dumping in continental waters and maritime areas under national jurisdiction, and the spreading in airspace of toxic, polluting or radioactive waste or any other dangerous product, whether or not originating from abroad, constitute crimes punishable by law.
- Article 44: Any act, agreement, convention, administrative arrangement or any other fact, which has the consequence of depriving the Nation of all or part of its own means of existence, derived from its natural resources or wealth, is considered a crime of plunder and punishable by law.

### **Law n°003/91 of April 23, 1991 on environmental protection**

Law 003/91 is the main legislative instrument for environmental protection and sustainable development in the Republic of Congo. It serves as a benchmark for all other sectoral laws, which must be in harmony with this general policy law. It establishes the scope of its application and the objectives to be achieved. Within the limits of territorial jurisdiction over land, air and waters under Congolese jurisdiction, this law aims to :

- Strengthen existing laws in all areas of natural resource exploitation for the protection and conservation of wild fauna and flora, marine and aquatic resources, as well as the operation of facilities classified for environmental protection (ICPE);
- Rationally manage, maintain, restore and preserve natural resources and traditional, historical and natural heritage;
- Prevent and combat all forms of pollution, nuisance and degradation of the natural, social and cultural environment;
- Preserve human, animal and plant health at all times, and ensure the safety of people and property.

Although the law covers a vast field, it does not replace existing legislation governing the natural environment, but reinforces it in the area of natural resource preservation. In addition, it aims to ensure the conservation of cultural and historical heritage and the control of pollution and nuisances of

domestic, agricultural and industrial origin. As this is a framework law, there is considerable scope for implementing regulations, but it also contains numerous directly enforceable provisions.

The law also provides legal and financial instruments for implementing environmental protection measures. These include :

- The police procedure, consisting in prohibiting, subjecting to authorization, regulating or imposing an obligation to do ;
- Environmental impact assessment of economic and social development projects ;
- Payment of taxes and fees by polluting companies;
- The creation of an environmental protection fund to finance actions to protect the environment and combat natural disasters;
- The application of criminal sanctions (fines, imprisonment, closure of establishment) to offenders.

More specifically, an Environmental Impact Assessment (EIA) is required by Law n°003/91 of April 23, 1991 on Environmental Protection. Article 2 of this law requires that an Environmental Impact Assessment (EIA) be carried out for any project of economic value to the Congo.

**Decree n°2009-415 of November 20, 2009 setting the scope, content and procedures for environmental and social impact studies and notices in the Republic of Congo.**

This decree, which comprises five (5) titles and one (1) appendix, sets out the conditions and procedures for carrying out impact studies and environmental and social impact notices. With regard to the scope of application, Title 1 of the decree specifies which activities are subject or not to an environmental impact assessment or notice. Title 3 of the decree specifies the content of an environmental impact study or notice. The procedures for carrying them out are described in Title 4 of the decree.

**Arrêté n°3196/MTE/CAB du 14 juillet 2008 portant nomenclature des installations classées de la loi 003/91 du 23 avril 1991 sur la protection de l'environnement.**

This decree is one of the implementing texts of law 003/91 of April 23, 1991 on environmental protection. It specifies the nature of the classified installation, its class in accordance with articles 42 and 43 of law 003/91, the effects of the installation on the environment, the conditions for opening the installation, and the taxes to which these classified installations are subject.

**Order no. 1450 of November 18, 1999 on the implementation of certain provisions of law 003/91 on environmental protection concerning classified facilities.**

This decree is the main text implementing law 003/91 of April 23, 1991 on environmental protection and environmental monitoring. It applies to all activities falling under the regime of classified installations for environmental protection.

**Order No. 4406/MTE/CAB of April 1, 2014 setting the conditions for approval to carry out environmental and social assessments.**

This decree determines the accreditations required for consultancy firms carrying out Environmental Impact Assessments (EIA).

Article 3: To be approved, any office or consultancy must meet the following conditions:

- Working for the environment ;
- Have a manager with at least a Master's degree or a recognized equivalent in the fields of environment, water and forestry, agriculture, earth sciences or other related environmental fields;
- At least five years' experience in environmental assessment;
- Provide tax guarantees;

Proof of a bank provision of at least five million (5,000,000) CFA francs.

## **Sector-specific laws and regulations**

### ***Cadastre, State property and land sector***

- Law n° 17-2000 of December 30, 2000 on land ownership ;
- Law no. 10-2004 of March 26, 2004 establishing the general principles applicable to the land and property regimes;
- Law n° 9-2004 of March 26, 2004 on the State Domain Code ;
- Law n° 11-2004 of March 26, 2004: Expropriation procedure for public utility ;
- Act no. 25-2008 of September 22, 2008 on the agricultural land tenure system
- Law n°21-2018 of June 13, 2018 setting the rules for occupying and acquiring land and plots of land.
- Decree No. 2018-484 of December 26, 2018, establishing the powers, composition and operation of the national commission for the recognition of customary lands.
- Decree no. 2003-165 of August 8, 2003 on the responsibilities and organization of the General Directorate of Land, Cadastre and Topography;
- Décret n° 2006-255 du 28 juin 2006 portant institution, composition et fonctionnement d'un organe ad hoc de reconnaissance des droits fonciers coutumiers ;
- Decree no. 2005-515 of October 26, 2005: Terms and conditions for occupying the public domain;
- Decree no. 2005-516 of October 26, 2005: Conditions for organizing the preliminary survey ;
- Decree no. 2005-518 of October 26, 2005: Composition and operation of the conciliation commission for expropriation for public use ;
- Decree no. 2005-552 of November 7, 2005: Allocation of real estate in the State's private domain.

### ***Health sector and population***

Law n°014-92 of April 29, 1992 instituting a national health development plan for the Congo.

### ***Forestry sector***

- Law n°33-2020 of July 8, 2020, on the forestry code;
- Law n° 37-2008 of November 28, 2008 on wildlife and protected areas;
- Decree no. 2002-437 of December 31, 2002 setting the conditions for forest management and use.

### ***Agriculture and livestock sector***

Decree no. 61/252 of October 7, 1961, amended on April 3, 1985, setting rates for damage to agricultural crops.

### ***Energy and Hydraulics Sector***

- Law n°13-2003 of April 10, 2003 on the water code
- Law 14-2003 of April 10, 2003 on the Electricity Code
- Law 17-2003 creating the electricity sector development fund;
- Law n°10-2003 of February 6, 2003 transferring powers to local authorities.
- Law n°15-2003 of April 10, 2003 creating the Agence Nationale de l'Electrification Rurale (ANER);
- Law n°16 -2003 of April 10, 2003 creating the Electricity Sector Regulatory Agency (ARSEL);
- Decree no. 2017 - 249 of July 17, 2017 setting the conditions for exercising self-generation of electricity.
- Decree no. 2017 - 250 of July 17, 2017 setting the operating conditions for electrical installations in rural areas;

### ***Labor and social security sector***

Law n° 6-96 of March 6, 1996 modifies and completes certain provisions of Law n° 45/75 of March 15, 1975 instituting a Labor Code of the People's Republic of the Congo.

### ***Spatial planning sector***

Law no. 43-2014 of October 10, 2014 on land use planning and development.

### ***Cultural heritage sector***

Law n°8 - 2010 of July 26, 2010 on the protection, safeguard and enhancement of cultural and national heritage.

### ***Urban planning and construction sector***

- Law no. 6-2019 of March 5, 2019 on the urban planning and construction code;
- Decree no. 2015-515 of October 26, 2015 setting the terms and conditions for occupying the public domain

### ***Justice and human rights sector***

- The constitution of October 25, 2015.
- Law n°5-2011 of February 25, 2011 on the promotion and protection of the rights of indigenous peoples
- Decree no. 2019-200 of July 12, 2019 determining the modalities for the protection of cultural property, sacred sites and spiritual sites of indigenous populations
- Decree no. 2019-201 of July 12, 2019 establishing procedures for the consultation and participation of indigenous peoples in socio-economic development projects and programs.
- Decree no. 2019-202 of July 12, 2019 specifying special measures to facilitate access to health and social services for indigenous populations and to protect their pharmacopoeia
- Decree no. 2019-204 of July 12, 2019 on special measures facilitating access to education for indigenous children and literacy for adults.

## **Relevant sections of sector-specific laws and regulations**

### **Cadastre, State property and land sector**

#### **Law no. 9-2004 of March 26, 2004 (Code du domaine de l'État)**

Law no. 9-2004 deals with the domain of the State, which is defined as all property and rights, movable and immovable, tangible and intangible, belonging to the State, decentralized communities and public establishments. The law lays down the constituent elements of the domain of public entities and determines its consistency, the methods of administration, management and use of state-owned property by public entities and private individuals, and the financial and penal provisions applicable to the management of state-owned property.

The law specifies that the State domain comprises both public and private property. On the one hand, the public domain is all the property and rights of public authorities and public establishments which are either made directly available to the user public, or assigned to a public service, provided that in this case they are, by their nature or through special arrangements, adapted exclusively or essentially to the particular purpose of these services. On the other hand, the private domain includes all movable and immovable property and rights in rem in the domain of the State, decentralized communities and public establishments, which, by virtue of their nature and purpose, are not considered as dependencies of the public domain.

Law no. 9-2004 contains two references to the expropriation process. On the one hand, it states that when an easement requires, due to its duration or importance, the dispossession of the owner or causes him serious damage, expropriation must be carried out. On the other hand, it is specified that the retrocession of expropriated real estate is carried out according to the descriptions of the law relating to expropriation for public utility (Law n° 11-2004).

**Law n°10/2004 of March 26, 2004 setting out the general principles applicable to land and property tenure.**

This law lays down the general principles applicable to land tenure systems, and in particular to the rights of natural and legal persons over land (article 1). According to the provisions of this law, the national land area comprises the State's (or public entities') land holdings and the assets of private individuals" (article 2).

The law recognizes the right of private individuals to own land. This right is based either on modern legislation, or on customary land rights recognized by local and indigenous populations (article 30). It covers "the rights in rem relating thereto, the rights resulting from the transfer of ownership inter vivos or in the event of succession, and the constitution of security interests" (article 5). The property rights of private individuals can only be limited by expropriation for public utility, in return for fair and prior compensation (article 6).

**Act no. 11-2004 of March 26, 2004: expropriation procedure for public utility purposes**

Under this law, expropriation is a procedure enabling the public authorities to obtain all or part of an immovable property for their own benefit, in the form of a compulsory transfer, in order to achieve a public interest objective and in return for payment of fair and prior compensation.

Bare, developed, built-up, cultivated or planted land required for public works and all other works and structures of proven public interest may be expropriated in the public interest, without this list being exhaustive.

The term "expropriator" refers to public or private entities holding concessions for works or structures in the public interest, who initiate the expropriation procedure.

**Law no. 17-2000 of December 30, 2000 on land ownership**

It was adopted by the Congolese government in 2000. Legislation establishing the general principles applicable to the land and property regimes was, however, ratified in 2003-2004. It was also at this time that legislation establishing the organization of the General Directorate of Land, Cadastre and Topography was enacted. The introduction of land tenure management mechanisms is therefore relatively recent, and is still in its infancy.

Generally speaking, land tenure in rural areas is essentially based on customary law. The "ownership" of land by large families is in most cases very old, and in most cases not supported by a formal deed of ownership.

Against this backdrop, the Congolese government has announced various reforms to recognize customary law. In June 2006, the government legislated to set up an ad hoc body to represent the interests of inhabitants at departmental or commune level.

In practice, land tenure in rural areas must be perceived and analyzed in the light of the presence of four categories of stakeholders or occupants, namely :

- The owner who has a formal title deed issued by the Direction de la conservation de l'hypothèque, Direction générale des impôts. The cost of obtaining this title is in the region of 200,000 CFA francs for a 400 m plot<sup>2</sup>, which in many cases is an obstacle for owners;
- The legal occupant who holds an occupancy permit issued by the mayor or sub-prefect;
- The occupant of a customary right can benefit from a certificate issued by the departmental association of landowners. In the current context, not all occupants of customary rights have this type of attestation, as many of these agreements are verbal and undocumented;

The illegal occupant who is established without any approval or attestation.

**Decree No. 2003-165 of August 8, 2003 on the responsibilities and organization of the General Directorate of Land, Cadastre and Topography**

The General Directorate of Land, Cadastre and Topography is the technical body that assists the Minister in the exercise of his powers in matters of land, cadastre and topography. In particular, it is responsible for :

- Ensure land control and set up a land management information system;
- Develop projects to densify the geodetic network ;
- Develop, disseminate and ensure the application of land legislation and regulations, standards and technical instructions relating to cadastre, topography, photogrammetry, cartography and geodesy;
- Acting as the state's sole or delegated project manager for cadastre and topography projects;

Ensure the management of municipal, urban and rural public affairs;

Enforce land and property regulations ;

Approve companies and engineering firms specializing in cadastre and topography;

Participate in the analysis and tabulation of bids to the Central Commission for State Contracts in Cadastre and Topography;

Participate in the settlement of disputes relating to land management and national and international border conflicts;

Controlling, monitoring, coordinating and archiving documents relating to topographic, cadastral, photogrammetric and geodetic work at very large scales carried out by third parties on behalf of the state;

Participate in designing programs, organizing training and professional development for cadastral and surveying staff;

Valuation of land and its development to determine the basis for property taxation;

Develop and implement an information system and database to ensure land and property management;

Participate in the land titling process.

The Directorate General of Land, Cadastre and Topography is headed and managed by a Director General;

In addition to the management secretariat and the IT, archives and documentation department, the General Directorate of Land, Cadastre and Topography comprises :

Direction du domaine foncier ;

Land registry ;

Topography and photogrammetry department;

Administrative and Financial Affairs Department

Departmental management.

### **Law n°21-2018 of June 13, 2018 setting the rules for occupying and acquiring land and plots of land.**

The use or utilization of land, is framed by Law n°21-2018 of June 13, 2018 setting the rules for the occupation and acquisition of land and plots. This law:

Defines the national land area (public and private land holdings);

Defines land owned by private individuals and legal entities;

Determines the different categories of land (urban, peri-urban and rural); - Specifies the conditions for recognition of customary land; and

Defines the conditions for granting land titles.



In terms of innovation, :

Strengthen the effectiveness of the procedure for recognizing customary land, using it and securing it;

Reinforces the system for appointing the family's general representative by homologating the family council's minutes in the local court;

Makes it easier to draw up and obtain a decree recognizing the "possession of customary land" entitling the holder to the status of landowner at the end of a foraine session, unlike the former provision (article 2, of decree no. 2006-255 of June 28, 2006), which gave rise to the drawing up of a provisional certificate of ownership); In addition, the law provides for :

Mechanisms to facilitate the settlement of land disputes related to the superposition of precarious and definitive titles (article 11 of the law);

Improving the speed with which applications for land titles are processed;

Protecting the rights of indigenous peoples to their lands (article 17 of the law);

The introduction of a system of penalties for occupiers of land belonging to others (articles 43 to 47 of the law);

Regulation of occupancy methods in areas declared non-constructible (article 42 of the law).

### **Law no. 25-2008 of September 22, 2008 on the agricultural land tenure system**

This law governs land tenure in urban and rural areas. Article 1 of the law sets out the rules governing the registration, ownership, use and exploitation of land by public and private entities, in accordance with the provisions of Title II of law n°10-2004 of March 26, 2004, which sets out the general principles applicable to the land and property regime. It guarantees recognition of customary land rights, and specifies in article 17 that: "For rural land, development consists of planting, cultivating, raising livestock and fish farming, or generally undertaking productive work characterized by a permanent and effective hold on the land".

### **Decree No. 2018-484 of December 26, 2018, establishing the powers, composition and operation of the national commission for the recognition of customary lands.**

This text establishes the national commission for the recognition of customary land, which is responsible, in particular, for carrying out a traceability survey of the customary land to be recognized, with a view to establishing its origin, determining its holders, its total surface area and its location.

### **Décret n°2006-255 du 28 juin 2006 portant institution, composition et fonctionnement d'un organe ad hoc de reconnaissance des droits fonciers coutumiers (Decree n°2006-255 of June 28, 2006 on the establishment, composition and operation of an ad hoc body for the recognition of customary land rights)**

The Commission aims to :

- Issue provisional certificates of ownership after obtaining the opinion of the departmental technical services for land registry, town and country planning, agriculture, public works, forestry and hydraulics;
- Receive requests for contestation.

The Commission cannot issue a provisional certificate of ownership for land exceeding 100 ha. Beyond this area, validation is carried out by order of the minister responsible for land affairs.

Land, which is subject to customary law, can only be registered once its development has been duly recognized by the cadastral, agricultural and forestry departments. In the case of rural land, development consists in carrying out one of the following activities: crop and livestock farming, fish farming and, in general, undertaking productive work.

**Decree no. 2005-515 of October 26, 2005: Terms and conditions for occupying the public domain.**

Decree no. 2005-515 describes the forms and conditions of occupation of the public domain. Such occupation may be by assignment or by express authorization to occupy. Assignment is the act whereby the public domain is made available to a public service to enable it to carry out its mission.

Within five years of allocation, disuse may be declared if the property remains unused. In addition, the express authorization to occupy is the act by which the State or decentralized authority grants enjoyment of a public domain property to private individuals or legal entities.

There are special clauses for the occupation of port areas, the maritime or river public domain and the public domain, set out in the decree granting the right. This period may not exceed 20 years, unless there is a clear public interest. In exceptional cases and for reasons of public interest, express occupancy authorizations may be granted free of charge to private-sector legal entities that request them.

**Decree no. 2005-518 of October 26, 2005: Organization and operation of the national commission for the evaluation of State-owned private property.**

The Commission nationale d'évaluation des biens du domaine privé de l'État is made up of the ministers responsible for finance and preservation of the State's property, and the Director General of Taxes. Representatives of other ministries and public bodies are also members. The commission is responsible for assessing the value of all types of property, carrying out appraisals, evaluating compensatory indemnities in the event of property exchanges by public bodies, and attending auctions.

**Decree no. 2005-552 of November 7, 2005: Allocation of real estate in the State's private domain.**

Decree no. 2005-552 sets out the procedures for allocating real estate in the State's private domain. State-owned real estate may be allocated by assignment, transfer, shareholding in companies, surface area exchange, provisional authorization to occupy and ordinary lease or long lease.

In addition, real estate in the State's private domain may be :

- Assigned to public services ;
- Sold to legal entities governed by public law ;
- Allocated to private legal entities or individuals;
- Allocated as a participation in the capital of companies with the right of reincorporation into the private domain of the State in the event of dissolution, bankruptcy or liquidation of said companies;
- Allocated to international organizations of which the Congo is a member;
- Allocated to diplomatic or consular missions accredited in the Congo on a reciprocal basis.

The ordinary lease granted by the State gives the lessee a right of enjoyment for a period not exceeding 18 years, subject to certain conditions. The emphyteutic lease is granted for a period of between 18 and 99 years, subject to certain conditions. In the case of an emphyteutic lease, in the event of expropriation for public use during the term of the lease, the lessee is entitled to compensation in accordance with the law.

**Decree no. 2005-516 of October 26, 2005: Conditions for organizing the preliminary survey.**

The inquiry prior to a declaration of public interest is an administrative procedure whose purpose is to inform and consult the interested public on a project likely to give rise to expropriation.

The inquiry is used to assess whether the expropriation project is in the public interest, and to identify properties that meet the objectives being pursued. The expropriator initiates the expropriation procedure by sending the minister in charge of land affairs, for submission to the inquiry, a file comprising :

- When the declaration of public utility is requested for the construction of works or structures:  
Explanatory note; Site plan; General plan of the works; Main characteristics of the most

important structures; Summary assessment of expenditure; Impact study when the works or structures are not exempt;

- When the declaration of public interest is requested with a view to acquiring real estate, or when it is requested with a view to carrying out a major development or urban planning operation and it is necessary to acquire real estate before the project is established: an explanatory note; a site plan; a plan delimiting the area to be expropriated; a summary estimate of the acquisitions to be made;
- When a declaration of public interest is requested for operations or acquisitions provided for in local urban development plans or equivalent documents: An explanatory note; The order of magnitude of the expenditure.

In all three cases, the explanatory note must state the purpose of the operation and the reasons why, from an environmental point of view, the project submitted for investigation has been selected. In the light of the dossier, the minister responsible for land affairs appoints, by decree, a commission of inquiry. The order also specifies the subject of the inquiry, the opening date and the duration of the inquiry, which may not be less than 40 days, as well as the location and the estimates and preliminary drafts. A public notice must also be published, at least eight days before the inquiry, in the official gazette or in a legal gazette, and on national radio.

The preliminary inquiry is conducted by an inquiry commission. During the period set by the commission, interested parties may record their comments and observations on the public utility of the operation or project in the inquiry registers opened for this purpose. They may also submit them in writing. If necessary, a meeting may be held between the commission and the interested public. Reasons likely to give rise to expropriation are provided.

After examining the statements and observations of interested parties, the investigating commission draws up reasoned conclusions and forwards the investigation report to the minister in charge of land affairs, the minister in charge of territorial administration and the minister in charge of the project. These ministers then decide whether or not to carry out the project on the site in question, or to relocate it. If the decision is favorable, a decree or ministerial order is issued declaring the project to be in the public interest, specifying the period of validity, the nature of the work, the perimeter concerned and the period during which the expropriation must be carried out. Costs relating to the organization of the preliminary inquiry and the operation of the commission are borne by the expropriator or project owner.

## **Health and population sector**

### **Law n°014-92 of April 29, 1992 instituting a national health development plan for the Congo.**

This law, instituted in 1992, is now in its fourth phase, the first three of which covered the periods 1992-1996, 2007-2011 and 2012-2016 respectively.

A review of the implementation of these plans identified shortcomings and proposed new strategic directions for the 2014-2018 PNDS.

The main lines of action are as follows:

- Improved governance of administrative structures, health facilities, health programs and projects;
- Strengthening the management capacities of central directorates, general hospitals, supervised establishments, departmental directorates, health districts, health district referral hospitals and base hospitals;
- Accelerating coverage of the population with quality essential care and services ;
- Improved coverage of health facilities with essential hygiene services;
- Strengthening the private sector's contribution to the provision of health care and services ;
- Strengthening supervision in health districts;
- Improving equity of access to essential care packages and services;
- Improving the availability, quality and rational use of medicines and medical products;

- Improving the availability and quality of blood products.

## **Forestry sector**

### **Law no. 33-2020 of July 8, 2020 on the forestry code**

According to article 1 of this law, its purpose is to set out the fundamental principles governing the organization and management of the national forest estate, as well as the harvesting and marketing rules applicable to forest products.

**Article 7:** The national forest estate comprises natural forests, planted forests and forest land. **Article 8:** The national forest estate comprises :

- the State forest estate ;
- the forest estate of private individuals.

**Article 9:** The following are part of the State forest estate:

- permanent forest estate ;
- non-permanent forest land.

**Article 10:** The following are part of the permanent forest estate :

- forests in the State's private domain ;
- forests owned by public corporations ;
- community forests.

**Article 51:** The development of sensitive or inaccessible areas, such as mangrove swamps, swampy, flooded or flood-prone forests, and mountain forests, as determined by the forestry administration, must take account of special provisions defined by order of the Minister in charge of forests.

Logging in these areas must comply with reduced-impact logging rules as defined by current standards.

**Article 94 :** Any individual or legal entity wishing to engage in forestry and timber activities is required to obtain prior approval issued by the Minister in charge of forests.

A decree issued by the Minister in charge of forests sets out the procedures for granting and renewing this approval.

Authorization to begin site preparation and infrastructure construction work is subject to prior approval of the environmental compliance certificate issued by the Minister of the Environment, following validation of the environmental and social impact study report.

**Article 178:** The government draws up strategies and plans to promote the adaptation and resilience of forest ecosystems and their biodiversity to climate change.

It also takes the necessary measures for the protection and sustainable management of special ecosystems such as peat bogs and mangroves.

**Article 179:** The right to generate and market carbon credits is granted to natural or legal persons.

Carbon credits can be generated from forests in the State's permanent and non-permanent forest domains, either directly or by the promoters of projects to reduce emissions from deforestation and forest degradation, including sustainable forest management, biodiversity conservation and increasing forest carbon stocks, on the basis of an authorization issued by the minister responsible for forests, in accordance with the conditions laid down by regulation.

**Article 180:** In forests owned by the State, local authorities or other public-sector legal entities, the carbon credits generated belong to the State, local authority or other public-sector legal entity concerned.

### **Law n°37-2008 of November 28, 2008 on wildlife and protected areas**

This law lays down the fundamental principles and general conditions for the conservation and sustainable management of wildlife, habitats and the ecosystems on which they depend. It confers specific protection status on designated species and areas. It frees protected areas from all logging and mining activities. With regard to the management of human-wildlife conflicts, the law ensures the protection of people and property by excluding all legal action against any person who defends himself or others, his livestock, crops or property in the event of a human-wildlife conflict.

As part of the management of protected areas, the law stipulates that protected areas must have management plans. These management plans, drawn up in a participatory manner, determine the authorized activities and the places where they can be carried out, including the limits of the buffer or peripheral zone and the alternative activities to be undertaken for the benefit of the populations concerned.

The implementing decrees for this law are currently being drawn up. The absence of implementing decrees has been remedied by specific decrees creating protected areas and defining their type and status.

## **Energy and hydraulics sector**

### **Law n°13-2003 of April 10, 2003 on the water code**

This is the main piece of legislation concerning water management. This law specifies the main rules and obligations concerning the protection of water resources and the discharge of wastewater.

Article 11 stipulates that any person holding a legal title to occupy land may collect and treat, to the extent necessary for his or her personal use, water from a spring that originates there, from a watercourse that borders or crosses it, or from a water table formed in its subsoil, under the conditions set out in article 76.

Article 46 of Section 2 states that "in areas where there is no collective sewage disposal system, sewage shall be disposed of by means of individual installations approved by the Ministry of Water". Fines and imprisonment are also provided for any offence involving, in particular, "dumping or depositing polluting substances on the ground or burying them in water or in the subsoil".

According to article 76, self-production of water, which is understood to mean the right provided for in article 11 to collect and treat water for personal use, is subject, under the conditions set out in this article, to a system of freedom, prior declaration or prior authorization. Self-production is unrestricted when the annual volume of water collected is below a limit set by regulation.

Based on the Water Code, which defines and regulates public water (rivers, lakes, ponds, groundwater and springs), water resource management in the Republic of Congo focuses on the following elements:

- Supply water needs throughout the country;
- Protecting the quality and quantity of water resources ;
- Water pollution control ;
- Creation and management of a hydraulic cadastre ;
- Regulation and control of the water sector ;
- Water pricing ;
- Delegation of public water management ;
- Monitoring the quality of water used for human consumption;
- Water policing ;
- Flood control ;
- Management of funds and financial resources ;
- Stakeholder consultation;
- Approval and implementation of decrees ;
- The creation of new sector management bodies (Water Advisory Council, National Water Agency, Water Sector Regulatory Agency, Water and Energy Development Funds); and

- Delegation of water supply services to one or more private legal entities in the form of a concession, lease or governance.

### **Law n° 14-2003 of April 10, 2003 on the Electricity Code**

This law sets the terms and conditions for the production, transmission, distribution, import, export and sale of electricity, encourages the use of private initiative and the introduction of a competitive regime in the electricity sector, specifies the terms and conditions for monitoring and regulating activities in the sector, and determines the rules for protecting the environment and consumer interests in terms of tariffs (Article 14), conditions for supplying electricity and service safety, use of the public domain, and right-of-way easements.

However, this code does not yet have an implementing text, which limits the effectiveness of the provisions it contains. The relocation of the E2C and LCDE networks planned during the installation phase is a response to this law, in that the relocation work will be carried out within the limits of this text.

### **Labor and social security sector**

#### **Law n° 6-96 of March 6, 1996 which modifies and completes certain provisions of Law n° 45/75 of March 15, 1975 instituting a Labor Code of the People's Republic of the Congo.**

Article 132-1: "The Company must be kept in a constant state of cleanliness and present the conditions of hygiene and safety necessary for the health of the personnel; it must be arranged in such a way as to guarantee the safety of the workers";

Article 132-2: "Any establishment or redevelopment of companies, workshops, worksites, workers' camps, machinery warehouses or production equipment must be submitted for prior technical approval to the local Labour Inspector";

Article 132-3: "Company management, at the highest level, must consider the promotion of safety and the improvement of working conditions as an essential part of its duties. Every employer is required to adopt a policy for the prevention of occupational hazards which is integrated into the Company's economic and financial policy. It must take all necessary and useful measures to ensure the prevention of occupational risks. These provisions or measures relate to the location and establishment of the company, the acquisition and installation of equipment or materials, the layout of the working environment and the organization of work";

Article 132-4: "An instruction on occupational risk prevention is drawn up and posted at each workstation. All workers are informed of this instruction by the employer when they are hired.

### **Area planning**

#### **Loi n°43-2014 du 10 octobre 2014 d'orientation pour l'aménagement et le développement du territoire**

This law :

- Establishes the principle of sustainable management of natural resources (Art. 36);
- Requires a specific land management plan agreed in consultation with all relevant stakeholders for any use of natural resources, including forests (Art. 37);
- Provides for harmonious development of land occupation and use, prevention of conflicts between different types of concession holders (logging and mining, in particular, between authorized customary users of forest resources and, in general, between different groups of users of forest resources);
- Propose strategic directions for zoning, land conversion, infrastructure planning, deforestation mitigation and long-term forest resource depletion.

## **Cultural heritage sector**

The purpose of Law n°8 - 2010 of July 26, 2010 is to protect, safeguard and promote cultural and national heritage. Cultural heritage assets are defined as all movable and immovable assets which, for religious or secular reasons, are of interest to history, art, science and technology (art.2). Natural heritage properties are defined as all physical, geological and biological formations that exist independently of human creation and are of interest from the point of view of natural beauty, science and conservation, such as forests, rivers and waterfalls (art.3).

The Heritage Act prohibits the destruction, dismemberment and denaturing of all or part of the national cultural and natural heritage (art.6). The Environmental Protection Act also sets out the principle of protecting cultural, historical and architectural heritage.

National cultural and natural heritage may not be destroyed, denatured, exported or transferred. No new building may be erected next to a classified or inventoried monument or site, or erected within their field of visibility, without authorization from the relevant authorities. Any accidental discovery of remains, including underwater remains, must be reported. The authorities will then order the immediate suspension of work and propose the necessary measures to safeguard the site before work is resumed.

## **Urban planning and construction sector**

Law no. 6-2019 of March 5, 2019 on the urban planning and construction code

**Article 1:** All developments, constructions and installations must be located in accordance with the general guidelines contained in the following documents:

- Urban master plan ;
- The local urban development plan ;
- Summary urban development plan; - Sector urban development plan.

The master urban development plan and the local urban development plan must comply with national and departmental regional development plans, where they exist.

**Article 2:** Unless otherwise specified, the following are prohibited:

- Construction in areas exposed to possible natural hazards such as flooding, erosion, landslides, subsidence, quicksand or other hazards;
- Construction in areas and rights-of-way subject to easements on which building is prohibited, including stone and sand quarries;
- Construction in protected areas, set-aside zones, archaeological heritage sites, oil and gas zones, gardens, zoological or botanical parks, recreation or sports areas, agropastoral and/or aquacultural areas or areas used for agropastoral and/or aquacultural purposes.

**Article 4:** All building plots must be served by a public or private road allowing access by emergency services and fire-fighters.

**Article 5:** All residential buildings must be supplied with drinking water and electricity.

It must also be equipped with a sanitation system that avoids direct surface discharge of effluent.

**Article 6:** Buildings of all kinds must be set back a minimum of four metres from the boundary with the public highway. A minimum set-back of two metres must be maintained in relation to separating boundaries.

**Article 10 :** Subject to the provisions of the present code, no new construction or alteration to existing buildings on a plot within the urban perimeter of a commune, district capital, urban or rural community may be carried out without a building permit.

**Article 11 :** Building projects subject to planning permission must be drawn up by an architect registered with the Order of Architects, and if necessary, an engineer.

**Article 12:** Constructions which, due to their nature or size, present particular risks for the safety of people and property must be subject to an environmental and social impact report or study.

### **Native populations**

The constitution of October 25, 2015 Article 15 of this constitution recognizes that all Congolese citizens are equal before the law and are entitled to the protection of the State. No one may be favored or disadvantaged on the grounds of family or ethnic origin, social status, political, religious, philosophical or other convictions.

It guarantees and ensures the promotion and protection of the rights of indigenous peoples (Article 16).

### **Law n°5-2011 of February 25, 2011 on the promotion and protection of the rights of indigenous peoples.**

The promotion and protection of the rights of indigenous peoples is also governed by law n°5-2011 of February 25, 2011 on the promotion and protection of the rights of indigenous peoples. This law guarantees, among other things

- The establishment of consultations with Indigenous Peoples prior to the consideration of any measures and/or projects affecting them (Art. 3);
- Recognition of cultural rights and a collective and individual right to property (Art. 31);
- Land demarcation based on customary land tenure rights (Art. 32);
- A right to income from the exploitation and use of their lands and natural resources (Art. 41);
- Their commitment and/or the commitment of their land on the basis of their free, prior and informed consent (FPIC).

Decree no. 2019-200 of July 12, 2019 determining the modalities for the protection of cultural property, sacred sites and spiritual sites of indigenous populations

This decree determines, in application of article 47 of law no. 5-2011 of February 25, 2011, the modalities for protecting the cultural, intellectual, religious and spiritual assets of indigenous populations, as well as the integrity of sacred or spiritual sites belonging to them;

It defines cultural, intellectual, religious and spiritual property, sacred sites and spiritual sites;

It sets out the State's obligation to recognize and protect the sacred sites and spiritual sites of indigenous populations when carrying out development work, exploiting resources or building structures such as boreholes, roads, dams, bridges, agricultural activities, laying electric cables, fiber optics or pipelines.

### **Decree no. 2019-200 of July 12, 2019 determining the modalities for the protection of cultural property, sacred sites and spiritual sites of indigenous populations**

Pursuant to Article 47 of Law no. 5-2011 of February 25, 2011, this decree sets out the procedures for protecting the cultural, intellectual, religious and spiritual assets of indigenous peoples, as well as the integrity of sacred or spiritual sites belonging to them. It defines cultural, intellectual, religious and spiritual assets, sacred sites and spiritual sites. It sets out the State's obligation to recognize and protect the sacred sites and spiritual sites of indigenous populations when carrying out development work, exploiting resources or building structures such as boreholes, roads, dams, bridges, agricultural activities, laying electric cables, fiber optics or pipelines.

### **Decree no. 2019-201 of July 12, 2019 establishing procedures for the consultation and participation of indigenous peoples in socio-economic development projects and programs.**

Pursuant to the provisions of article 3 of law no. 5-2011 of February 25, 2011, this decree sets out the procedures for consulting and involving indigenous peoples in the formulation, implementation, monitoring and evaluation of legislative and administrative measures, as well as in the preparation of development programs and projects that may affect them directly or indirectly. Article 2 stipulates that indigenous peoples must be consulted whenever the State or any private-sector entity plans to introduce



or implement economic or industrial development measures, programs and/or projects in any part of the national territory inhabited by them.

**Decree no. 2019-202 of July 12, 2019 specifying special measures to facilitate access to health and social services for indigenous populations and to protect their pharmacopoeia**

Pursuant to the provisions of articles 22, 23 and 24 of the aforementioned law no. 52011 of February 25, 2011, this decree sets out special measures to facilitate access by indigenous populations to health and social services, and to protect their pharmacopoeia.

Article 4 of the agreement stipulates that awareness-raising aimed at improving the level of health and hygiene prevention among indigenous populations concerns issues related to :

- Reproductive health, HIV/AIDS and other sexually transmitted infections;
- Vaccination coverage and recurrent epidemics such as tuberculosis, leprosy, yaws, measles, rubella and embarrassment diseases;
- The inherent danger of additives.

**Decree no. 2019-204 of July 12, 2019 on special measures to facilitate access to education for indigenous children and literacy for adults**

Pursuant to the provisions of articles 17, 18, 19, 20 and 21 of law no. 5-2011 of February 25, 2011, this decree sets out special measures to facilitate access to education for indigenous children and literacy for adults. It stipulates that indigenous children have access to education at all levels and in all forms of education covered by the Congolese education system, including non-formal education. In view of the specific geographical and cultural requirements of indigenous populations, specific literacy centers may be set up to meet and cover the non-formal education needs of indigenous adults.

## Annex C: Guidelines for Terms of Reference for an Environmental and Social Compliance Audit (in French)

Un certain nombre de projets économiques se développent sur le territoire national sans étude d'impact environnemental et social. Cette pratique est non conforme aux dispositions de l'article 2 de la loi n°003/91 du 23 avril 1991 sur la protection de l'environnement et ses textes subséquents.

Ainsi, dans le souci d'amener les promoteurs de ces projets à se conformer aux dispositions légales et réglementaires, il est fait obligation de réaliser un audit environnemental et social de mise en conformité.

Cet audit se base sur deux phases, à savoir : la phase d'exploitation et la phase de fermeture, de démantèlement et de réhabilitation du site.

A cet effet, les termes de référence doivent fournir des indications précises sur lesquelles l'audit environnemental et social doit s'appesantir :

### 1. Introduction des TDR l'audit environnemental

Les termes de référence doivent avoir une introduction dans laquelle, le consultant devra procéder à :

- la brève présentation de l'entreprise et de l'activité en cause, ainsi que l'indication du lieu où elle se déroule ;
- la justification juridique de l'audit environnemental et social ;
- l'indication du bureau d'étude ayant en charge la réalisation de l'audit ;
- la présentation du contexte de réalisation de l'enquête publique, notamment les dates, les parties prenantes enquêtées (les autorités locales, les administrations concernées, les populations riveraines, les ONG et les travailleurs de l'entreprise), ainsi que l'avis général qui se dégage de l'enquête publique sur les activités de l'entreprise.

### 2. Résumé non technique

Le résumé doit présenter au minimum : la synthèse des installations et activités en cause, des impacts réels et potentiels identifiés, de l'analyse de la conformité environnementale et des mesures de gestion environnementale préconisées.

### 3. Introduction de l'audit environnemental

Elle doit présenter les éléments suivants :

- le contexte général de l'audit, notamment :
  - la situation au plan national et départemental du secteur concerné par les activités de l'entreprise ;
  - les grands projets en cours de réalisation dans la zone des activités de l'entreprise ;
  - l'apport de l'activité concernée à l'économie nationale (paiement des taxes, emplois existants ...)
- la justification de l'activité de l'entreprise ;
- la justification juridique de l'audit environnemental et social ;
- la brève présentation de l'entreprise et de l'activité en cause (les différentes composantes éventuellement), ainsi que l'indication du lieu où elle se déroule ;
- les différentes phases d'activités concernées par l'audit, à savoir : la phase d'exploitation et la phase de fermeture, de démantèlement des installations et de réhabilitation du site ;
- l'articulation du rapport de l'audit.

### 4. Objectifs et résultats attendus

#### 4.1. Objectif global :

Mettre en conformité les activités et installations de l'entreprise avec les exigences légales et réglementaires, les normes en vigueur, ainsi que les accords internationaux en vue de garantir la protection de l'environnement et de la santé humaine.

#### 4.2. Objectifs spécifiques :

- vérifier si les préoccupations environnementales sont prises en compte dans le cadre du fonctionnement des installations de l'entreprise ;
- relever les écarts existant entre la réglementation ou les normes en vigueur et la réalité ;
- relever les impacts réels et potentiels des activités de l'entreprise ;
- proposer les mesures de gestion des impacts constatés ;
- disposer d'un PGES qui soit à même de permettre à l'entreprise d'avoir une gestion durable de ses installations;
- susciter l'adhésion de toutes les parties prenantes au projet mis en œuvre par l'entreprise.

#### 4.3. Résultats attendus :

- la prise en compte des préoccupations environnementales dans le cadre du fonctionnement des installations de l'entreprise est vérifiée ;
- les écarts entre la réglementation ou les normes en vigueur et la réalité sont relevés;
- les impacts réels et potentiels des activités de l'entreprise sont relevés ;
- les mesures de gestion des impacts sont proposées ;
- l'entreprise dispose d'un PGES qui lui permet d'avoir une gestion durable de ses installations;
- toutes les parties prenantes adhèrent au projet mis en œuvre par l'entreprise.

### 5. Méthodologie de réalisation de l'audit et organisation du travail

#### 5.1. Méthodologie de réalisation de l'audit

La méthodologie portera sur :

la recherche documentaire, tout en indiquant les structures auprès desquelles celle-ci se fera. Notons que dans le cadre de cette recherche documentaire, tous les autres documents pouvant intéresser l'équipe d'audit sont concernés. Cependant, un accent particulier doit être accordé aux documents de l'entreprise relatifs à la stratégie et au management environnemental, à savoir : la politique environnementale, les rapports sur l'état de l'environnement du site de trois dernières années, les données relatives au reporting environnemental, etc.

- la collecte des données complémentaires sur le terrain (parmi lesquelles les paramètres environnementaux), en précisant les méthodes, les techniques et les outils à utiliser ;
- la compilation, le traitement et l'analyse des données, en indiquant les méthodes et outils de traitement de ces données ;
- l'identification, l'analyse et l'évaluation des impacts réels et potentiels;
- l'examen/correction des mesures de gestion environnementale et sociale;
- la rédaction du rapport de l'audit ;
- l'audience publique, en indiquant les parties prenantes qui seront consultées, la méthodologie adoptée ainsi que les préoccupations des parties prenantes ;
- la soumission du rapport de l'audit à la validation.

#### 5.2. Organisation du travail

Ce sous-point comprend :

- la durée et le planning de réalisation de l'audit environnemental ;
- la présentation du Bureau d'étude (y compris l'équipe de consultance).

### 6. Cadre juridique et institutionnel

#### 6.1. Contexte juridique

Il doit présenter :

- les textes législatifs et réglementaires nationaux en rapport avec les activités de l'entreprise, en rappelant les dispositions pertinentes ;

- les accords internationaux ratifiés/adhérés par le Congo ayant un rapport avec les activités de l'entreprise concernée, en rappelant les dispositions pertinentes ;
- la synthèse des documents normatifs utilisés par l'entreprise.

## 6.2. Cadre institutionnel

Le cadre institutionnel prend en compte les politiques sectorielles et les institutions.

### 6.2.1. Les politiques sectorielles

Le consultant présente les différentes politiques sectorielles concernées par l'audit, à savoir :

- la politique nationale en matière d'environnement;
- la politique nationale de santé ;
- la politique nationale du travail ;
- la politique nationale d'aménagement du territoire ;
- la politique en matière de développement du secteur concerné (mines, hydrocarbures, énergie, industrie, commerce,...) ;
- etc.

### 6.2.2. Les institutions concernées

Le consultant présente les institutions publiques concernées par les activités de l'entreprise. Il s'agit des ministères, des directions et autres structures en charge des questions liées aux activités de l'entreprise audité. Le consultant rappellera les principales missions de ces institutions en lien avec les activités en cause.

## 7. Présentation de l'entreprise, de l'activité et des installations

Cette présentation inclut :

- le profil de l'entreprise, notamment :
  - l'identification de l'entreprise (nom, adresse, NIU, RCCM, ...)
  - la situation géographique appuyée par une carte de localisation ;
  - les ressources humaines utilisées (expatriés, nationaux, par poste, par sexe) et les horaires quotidiens de travail ;
  - le fonctionnement (notamment, le rythme de travail), éventuellement les sous-traitants utilisés (leur domaine d'intervention dans l'activité, le type et la durée du contrat) ;
  - la politique environnementale/sociétale de l'entreprise et ses objectifs environnementaux ;
  - organigramme de l'entreprise ;
- la justification du choix du site ;
- la description des différentes infrastructures du site ;
- le plan de masse des infrastructures ;
- la description des activités du site de l'entreprise par composante et par phase;
- la présentation du processus technologique et son schéma ;
- la présentation des équipements techniques et leur état de fonctionnement;
- la présentation du dispositif HSE en place (organisation, mesures et équipements) ;
- l'approvisionnement en eau (besoin en eau et mode d'acquisition), en électricité (mode d'approvisionnement énergétique, degré d'autonomie), en air de service, en matières premières ou intrants (types de produits et quantités) ;
- la présentation des extrants (types et quantité des produits issus du processus technologique) ;
- la gestion des déchets (y compris les eaux usées), en indiquant leur typologie, les quantités produites et leur mode de gestion.

## 8. Présentation de l'état environnemental et social de la zone d'étude

Dans ce chapitre, le consultant est appelé à présenter la localisation de la zone d'étude (situation

administrative et géographique).

Le rapport présentera le contexte environnemental de la zone d'étude, notamment, les données biophysiques et socio-économiques de la zone des activités, à savoir :

- éléments biophysiques : climat, air, ambiance sonore, eau, sol, océanographie, hydrographie, hydrogéologie, géomorphologie, géologie, flore et faune ;
- éléments socio-économiques : démographie, culture, religion, éducation, santé, voies de communication et transport, habitat, et toutes les activités économiques.

Une description précise du milieu récepteur est donc requise, en portant une attention particulière à l'environnement tant régional que local et aux zones sensibles.

La description de ce chapitre se base sur la littérature existante, le constat fait sur le terrain, les résultats des analyses au laboratoire des échantillons des paramètres environnementaux prélevés et des entretiens avec le personnel de l'entreprise et les populations riveraines.

Cette description doit révéler l'état actuel de l'environnement de la zone d'étude, afin de permettre de déceler les impacts réels des activités de l'entreprise sur l'environnement et la santé des personnes.

La description des données physiques devra être sous-tendue par des cartes thématiques (climat, végétation, géologie, hydrologie, pédologie, topographie, ...).

Le rapport d'audit indiquera si possible les éventuelles difficultés ou lacunes et incertitudes sensées être relevées dans la zone des activités.

## 9. Identification, analyse et évaluation des impacts réels et potentiels

L'identification, l'analyse et l'évaluation des impacts se fait suivant les milieux récepteurs biophysique (sol, eau, air, ambiance sonore, climat, flore, faune) et humain (santé, sécurité, emploi, activités génératrices de revenus, etc.) et en fonction des différentes phases (exploitation et fermeture, de démantèlement et de réhabilitation du site).

S'agissant de l'identification des impacts, pour la phase d'exploitation (actuelle), le consultant présente d'une part, les impacts réels tels qu'ils ressortent de la description de l'état du site et d'autre part, les impacts potentiels liés au fonctionnement de l'entreprise.

Pour la phase de fermeture, de démantèlement et de réhabilitation du site, seuls les impacts potentiels sont identifiables en tenant compte des activités de cette phase.

Le consultant est appelé à indiquer la méthodologie utilisée.

L'analyse des impacts se fait sur la base d'une matrice que le consultant doit indiquer.

La méthode de caractérisation des impacts doit prendre en compte la présentation des indicateurs de mesure d'impacts ou critères d'évaluation des impacts en les définissant et en indiquant leurs cotations. Il s'agit de l'intensité, l'étendue, la durée, la réversibilité, l'importance et l'occurrence. Le consultant définit un gradient de gravité des impacts afin de les comparer, et de définir des priorités en matière de mise en œuvre des mesures de compensation.

Pour les cas de pollution, les taux doivent être indiqués en se référant aux normes internationales.

Un tableau récapitulatif présentera par milieu et par EVE, les sources d'impact, les impacts identifiés, ainsi que leur caractérisation, selon qu'il s'agisse des impacts réels ou des impacts potentiels.

Milieu	EVE	Source d'impact	Impact	Caractérisation

## 10. Identification, analyse et évaluation des risques et dangers

L'identification, l'analyse et l'évaluation des risques et dangers doivent se réaliser suivant une

méthodologie clairement définie par le consultant.

La méthode de caractérisation des risques doit prendre en compte la présentation des indicateurs de mesure de risques ou critères d'évaluation des risques en les définissant et en indiquant leurs cotations.

L'analyse des risques et dangers se base sur les aspects suivants :

- inventories et cartographier les installations à risques ;
- cartographier les zones à risques ;
- identifier et analyser les accidents et incidents passés au cours des cinq dernières années et ceux susceptibles de se produire.

### 11. Analyse de la conformité environnementale

L'analyse de la conformité consiste à faire ressortir sous la forme d'une grille d'analyse (ci-dessous) tous les points audités, en soulignant les écarts constatés.

Milieu	EVE	Lieu de vérification	Cadre juridique/norme	Disposition pertinente	Constat	
					conforme	Non conforme

Une interprétation de cette grille devra ensuite être faite en analysant les causes ou raisons des écarts observés.

### 12. Examen/correction des mesures de gestion environnementale et sociale

Dans ce chapitre, le consultant consignera l'ensemble des mesures de gestion environnementale et sociale (y compris les plans) prises par le promoteur.

Un examen minutieux de ces mesures devra permettre d'en évaluer les performances, afin de proposer le cas échéant des actions correctives conduisant à l'élaboration d'un PGES plus réaliste.

#### 12.1. Analyse des performances environnementales du promoteur

- analyser les mesures de gestion environnementale mises en place et évaluer leur performance ;
- analyser les mesures d'atténuation des risques prises par l'employeur et évaluer leur performance ;
- faire la synthèse de chaque plan mis en place et évaluer sa performance.

#### 12.2. Actions correctives de non-conformité

L'analyse de la conformité et des performances environnementales peut révéler des insuffisances dans la gestion environnementale par la société. Dans ce cas, le consultant devra élaborer des actions correctives ou d'amélioration, afin de réduire les impacts négatifs et de bonifier les impacts positifs. Ces mesures d'atténuation/bonification doivent être en rapport avec les impacts réels ou potentiels identifiés, dans le but d'améliorer les performances de l'entreprise dans un souci économique et environnemental.

Un tableau récapitulatif présentera les sources d'impact, les impacts, les mesures d'atténuation/bonification et les impacts résiduels caractérisés, en tenant compte des EVE et des milieux respectifs.

Milieu	EVE	Source d'impact	Impact	Mesure	Impact résiduel	Caractérisation de l'impact résiduel

Selon les cas et lorsque la situation l'exige, la description des mesures sera accompagnée des éléments ci-après :

- le planning d'exécution des mesures d'atténuation/bonification ;
- le plan d'opération interne ;
- le plan d'urgence ;
- le plan de gestion des risques ;
- le plan de gestion des déchets ;
- le plan de gestion des produits chimiques ;
- le plan social ;
- le plan sociétal ;
- le plan EVASAN ;
- le plan de formation et d'éducation environnementale ;
- le plan de fermeture, de démantèlement et de réhabilitation du site ;
- les organes et les procédures de suivi ;
- les coûts environnementaux.

### 12.3. Audience publique

Le consultant indiquera les parties prenantes concernées par la réunion d'audience publique, à savoir :

- les autorités locales ;
- les structures publiques déconcentrées ;
- les organisations de la société civile ;
- les leaders d'opinion ;
- les populations.

Il sera également présenté la méthodologie de la tenue de l'audience publique, ainsi que la synthèse du déroulement de cette consultation, en indiquant les préoccupations des parties prenantes et les réponses du promoteur.

Les procès-verbaux ou les comptes rendus de ces consultations doivent être signés, par toutes les parties prenantes devront être annexés au rapport.

### 12.4. Conclusion et recommandations

Le rapport de l'audit mettra en relief un certain nombre de points saillants à l'attention de l'administration et de l'entreprise.

En fonction de l'évaluation réalisée et des mesures proposées, le consultant pourra donner son avis général quant à la gestion environnementale et sociale dans les activités de l'entreprise.

### 12.5. Bibliographie

Les tdr doivent énoncer qu'il sera fait mention de l'ensemble des ressources documentaires ainsi que la bibliographie utilisées lors de la réalisation de l'audit.

### 12.6. Annexes

Les tdr doivent indiquer qu'un certain nombre de documents importants seront joints en annexe du rapport d'audit environnemental et social, pour servir d'illustration aux informations contenues dans ledit rapport.