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|  | DRAFT Environmental and Social Framework (ESMF) |  |

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| **Project title:** Promote Wildlife Conservation and Responsible Nature Based Tourism for Sustainable Development in Vietnam |
| **Country:** Vietnam | **Project Executing Entity:** Ministry of Natural Resources (MONRE)  |
| **GEF Focal Area**: Biodiversity |
| **UNDP Social and Environmental Screening Category:**SUBSTANTIAL | **UNDP Gender Marker:** GEN2 |
| **Atlas Award ID:**  | **Atlas Project/Output ID:**  |
| **UNDP-GEF PIMS ID number: 6377** | **GEF Project ID number:** 10787 |
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| **Public Consultation/Disclosure Notice** |
| Date: \_XXXXX |
| The United Nations Development Programme (UNDP) launched today a public consultation on the attached draft Environmental and Social Management Framework, Ethnic Minority Planning framework, Preliminary process Framework, and associated Social and Environmental Screening Procedures for the UNDP-GEF Supported propject, *Promote Wildlife Conservation and Responsible Nature Based Tourism for Sustainable Development in Vietnam.* Comments to this consultation can be sent to the following address: |
| United Nations Development Programme304 Kim Ma, Ba Dinh, Ha Noi, Viet Nam,Tel: (+84 4) 38 500100Fax: (84-4) 37265520registry.vn@undp.org |
| **Deadline for submission of comments:** | **XXXX**  |

Draft – May 2022

Contents

[Abbreviations and Acronyms iii](#_Toc104218376)

[Executive Summary 1](#_Toc104218377)

[1 Introduction 2](#_Toc104218378)

[2 Project Description 2](#_Toc104218379)

[3. Purpose and scope of this ESMF 2](#_Toc104218380)

[4 Potential Social and Environmental Impacts 4](#_Toc104218381)

[5 Regulatory Framework 6](#_Toc104218382)

[a. Social 8](#_Toc104218383)

[1.1.1 Table: Summary of Social Regulation 8](#_Toc104218384)

[5.1.2 Relevant National Social Regulation 10](#_Toc104218385)

[b. Environmental and Tourism 11](#_Toc104218386)

[1.2.1 Table: Summary of Environmental and Tourism Regulation 12](#_Toc104218387)

[5.2.2 Relevant National Environmental Regulation 15](#_Toc104218388)

[5.2.3 Regional Regulation 19](#_Toc104218389)

[6 International Regulatory Framework 21](#_Toc104218390)

[6.1 Social 21](#_Toc104218391)

[6.2 Environmental 21](#_Toc104218392)

[6.3 UNDP Regulatory Framework 22](#_Toc104218393)

[7 Required procedures for screening, assessment and management 28](#_Toc104218394)

[8 Stakeholder engagement and information disclosure process 28](#_Toc104218395)

[9 Grievance redress mechanism 28](#_Toc104218396)

[10 Institutional arrangements and capacity building: 28](#_Toc104218397)

# Abbreviations and Acronyms

|  |  |
| --- | --- |
| ESIA | Environmental and Social Impact Assessment |
| ESMF | Environmental and Social Management Framework |
| ESMP | Environmental and Social Management Plan |
| FPIC | Free, Prior and Informed Consent |
| GEF | Global Environment Facility |
| GRM | Grievance Redress Mechanism  |
| HCV | High Conservation Value |
| METT | Management Effectiveness Tracking Tool |
| MARD | Ministry of Agriculture and Rural Development |
| MONRE | Ministry of Natural Resources and Environment  |
| FMU | Forest Management Unit |
| NR | Nature Reserve |
| NP | National Park |
| PA | Protected Area |
| PIF | Project Identification Form (GEF) |
| PIR | GEF Project Implementation Report |
| PLRs | Policy, Legal and Regulation |
| POPP | Programme and Operations Policies and Procedures (UNDP) |
| PPG | Project Preparation Grant (GEF) |
| SECU | Social and Environmental Compliance Review Unit (UNDP) |
| SES | Social and Environmental Standards (UNDP) |
| SESP | Social and Environmental Screening Procedure (UNDP) |
| SRM | Stakeholder Response Mechanism (UNDP) |
| SUF | Special Use Forest |
| UNDP | United Nations Development Programme |
| UNDP-GEF | UNDP Global Environmental Finance Unit |

# Executive Summary

This Environmental and Social Management Framework (ESMF) has been prepared for the submission of the UNDP project proposal “*Promote Wildlife Conservation and Responsible Nature Based Tourism for Sustainable Development in Vietnam”* to the GEF. Its purpose is to assist in the assessment of potential environmental and social impacts. The Framework forms the basis upon which Environmental and Social Management impacts of the project will be assessed and managed, so as to ensure full compliance with the requirements of UNDP’s Social and Environmental Standards.

Preliminary analysis and screening conducted during the project development phase via UNDP’s Social and Environment Screening Procedure (SESP) identified potential social and environmental risks associated with project activities. The screening procedure led to the identification of 3‘Substantial’ risks, and 11 ‘Moderate risks’ resulting in the project having an overall rating of ‘Substantial’ and that the identified social and environmental risks’ impacts are manageable through identified mitigation measures detailed in the Screening Template, included in **Annex 9.1.**

It should be noted that some of the demonstration activities will be implemented in sites where ethnic minorities (indigenous peoples as defined by SES Standard 6) live or rely on for their livelihoods and traditions. While consultations have been undertaken with EMs during the PPG stage with efforts to ensure that these were conducted in keeping with the FPIC principles, additional FPIC will be undertaken to confirm consent of these communities regarding project investments and activities as part of a more detailed consultative process during project implementation.

The ESMF was developed for the specific intent of outlining the process that will be carried out during the inception/implementation phases of the Project, for the additional assessment of possible impacts and the identification and development of appropriate risk management measures, in accordance with the UNDP’s SES. It also includes an Indigenous Peoples Planning Framework (called Ethnic Minority Planning Framework;), and descriptions about the roles and responsibilities, the associated budget and timeframe for its implementation. Relevant activities of this ESMF include:

1. Additional FPIC procedures will be undertaken from the start of the project with ethnic minorities to achieve their consent for activities[[1]](#footnote-1) in the project sites within both PA landscapes. FPIC will continue throughout implementation (per the EMPF and subsequent EMP).
2. Development of scoped ESIAs[[2]](#footnote-2) and ESMPs in Year 1-Q3 and an Ethnic Minorities Plan (equivalent to an Indigenous Peoples Plan) to replace the Ethnic Minorities Planning Framework (EMPF) developed at PPG stage.
3. The conduct/application of a Strategic Environmental and Social Assessment (SESA) to assess and manage ‘upstream’ risks/potential impacts that may arise as a result of project activities: 1.2.4, 1.3.1, 1.3.2, 1.3.4, 1.4.7, 1.5.5, 2.3.6, 2.3.8, 2.4.5,3.2.2.
4. Application of additional screening process (with the SESP). The ongoing FPIC process will enable the incorporation of any emerging concern from EMs in further SESP application and ESMP continuous updates.

# Introduction

This Environmental and Social Management Framework (ESMF) has been prepared for the UNDP-supported project *“Promote Wildlife Conservation and Responsible Nature Based Tourism for Sustainable Development in Vietnam”*. Its purpose is to assist in the assessment of potential environmental and social impacts. The Framework forms the basis upon which targeted Environmental and Social Management assessments and Plan(s) will be developed at early project implementation so as to ensure full compliance with the requirements of UNDP’s SES policies. The Implementation of the ESMF will be the responsibility of the Ministry of Natural Resources (MONRE) ) and overseen by the UNDP National Project Manager and monitored throughout the duration of the project. UNDP is the GEF Agency for the project to which this ESMF applies. The UNDP Social and Environmental Standards are the applicable standards for this management framework.

Preliminary analysis and screening conducted during the project development phase via UNDP’s Social and Environment Screening Procedure (SESP) identified potential social and environmental risks associated with project activities. The screening procedure established that the project is overall rated as being of ‘Substantial’ risk, and that most of the ‘moderate’ and ‘low’ risks are manageable through identified mitigation measures detailed in the SESP report and in Table 4 of this report. Target ESIA(s) and ESMP(s) will be necessitated to manage the two risks classified; as ‘Substantial’ as these might involve economic displacement and/or impacts on the social, cultural and traditional practices of ethnic minorities as well as for “moderate’ risks that might need additional assessment and safeguard management measures.

# Project Description

**Project Objective:** To promote biodiversity conservation and sustainable livelihoods through innovative solutions for nature-based tourism.

**Programming Directions:**

Mainstream biodiversity across sectors and landscapes and seascapes through biodiversity mainstreaming in priority sectors.

Address direct drivers to protect habitats and species and improve financial sustainability, effective management, and ecosystem coverage of the global protected area estate.

**Nui Chua National Park** in Ninh Thuan province and **Phong Nha-Ke Bang National Park** in Quang Binh province will be supported by the project, covering an estimated 146,984 ha of terrestrial area (23,658 ha in Nui Chua and 123,326 ha in Phong Nha-Ke Bang) and 7,352 ha of marine area (in Nui Chua), since the intent is to also expand nature-based conservation in the surrounding landscape/seascape around Nui Chua National Park.

The project promotes responsible nature-based tourism through multi-sectoral coordination in a larger landscape approach to reduce threats to natural resources, reduce market demand for wildlife-related products, and mobilize sustainable financing mechanisms.

Based on a conservative estimate of potential opportunities for the generation of new and/or stabilization/maintenance of ‘green’ employment and community tourism-based livelihood operations, there will be an estimated 3,000 beneficiaries.

Components/Outputs

The project objective is to implement four interrelated and mutually complementary components:

**Component 1: Enabling a framework to harmonize nature conservation and tourism development**

Under this component, there are six outputs:

Output 1.1: An effective national inter-agency partnership and coordination platform established for multi-level planning for tourism in high-value biodiversity areas to support the implementation of the National Biodiversity Strategy and Action Plan - up to 2030, vision 2050 (NBSAP) under Decision 149/QD-TTg dated January 28, 2022, and contributed to the effective implementation of the biodiversity and national tourism strategies.

Output 1.2: Biodiversity conservation standards, criteria and guidelines for sustainable tourism development, management and operations in high-value biodiversity areas developed and adopted, supported by monitoring, verification, and reporting systems.

Output 1.3: Mainstreaming biodiversity conservation into tourism policy, regulations, and master planning to develop national nature-based tourism and integration in PA management policies.

Output 1.4: A policy framework for operationalizing nature-based tourism strengthened, particularly for promoting: (i) public-private partnerships in nature-based tourism; and (ii) community participation and benefit-sharing from nature-based tourism that ensure biodiversity conservation improvement.

Output 1.5: Practical and standardized methodologies for ecological and social impact assessment developed for nature-based tourism in high-value biodiversity areas to minimize impacts on wildlife, habitats, local culture, lifestyles, and standards to ensure compliance.

Output 1.6: Enabling national policy and clear legal framework underpinning the promotion and application of payment for ecosystem services from marine and wetland ecosystems (PMES and PWES) applied in project sites and replicated.

**Component 2: Nature-based tourism partnerships benefitting communities, wildlife and habitats at Nui Chua and Phong Nha-Ke Bang National Parks**

Under this component, there are seven outputs:

Output 2.1: Provincial multi-sectoral nature-based tourism platform established to support coordinated action and investment across government and private sectors to promote nature-based tourism development and biodiversity conservation in the Quang Binh and Ninh Thuan provinces.

Output 2.2: Integrated nature-based tourism programs designed in Nui Chua and Phong Nha-Ke Bang National Parks.

Output 2.3: Improved monitoring of the status of key biodiversity resources to assess the effectiveness of PA management, illegal wildlife threat management and biodiversity conservation outcomes of nature-based tourism.

Output 2.4: Institutional capacity for improving biodiversity conservation and management of PAs and effective monitoring, surveillance, and prevention of illegal wildlife activities.

Output 2.5: Implementation of community-based biodiversity conservation and benefit-sharing programs from nature-based tourism and related products and services that provide new and innovative income generation activities.

Output 2.6: Demonstration of PMES in Nui Chua national park and surrounding landscape;

Output 2.7: Distillation of results from the piloting / evidence-based application of guidelines and criteria at the local level as a feedback loop for refinement.

**Component 3: Capacity building and behaviour change for acceptance of the value of nature-based tourism and wildlife and biodiversity protection**

Under this component, there are five outputs:

Output 3.1: Advocacy with the travel and tourism sector to promote nature-based tourism and biodiversity conservation.

Output 3.2: Targeted social and behavioural change communications and initiatives for domestic and international tourists to influence the purchase, use and trafficking of illegal wildlife products and promote more positive attitudes towards wildlife and nature conservation.

Output 3.3: Community outreach at the two protected areas (Pas) and buffer zones to shift attitudes and create social pressures for deterred involvement in poaching and trafficking of wildlife and increase awareness of the benefits of nature-based tourism and payment for environmental services.

Output 3.4: Tourism and related enterprises integrate biodiversity-friendly practices to enhance biodiversity protection, improve visitor awareness and behaviour change, and participate in actions protecting biodiversity at the two PAs.

Output 3.5: Institutional capacity building and training of national stakeholders to integrate and mainstream biodiversity in nature-based tourism planning, monitoring, implementation, and enforcement.

**Component 4. Marketing, knowledge management, and monitoring and evaluation (M&E)**

Under this component, there are three outputs:

Output 4.1: Marketing strategies and informational materials for promoting the quality and diversity of nature-based tourism at demonstration PAs developed and disseminated across tourism platforms in Vietnam and abroad.

Output 4.2: Knowledge exchange platform developed for sharing experiences to replicate nature-based tourism planning and management models.

Output 4.3: M&E system incorporating gender mainstreaming and safeguards developed and implemented for adaptive project management.

# 3. Purpose and scope of this ESMF

This ESMF has been developed as a management tool to assist in managing potential adverse social and environmental impacts associated with activities of this GEF-financed project, in line with the requirements of UNDP’s SES. The implementing partner of the project and the relevant members of the Project Management Unit will follow this ESMF during project implementation and ensure the environmental and social risks and impacts are fully assessed and management measures are put in place prior to the implementation of the relevant project activities.

This ESMF identifies the steps for detailed screening and assessment of the project’s potential social and environmental risks, and for preparing and approving the required management plans for avoiding, and where avoidance is not possible, reducing, mitigating, and managing these adverse impacts. Its scope covers all project activities described in above in Section 2, which include co-financing in terms of in-kind contributions, grants and equity investment by various government agencies and the private sector needed to implement the project.

# 4 Potential Social and Environmental Impacts

During the PPG phase, the UNDP SESP was used to identify potential social and environmental risks and positive impacts associated with this Project. The project was scrutinized as to its type, location, scale, sensitivity and the magnitude of its potential social and environmental impacts. All project activities were screened, including planning support, policy advice, and capacity-building, and site-specific, physical interventions. The screening highlighted the project intentions as they related to mainstreaming human rights, gender equality and women’s empowerment, accountability and environmental sustainability.

In terms of risks, the SESP identified a total of fourteen risks, ten of which have been assessed as having Moderate significance while three were rated Substantial (and one as low); hence overall SESP risk categorization rating for the project is “Substantial”. The project document includes the SESP template that details the specific environmental and social risks identified.

**Substantial Risk**: Defined by UNDP’s SESP as *“Projects that include activities with potential adverse social and environmental risks and impacts that are more varied or complex than those of Moderate Risk projects but remain limited in scale and are of lesser magnitude than those of High Risk projects (e.g. reversible, predictable, smaller footprint, less risk of cumulative impacts).”*

The following are the project risks and their significance as identified in the completed SESP found in Annex 9.1 of the ProDoc.

*Risk 1: Given the presence of ethnic minorities in both PA sites, certain key project outputs/components will require the informed consent (FPIC) of ethnic minorities before the implementation of these activities. This is particularly the case for project supported activities on the development of local nature-based tourism products and experiences, as well as participation during project design and the implementation . Ethnic m*inority *communities might not be aware of the consent-giving process or be fully capacitated to give FPIC in accordance with international and national policies. Consultation and engagement with local communities has been limited during the design of the project (due to national Covid-19 restrictions) which has further exacerbated issues surrounding PAPs ability to give consent in line with the requirements of UNDP SES 6. (***Substantial)**

*Risk 2:* Project-related policy changes could lead to new tourism activities and potential cessation/reduction of existing operations.  *This in-turn could lead to conflicts with local communities in and surrounding the PA sites. Conflicts could arise as a result of project components XXXXXX . Potential conflicts could include disagreements between local governments and local communities or tourism operators or communities depending on particular views and interests in tourism development.* **(Moderate)**

*Risk 3: Nature-based tourism development might not fully incorporate or reflect views of women and girls and ensure equitable opportunities for their involvement and benefit as well in decision-making on resource use and management. (***Moderate)**

*Risk 4: The project interventions could cause/support activities that lead (either directly or indirectly) to impacts of changed amount/type of tourism and/or nature-based tourism and increasing demand for nature-based products on sensitive habitats or ecosystems (e.g., soil/vegetation erosion, waste, sewage, IAS spread) or threatened or harvested species* **Moderate)**

*Risk 5: The Project may involve the harvesting of NTFP from natural forests and marine resources for proposed livelihoods and small-scale community enterprises, which could inadvertently adversely affect critical habitats. (***Moderate)**

*Risk 6: Nature-based tourism development could result in damage to sacred sites and cultural sites, including through inappropriate tourist behavior (e.g., desecration of cultural site), and/or could harm/change intangible cultural heritage (e.g., traditional knowledge) through its commercialization and use in ecotourism. (***Moderate)**

*Risk 7: The development of nature-based tourism could change current access to PAs and their resources, including by unintentional restricting access to local communities. (***Moderate)**

*Risk 8: Local communities, governments and tour operators may not have the capacity to manage and oversee tourism development and operations to adhere to established standards and benchmarks for sustainable tourism planning, development and operations and therefore impinge on human rights. (***Moderate)**

*Risk 9: The operation of nature-based tourism adventure activities could pose safety risks to communities, local tourism operators and tourists during operation. Project supported NBT activities could include activities with heightened safety risks such as cave expeditions etc. (***Moderate)**

*Risk 10: The nature-based tourism activities could potentially enhance release of pollutants and waste (from increased tourist numbers and inadequate waste management practices at PA sites) into natural ecosystems resulting in localized impacts (***Moderate)**

*Risk 11: Project support for site-based management effectiveness such as law enforcement or awareness-raising could bring safety risks for PA staff due to increased interaction with poachers. Conversely, support to PA staff/security personnel may also pose risks to local communities. (***Substantial)**

*Risk 12: Unintended negative consequences from upstream policy changes that result in changes to tourism development in Vietnam (for example new nature-based tourism standards and guidelines) could lead to adverse impacts on cultural heritage, or could restrict access of local communities to PAs and the resources therein. (***Moderate)**

*Risk 13: Covid-19 and other potential zoonotic disease outbreaks that remain prevalent in the project sites could pose the risk of infection and exposure of persons involved in implementing project activities to these diseases (***Substantial)**

*Risk 14: Child labor remains a pertinent issue in Vietnam, and may occur in surrounding project areas,* especially since ethnic minorities are at particular risk of being affected**[[3]](#footnote-3). (Low)**

# 5. Legislative and Institutional Framework for Environmental and Social Matters

## 5.1 National Regulatory Framework

The following section provides a preliminary overview of the Vietnamese national regulatory framework in respect of Environmental and Social matters relevant to the project. The provisions detailed below (and all other provisions of national law) must be adhered to at all times by the project.

 Vietnam has a complex legal system comprised of a various forms of codified laws, resolutions, ordinances, decrees, decisions, and circulars promulgated from differing levels of government. This report does not seek to provide an exhaustive list of every legal instrument relevant to the project. Rather, this report provides a cursory overview of the most relevant provisions. All provisions of national regulation must be adhered to by the project, notwithstanding that they may be omitted from the following overview.

The system of legal documents of Vietnam include[[4]](#footnote-4):

1. Constitution – Promulgated by the National Assembly. This is the highest level legal document.
2. Law – Passed by the National Assembly and signed by the President for promulgation. There are a number of laws such as: Civil Law, Penal Law, Civil Procedure Law, Criminal Procedure Code, Labor Law, Maritime Law, Environment Law, Biodiversity Law, Tourism Law, Forestry Law, Fisheries Law, etc.
3. Resolution of National Assembly.
4. Sub-law documents include:
5. Standing Committee of the National Assembly promulgates Ordinances and Resolutions.
6. President issues Order, Decision.
7. Government issues Decree.
8. Prime Minister issues Decision.
9. Judicial Council of the Supreme People's Court: Resolution.
10. Chief Justice of the Supreme People's Court: Circular.
11. Procurator General of the Supreme People's Procuracy: Circular.
12. Ministers, Heads of ministerial-level agencies: Circular.
13. State Auditor General: Decision.
14. Joint resolutions between the Standing Committee of the National Assembly or between the Government and central agencies of socio-political organizations.
15. Joint circular between the Chief Justice of the Supreme People's Court and the Chief Procurator of the Supreme People's Procuracy; between the Minister, the Head of the ministerial-level agency, the Chief Justice of the Supreme People's Court, the Chief Procurator of the Supreme People's Procuracy; between ministers and heads of ministerial-level agencies.
16. Legal documents of the Provincial People's Council and the People's Committee, include[[5]](#footnote-5):
17. Provincial People's Council: Resolution.
18. Provincial People's Committee: Decision.

#### Comparison between the 2008 and 2015 Laws on Promulgation of Legal Documents in Vietnam is summarized in below table[[6]](#footnote-6):

|  |  |
| --- | --- |
|  Constitution | National Assembly |
| Code/Law |
| Resolution |
| Ordinance | National Assembly Standing Committee |
| Resolution |
| Order | President |
| Decision |
| Decree | Government |
| Decision | Prime Minister |
| Resolution | Judicial Council of the Supreme People’s Court |
| Circular | Procurator General of the Supreme People’s Procuracy, Chief Justice of the Supreme People’s Court |
| Circular | Ministers, heads of ministerial-level agencies |
| Decision | State Auditor General |
| Resolution | People’s Councils at all levels |
| Decision (and Directive under the 2008 Law) | People’s Committees at all levels |
| Legal documents (introduced for the first time in the 2015 Law) | Local administrations in special administrative-economic units |
| Joint Resolution | Between National Assembly Standing Committee or Government and Presidium of the Central Committee of the Vietnam Fatherland Front (between National Assembly Standing Committee or Government and a central agency of a socio-political organization under the 2008 Law) |
| Joint Circular | Between Chief Justice of the Supreme People’s Court and Procurator General of the Supreme People’s Procuracy |
| Between Ministers or heads of ministerial-level agencies and Procurator General of the Supreme People’s Procuracy or Chief Justice of the Supreme People’s Court(between competent state agencies under the 2008 Law) |

## 5.1.1 Social

The following section outlines regulatory provisions in respect of social matters that have been deemed relevant to the project after PPG SESP screening. The project must adhere to all of the provisions outlined below as well as any other applicable national regulation notwithstanding that it may be omitted from the following section.

###  Table 1: Summary of Social Regulation

|  |  |  |
| --- | --- | --- |
| **Law / Decree / Resolution number**  | **Title [non-official English translation]/Decription**  | **Issued Date** |
| Order No.18/2013/L-CTN | The Constitution  | 8 December 2013 |
| Law No. 100/2015/QH13 | Penal Code  | 27 November 2015 |
| Law No. 91/2015/QH13 | Civil Code  | 24 November 2015 |
| Law No. 28/2001/QH10 | Law on Cultural Heritage | 29 June 2001 |
| Resolution 88/2019/QH14 and Resolution 120/2020/QH14 | Resolutions by the National Congress and Resolution 12/2020/NQ-CP by the GoV on Overall Action Plan and Investment for socio economic development in ethnic minority and mountainous areas 2021-2030. | 8 November 2019 and 19 June 2020 |
| Decision 1600/QD-TTg  | Approving the National Target Program on new rural development for 2016-2020. | 24 December 2001 |
| Decision 886/QD-TTg | Approving the Target Programme for Sustainable Forest Development for 2016-2020. | 16 June 2017 |
| Decision 2085/QĐ-TTg  | Approving specific policies to support the socio-economic development of ethnic minority and mountainous areas in the period 2017 – 2020. Includes a range of framework targets and measures to enhance living standards of ethnic minorities in Vietnam. | 31 October 2016 |
| Decision 75/2015/NĐ-CP  | Mechanism and Policy of Forest Development Associated with the Policy on Sustainable and Rapid Poverty Reduction and Assistance to Ethnic Minorities for the period 2015 – 2020. | 9 September 2015 |
| Decision 419/2017/TTg  | On the requirement of respecting ethnic minority peoples in REDD+ activities. | 5 April 2017 |
| Joint Circular No 03/2000/BTP-BVHTT-BTTUBTWMTTQVN of MOJ, Ministry of Culture and Information, Standing Committee of Fatherland Front  | Guiding the development and implementation of conventions and rules of rural villages. | 31 March 2000 |
| Joint Circular No 04/2001/TTLT-BTP-BVHTT-BTTUBMTTQVN-UBQGDSKHHGĐ Ministry of Culture and Information, Standing Committee of Fatherland Front, National Population and Family Planning Committee Vietnam | Guidance to supplement the Joint Circular No 03/2000/TTLT-BTP-BVHTT-BTTUBTUMTTQVN;  | 9 July 2001 |
| MARD Circular No. 70/2007/TT-BNN | Guiding development and implementation of forest protection regulations at village community level. Provides guidance on procedures, contents for development and implementation of Regulation on forest protection and development at village community level. | 8 January 2007 |

### 5.1.2 Relevant National Social Regulation

The Constitution states that ‘all ethnicities are equal, unified and respect and assist one another for mutual development; all acts of national discrimination and division are strictly forbidden’, and that ‘every ethnic group has the right to use its own language and system of writing, to preserve its national identity, to promote its fine customs, habits, traditions and culture’[[7]](#footnote-7). The right to non-discrimination is supported by the Penal Code 2015, under which “causing hostility, discrimination, secession, infringement upon equality rights among the ethnic communities of Vietnam” is an offence[[8]](#footnote-8).

The Government of Vietnam also has several policies and laws that aim to specifically promote economic development and inclusion for ethnic minorities and remote local communities that are listed in the summary table above.

The Civil Code (2015) states that every person shall be equal in civil relations and shall enjoy equal protection under the law[[9]](#footnote-9). Each individual is afforded the right to life, safety of life, health and body, and the right identify and re-identify their ethnicity[[10]](#footnote-10). Additionally, the Civil Code of Vietnam protects the private life, personal secrets and family secrets of every individual[[11]](#footnote-11).

Cultural heritage[[12]](#footnote-12) is protected under the unified management of the state and is owned by the entire population with recognition of traditional forms of collective and joint community ownership[[13]](#footnote-13). The Law on Cultural Heritage provides a variety of protections to ensure the safeguarding of Cultural Heritage and promotion of associated cultural values. The protections contained within the law apply to Vietnamese organizations and individuals and foreign organizations and individuals that operate in Vietnam[[14]](#footnote-14).

In addition, although the legal framework does not expressly provide for customary land tenure, traditional knowledge of ethnic minorities and local communities is respected in the legal framework through the provision that local regulations can be developed to uphold community customs in compliance with State regulations. The practice of villages maintaining traditional conventions or regulations (huong uoc or quy uoc) has existed for centuries in Vietnam – the term is widely understood and application in practice is widespread. In line with Grassroots Democracy Decree, “huong uoc” can thus be considered a form of ‘grassroots democratisation’.

There are several relevant pieces of legislation formally acknowledging the practice that are mentioned in the summary table above:

1. Joint Circular No 03/2000/BTP-BVHTT-BTTUBTWMTTQVN of MOJ, Ministry of Culture and Information, Standing Committee of Fatherland Front dated March 31, 2000;
2. Joint Circular No 04/2001/TTLT-BTP-BVHTT-BTTUBMTTQVN-UBQGDSKHHGĐ of MOJ, Ministry of Culture and Information, Standing Committee of Fatherland Front, National Population and Family Planning Committee Vietnam; and
3. MARD Circular No. 70/2007/TT-BNN.

The Forestry Law (2017) provides that communities are recognized as one of the seven main forest owners[[15]](#footnote-15); areas of spiritual forest and community-managed water protection forests have also been upgraded. This is considered an important step forward and opens up new opportunities in maintaining and promoting the community forest model, towards the sustainable management, protection and development of forests in the future.

Vietnam’s legal framework explicitly recognizes and protects several rights with regard to ‘ethnic minorities’ including the right of non-discrimination, the recognition and promotion of cultural rights and cultural inheritance of ethnic minorities’ cultural rights (implicitly recognizing a degree of self-determination). The Constitution affirms the equality of ethnic minority peoples, while the existing Law on Cultural Heritage recognizes values and need to protect culture of the people following their wishes. These principles and the substantive provisions that ensure their application in national law must be reflected and adhered to throughout the project’s lifecycle.

## 5.1.3 Environmental and Tourism

The following section outlines regulatory provisions in respect of Environmental and Ecotourism-specific matters that have been deemed relevant in the PPG SESP screening. The project must adhere to all of the provisions outlined below as well as any other applicable national regulation notwithstanding that it may be omitted from the following section.

### Table 2: Summary of Environmental and Tourism Regulation

|  |  |  |
| --- | --- | --- |
|  **Law / Decree / Resolution number**  | **Title [non-official English translation]/Description** | **Issued Date** |
| **Tourism** |
| Law No.09/2017/QH14 | Tourism law  | 19 June 2017 |
| Decree No. 168/2017/ND-CP | Details some articles for the implementation of tourism law. | 31 December 2017 |
| Decision No. 147/2020/QD-TTg  | Approving the Vietnam Tourism Development Strategy to 2030. | 22 January 2020 |
| **Environment** |
| Law No. 17/2012/QH13 | Law on Water Resources | 21 June, 2012 |
| Law No. 45/2013/QH13 | Land Law | 29 November 2013 |
|  | Decrees made pursuant to the Land Law (Law No. 45/2013/QH13):1. Decree No. 43/2014/ND-CP dated 15/05/2014 of the Government regulations detailing a number of articles of the Land Law;
2. Decree No. 47/2014/ND-CP dated 15/05/2014 of the Government regulations on compensation, support and resettlement upon land recovery by the State;
3. Decree No. 75/2012/ND-CP dated 03/10/2012 of the Government detailing a number of articles of the Law on Complaints;
4. The Circular No. 37/2014/TT-BTNMT dated 30/06/2014 of MONRE detailing compensation, support and resettlement upon land acquisition by the State.
 |  |
| Law No. 72/2020/QH14 | Law on Environmental Protection | 17 November 2020 |
| Decree No.08/2022/ND-CP | Detailed regulations on a number of articles of the law on environmental protection 2020. | 10 January 2022 |
| Draft decision issued by prime minister/2021/2022 | National environmental protection strategy to 2030, vision to 2050 | December 2021/or January 2022 |
| **Biodiversity** |
| Law No. 20/2008/QH12  | Law on Biodiversity  | 13 November 2008 |
| Decree No. 65/2010/ND-CP | Detailed provision and instructions for implementation of some articles of biodiversity law. | 11 June 2010 |
| Decree No. 160/2013/ND-CP  | Provides criteria for species identification and the species management regime on the list of endangered, precious and rare species prioritized for protection.  | 12 November 2013 |
| Decree No. 64/2019/ND-CP  | Provides an updated the list of Decree No. 160 with a total of 122 species. | 5 September 2019 |
| Decree No. 66/2019/NĐ-CP | Conservation and sustainable use of wetlands. | 29 July 2019 |
| Decision No. 1250/2013/QD-TTg | Approving the national strategy for biodiversity to 2020, vision to 2030. | 31 July 2013  |
| Decision 1975/2021/QD-TTg  | Approving national action plan on the conservation and sustainable use of wetlands for 2021 – 2030. | 24 November 2021 |
| Decision No. 149/2022/TTg | National Strategy on Biodiversity to 2030,vision to 2050 | 28 January 2022 |
| **Forestry** |
| Law No.16/2017/QH14 | Forestry law  | 15 November 2017 |
| Decree No. 156/2018/ND-CP  | Detailing the implementation of a number of articles on the Forestry Law.  | 16 November 2018 |
| Decision No. 523/2021/QD-TTg  | Approving the Vietnam forestry development strategy for the period of 2021 - 2030, with a vision to 2050. | 01 April 2021 |
| **Fishery** |
| Law No.18/2017/QH14  | Fisheries Law  | 21 November 2017 |
| Decree No. 26/2019/ND-CP | Details some articles and measures for implementation of fisheries law. | 08 March 2019 |
| Decision No.339/QD-TTg | Approving the strategy for development of Vietnam fisheries to 2030, vision to 2045. | 11 March 2021 |
| **Species conservation** |
| Decree No. 160/2013/ND-CP  | Criteria to determine species and the regime of managing species under lists of endangered, precious and rare species prioritized protection.  | 12 November 2013 |
| Decree No. 06/2019/ND-CP  | The management of endangered, precious and rare wild fauna and flora, and the implementation of the Convention on International Trade in Endangered species of Wild Fauna and Flora.  | 22 January 2019 |
| Decree No. 64/2019/ND-CP  | Updates species list include in Decree 160/2013/ND-CP.  | 16 July 2019 |
| Decree No. 84/2021/ND-CP | Amending and supplementing a number of articles of Decree No. 06/2019/ND-CP dated 22 January 2019  | 22 September 2021 |
| **Benefit sharing** |
| Decree No.99/2010/ND-CP  | Policy on payment for forest environmental services (PFES). | 24 September 2010 |
| Decision No. 126/2012/QD-TTg  | Pilot policy on benefit sharing mechanism (BSM) in management, protection and development of special-use forests (SUFs) | 02 February 2012 |
| Decree No.147/2016/ND-CP | Amendments and supplements to some Articles of Decree No. 99/2010/ND-CP dated 24 September 2010 of the on policy on payment for forest environmental services (PFES). | 02 November 2016 |

### 5.1.4 Relevant National Environmental Regulation

#### Constitution

The Constitution makes various provisions in respect of the Environment. Article 43 confers on all people of Vietnam the right to live in a clean environment and imposes upon them the obligation to protect the environment[[16]](#footnote-16). Article 63(2) provides that the State shall encourage all activities for environmental protection[[17]](#footnote-17). Article 63(3) further provides that organizations and individuals that cause environmental pollution, natural resource exhaustion or biodiversity depletion shall be strictly punished and shall rectify and compensate for damage[[18]](#footnote-18).

#### Law on Environmental Protection

Law on Environmental Protection (2020)[[19]](#footnote-19) defines the state's policies on environmental protection, in which the following are prioritized: (i) focusing on biodiversity conservation, environmental protection of natural heritage; (ii) promoting rational and economic use of natural resources; (iii) developing clean and renewable energy; (iv) developing technical infrastructure for environmental protection; and (v) integrating and promoting the circular economy and green economic models in the formulation and implementation of socio-economic development strategies, master plans, programs, schemes and projects.

The 2020 Law brings about a variety of changes to the Environmental regulatory framework in Vietnam. This law determines the regulatory requirements applicable to businesses and projects based on three criteria: (i) size and production capacity; (ii) demand for land and sea area as well as the extent of resource usage; and (iii) environmental sensitiveness. Based on these criteria, projects will be allocated a ranking as Class I, Class II, Class III and Class IV with Class I connoting the highest environmental risk. Projects under Classes I and II are required to produce an Environmental Impact Assessment Report (EIAR).

 The 2020 Law also introduces the concept of the Environmental Impact Preliminary Assessment (EIPA). The EIPA applies to Class I projects (and types 4, 5, 6, and 7 of Group II – see table below) and is to be conducted during the pre-feasibility stage of the project. The table below provides an overview of the classification system and the requisite impact assessment requirements under the 2020 Law.

**Table 3: Summary of Environmental Impact Assessment Classes Under the 2020 Law**

| **Class/Risk of Adverse Impact** | **Type** | **Criteria on Environment for Classification of Investment Projects** | **Subject to EIPA** | **Subject to EIA** | **Subject to Environment Permit** |
| --- | --- | --- | --- | --- | --- |
| **Production, business or services with a risk of causing environmental pollution** | **Scale and capacity** | **Use of land, water surface and sea** | **Exploitation of natural resources** | **Sensitive environmental factors** | **Other** |
| **Class 1/High** | 1 | Yes | Large | N/A | N/A | N/A | N/A | Yes | Yes | Yes |
| 2 | Yes | Medium | N/A | N/A | Yes | N/A | Yes | Yes | Yes |
| 3 | No | Large | N/A | N/A | Yes | N/A | Yes | Yes | Yes |
| 4 | N/A | Large or medium | Yes | N/A | Yes | N/A | Yes | Yes | Yes |
| 5 | N/A | Large or medium | N/A | Yes (mineral or water resources) | Yes | N/A | Yes | Yes | Yes |
| 6 | N/A | Large or medium | Yes | N/A | Yes | N/A | Yes | Yes | Yes |
| 7 | N/A | N/A | N/A | N/A | Large scale relocation or resettlement | N/A | Yes | Yes | Yes |
| 8 | N/A | N/A | N/A | N/A | N/A | Projects providing hazardous waste treatment services, or importing scrap from abroad for use as raw production materials | Yes | Yes | Yes |
| **Class II/Medium** | 1 | Yes | Medium | N/A | N/A | N/A | N/A | No | No | Yes |
| 2 | Yes | Small | N/A | N/A | Yes | N/A | No | No | Yes |
| 3 | No | Medium | N/A | N/A | Yes | N/A | No | No | Yes |
| 4 | N/A | Medium or small | Yes | N/A | Yes | N/A | No | Yes | Yes |
| 5 | N/A | Medium or Small | N/A | Yes | Yes | N/A | No | Yes | Yes |
| 6 | N/A | Small | Yes (conversion of land use purpose) | N/A | Yes | N/A | No | Yes | Yes |
| 7 | N/A | N/A | N/A | N/A | Medium scale relocation or resettlement | N/A | No | Yes | Yes |
| **Group III/Minor** | 1 | Yes | Small | N/A | N/A | N/A | N/A | No | No | Yes |
| 2 | No | N/A | N/A | N/A | N/A | Generating waste water, dust or exhaust gas which must be treated, or generating hazardous waste which must be managed in accordance with regulations on waste management | No | No | Yes |
| **Group IV/Nil** | 1 | N/A | N/A | N/A | N/A | N/A | N/A | No | No | No |

Decree No. 08[[20]](#footnote-20) provides detailed regulations on a number of articles of the law on environmental protection 2020 including providing for payment for natural ecosystem services[[21]](#footnote-21), which are specified at Points b, c and d, Clause 2, Article 138 of the Law on Environmental Protection. This provision mentions: (i) wetland ecosystem services for tourism, entertainment and aquaculture business purposes of important wetlands and mixed eco-regions in accordance with the law on biodiversity (2008); (ii) Marine ecosystem services for tourism, entertainment and aquaculture business purposes of marine conservation zones and aquatic resource protection zones; and (iii) ecosystem services of rocky mountains and caves belonging to natural heritage for tourism and entertainment business purposes.

A draft decision to be signed by Prime Minister (2021) on the approval of a forthcoming national environmental protection strategy to 2030, vision to 2050: One of the specific objectives of the strategy is to “strengthen the protection of natural heritages, restore ecosystems and prevent the trend of biodiversity loss”[[22]](#footnote-22) with a series of tasks on nature and biodiversity conservation, and promotion of environmental protection in the exploitation and use of natural resources, including:

1. Environmental protection of natural heritage and expansion of the system of conservation zones and biodiversity corridors.
2. Carrying out impact assessments with particular focus on environmental and cultural heritage impacts.
3. Developing and implementing a biodiversity compensation mechanism, especially for forest and wetland ecosystems.
4. Promoting the establishment of new nature reserves and encourage businesses, communities and households to establish voluntary biodiversity conservation areas.
5. Effective and efficient management of nature reserves, harmoniously combining conservation and development.
6. Promoting biodiversity validation/assessment and continuing to expand the application of payment for ecosystem services to forests, wetlands, sea, rocky mountains, caves and geoparks.
7. Establishing and sustainably managing biodiversity corridors connecting habitats where endangered and rare species are prioritized for protection.
8. Integrating content of protection and restoration of natural ecosystems into the development of policies, strategies, master plans and programs.

Funding sources for the implementation of the Strategy include the state budget, business investment, the private sector, the community and foreign capital.

#### Law on Biodiversity

Law on Biodiversity (2008)[[23]](#footnote-23), and legal document No. 32/2018/VBHN-VPQH, dated December 10, 2018 have clearly defined Biodiversity as the richness of genes, species of organisms and ecosystems in nature. Biodiversity conservation is the protection of the richness of important, specific or representative natural ecosystems. The law also clearly explains terms related to biodiversity, biodiversity conservation and the direct research contents of this task such as ecosystems, nature reserves, and wild species, species threatened with extinction, buffer zones, and sustainable development of biodiversity.

To implement the Law on Biodiversity, a series of legal documents under the Law have been issued. The relevant documents are listed in the summary table above.

#### Law on Forestry

The Law on Forestry[[24]](#footnote-24) defines specific types of forests and spaces for organizing or combining ecotourism and recreation in special-use forests (such as national parks, nature reserves, species and habitat conservation areas among others), protection forests, and production forests.

Decision No. 523/2021/QD-TTg[[25]](#footnote-25) on Approving the Vietnam forestry development strategy for the period of 2021 - 2030, with a vision to 2050: The overall objectives of this strategy are to:

1. Build the forestry sector to become an economic-technical branch;
2. Establish, manage, protect, develop and sustainably use forests and land areas planned for forestry;
3. Ensure the wide and equal participation of all economic sectors in forestry activities, mobilizing maximum social resources;
4. Apply advanced and modern science and technology;
5. Promote the potential, role and effects of forests so that forestry can make an increasingly important contribution to socio-economic development, environmental protection, water security, and natural disaster mitigation;
6. Actively and effectively respond to climate change, conserve natural resources and biodiversity and provide a variety of forest environmental services; and
7. Create jobs and incomes for people.

The strategy sets goals that the national forest cover rate is stable at 42% to 43%, effectively contributing to the implementation of the national commitment to reduce greenhouse gas emissions. By 2030, 100% of forest areas will be managed sustainably. In the period of 2021 - 2025, 10% and in the period 2026 - 2030, 20% of the natural forest area will be improved in quality.

### 5.2. Regional Regulation

Along with the above documents that clearly show the general viewpoints, guidelines and policies at the national level, many provinces have issued provincial-level policy documents related to tourism development in association with either tourism/ecotourism or natural resource management.

#### Quang Binh province***[[26]](#footnote-26)***:

1. In January 2020, the Quang Binh Provincial People’s Committee (PPC) issued a Directive requesting all provincial authorities to strengthen conservation and promotion of World Heritage values, with a specific emphasis on preventing activities that degrade forests and habitats of primates in the property;
2. The Forest Protection Unit was created and Spatial Monitoring and Reporting Tool (SMART) patrols and law enforcement have continued to target poaching activities and illegal entries into the property;
3. A sustainable forest management plan (2021-2030), a Biodiversity Conservation Plan (vision 2040) and a plan for the conservation and promotion of heritage values are under elaboration;
4. The implementation of the Action Plan for the Conservation of Primate Species in the Park is continuing, and rare endemic tree species are being propagated;
5. A pilot project for the eradication of the invasive plant *Merremia boisiana* was undertaken from October 2018 to November 2019, and in 2020, the PPC submitted a proposal for a research project to investigate the spread of *boisiana* within the property;
6. Cable car projects are no longer being considered.
7. A new research project to assess the tourism capacity of caves within the property is being proposed in response to the 2018 World Heritage Centre/IUCN Reactive Monitoring mission recommendation to adapt the management of caves according to their specific vulnerability and requirements;
8. Environmental Impact Assessments (EIAs) at tourist sites such as Paradise cave, Pong Nha and Tien Son cave, Dark Cave – Chay river, and Mooc spring Eco-trail were undertaken, which showed that the measurements of abiotic factors are within national permitted standards;
9. Heavy rainfall in October 2020 caused landslides and flooding in 25% of the property, thereby impacting its Outstanding Universal Value (OUV) and affecting the lives of communities in the whole province;
10. Substantially reduced tourist numbers in 2020 due to COVID-19 led to the loss of jobs and a correlated increase in natural resource pressure, but proactive actions led to a quick restoration of normal operations. The period between 2019 and October 2020 saw 1.2 million visitors;
11. Cooperation with Lao People’s Democratic Republic to strengthen the protection of the property and Hin Nam No National Park is continuing, in view of a potential future transboundary nomination.

#### Ninh Thuan province***[[27]](#footnote-27)***:

1. Document 3445/UBND-KTTH dated August 13, 2019 by the People's Committee of Ninh Thuan Province regarding the plan for developing a nomination form for the World Biosphere Reserve in Ninh Thuan Province taking Nui Chua NP as the core area;

Document 4238-CV/TU dated August 19, 2019 by the Party Committee of Ninh Thuan Province "Developing a nomination form for the World Biosphere Reserve": The Provincial Party Committee agreed on the plan for developing the nomination form for the World Biosphere Reserve at the request of the Provincial People's Committee in Official Letter No. 3445/UBND-HTTH;

Document No. 4657/UBND-KTTH dated November 8, 2019 by the People's Committee of Ninh Thuan Province, regarding the development of the nomination form for the World Biosphere Reserve in Ninh Thuan province taking Nui Chua NP as the core area: Nui Chua NPMB has been assigned to take the prime responsibility and coordinate with the agencies and localities to develop the form;

Decision No. 234/QD-UBND dated February 25, 2020 approving the outline of tasks and cost estimates for developing a nomination form for the World Biosphere Reserve in Ninh Thuan Province. Funding was provided to implement the development;

Decision No. 199/QD-UBND dated June 28, 2018 by the People's Committee of Ninh Thuan Province approving the results of reviewing and replanning 3 types of forests in Ninh Thuan Province in the 2016-2025 period, including Nui Chua NP;

Decision 503/QD-UBND dated December 31, 2019 by the People's Committee of Ninh Thuan Province approving the 2020 land use plan of Ninh Hai District, Ninh Thuan Province;

1. Decision 504/QD-UBND dated December 31, 2019 by the People's Committee of Ninh Thuan Province approving the 2020 land use plan of Ninh Phuoc District, Ninh Thuan Province;
2. Decision 506/QD-UBND dated December 31, 2019 by the People's Committee of Ninh Thuan Province approving the 2020 land use plan of Phan Rang - Thap Cham City, Ninh Thuan Province;
3. Decision No. 509/QD-UBND dated December 31, 2019 by the People's Committee of Ninh Thuan Province approving the 2020 land use plan of Thuan Bac District, Ninh Thuan Province.

# 6 International Regulatory Framework

The following section outlines major international agreements to which Vietnam is a party. The details of these agreements will not be addressed in this ESMF. The project must not contravene the principles and regulations contained in these or any other international regulatory agreements to which Vietnam is a party.

##  Social

1. 1966, International Covenant on Civil and Political Rights (ICCPR)
2. 1966, International Covenant on Economic, Social and Cultural Rights (ICESCR)
3. 1969, Convention on the Elimination of all forms of Racial Discrimination (CERD)
4. 1969, Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)
5. 1972, Convention Concerning the Protection of the World Cultural and Natural Heritage
6. 1989, Convention on the Rights of the Child
7. 2003, Convention for the Safeguarding of Intangible Cultural Heritage
8. 2005, Convention on the Protection and Promotion of the Diversity of Cultural Expressions
9. 2007, United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)

## 6.2 Environmental

1. 1964, International Union for Conservation of Nature (IUCN) Red List of Threatened Species
2. 1971, Convention on Wetlands of International Importance (Ramsar)
3. 1973, Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES)
4. 1989, Basel Convention on the Control of Transboundary Movements of Hazardous Waste and Their Disposal
5. 1992, United Nations Convention on Biodiversity
6. 1992, United Nations Framework Convention on Climate Change (UNFCCC)
7. 1994, United Nations Convention to Combat Desertification (UNCCD)
8. 1997, Kyoto Protocol to the UNFCCC
9. 2000, Cartagena Protocol on Biosafety on the Convention on Biological Diversity
10. 2001, Stockholm Convention on Persistent Organic Pollutants

# 6.3 UNDP Regulatory Framework

The Project will adhere to UNDP’s Social and Environmental Standards (SES), which came into effect 1 January 2021. These Standards underpin UNDP’s commitment to mainstream social and environmental sustainability in its programs and projects to support sustainable development and are an integral component of UNDP’s quality assurance and risk management approach to programming.

The objectives of the SES are to:

* Strengthen the quality of programming by ensuring a principled approach;
* Maximize social and environmental opportunities and benefits;
* Avoid adverse impacts to people and the environment
* Minimize, mitigate, and manage adverse impacts where avoidance is not possible
* Strengthen UNDP and partner capacities for managing social and environmental risks
* Ensure full and effective stakeholder engagement, including through a mechanism to respond to complaints from project-affected people

In accordance with UNDP SES policy, the Social and Environmental Screening Procedure (SESP) has been applied to the project during the project development phase. Under this policy, an SES principle or standard is ‘triggered’ when a potential risk is identified and assessed as having either a ‘moderate’, ‘substantial’ or ‘high’ risk rating based on its probability of occurrence and extent of impact. Risks that are assessed as ‘low’ do not trigger the related principle or standard.

The screenings conducted during project development indicate that 3 Principles and 8 Standards have been triggered due to ‘substantial’ or ‘moderate’ risk rating. The table below shows the triggered Principles and Standards and the applicable requirements to comply with each of them.

**Table 4 Overview of UNDP SES requirements**

| **UNDP SES** | **Requirements triggered by the 2021 UNDP SES that apply to the Project** |
| --- | --- |
| **Overarching Policy and Principles** |
| Principle: Human Rights | 1. Compliance with the principles of accountability and the rule of law, participation and inclusion, and equality and non-discrimination, noting that prohibited grounds of discrimination include race, ethnicity, gender, age, language, disability, sexual orientation, religion, political or other opinion, national or social or geographical origin, property, birth or other status including as an indigenous person or as a member of a minority.
2. Ensuring the meaningful, effective and informed participation of stakeholders on the Project formulation, implementation, monitoring and evaluation.
3. Monitoring compliance with UNDP Human Rights policies.
 |
| Principle: Gender Equality and Women’s Empowerment  | 1. Promotion of gender equality and the empowerment of women, including advocating for women’s and girls’ human rights, combating discriminatory practices, and challenging the roles and stereotypes that create inequalities and exclusion, as applicable.
2. Identification and integration of the different needs, constraints, contributions and priorities of women, men, girls and boys into the project.
3. Establish efforts to reduce gender inequalities in access to and control over resources and the benefits of development.
4. Ensuring that both women and men are able to participate meaningfully and equitably, have equitable access to the Project resources, and receive comparable social and economic benefits.
5. No discrimination against women or girls or reinforcement of gender-based discrimination and/or inequalities.
 |
| Principle: Accountability | 1. Enabling active local community engagement and participation in decision-making, particularly those at risk of being left behind;
2. Ensuring transparency of programming interventions through provision of timely, accessible and functional information regarding supported activities, including on potential environmental and social risks and impacts and management measures;
3. Ensuring stakeholders can communicate their concerns and have access to rights-compatible complaints redress processes and mechanisms; and
4. Ensuring effective monitoring—and where appropriate, participatory monitoring with stakeholders—and reporting on implementation of social and environmental risk management measures.
 |
| **Project-level Standards** |
| Standard 1: Biodiversity Conservation and Sustainable Natural Resource Management | 1. Applying a precautionary approach to the use, development, and management of natural habitats, the ecosystem services of such habitats, and living natural resources.
2. Identifying and addressing direct and indirect impacts on natural resources, biodiversity and ecosystem services in the Project’s area of influence, considering: (i) risks of habitat and species loss, degradation and fragmentation, invasive alien species, overexploitation, hydrological changes, nutrient loading, pollution, and (ii) differing values (e.g. social, cultural, economic) attached to biodiversity and ecosystem services by potentially affected communities.
3. Using experts to ensure that qualified professionals assist in conducting assessments and in designing and implementing mitigation and monitoring plans for Projects actions that may adversely affect natural habitats.
4. Ensuring that in areas of modified habitat measures are adopted to minimize further unwarranted conversion or degradation of the habitat and resident species populations, and identification of opportunities to enhance the habitat as part of the Project.
5. Ensuring that Project activities have no adverse impacts on critical habitats. No Project activity will be implemented in areas of critical habitats, unless all of the following are demonstrated: (i) there are no measurable adverse impacts on the criteria or biodiversity values for which the critical habitat was designated, and on the ecological processes supporting those biodiversity values (determined on an ecologically-relevant scale); (ii) there is no reduction of any recognized Endangered, Vulnerable or Critically Endangered species, (iii) any lesser impacts are mitigated, and (iv) a robust, appropriately designed, and long-term Biodiversity Action Plan is in place to achieve net gains of those biodiversity values for which the critical habitat was designated.
6. Ensuring that under no circumstances will alien species known to be invasive be introduced into new environments and that no new alien species (i.e. species not currently established in the site of the Project) will be intentionally introduced unless it is subjected to a risk assessment to determine the potential for invasive behavior and carried out in accordance with the existing regulatory framework, if such a framework exists.
7. Regarding forests the Project activities have to: i) be consistent with the conservation of natural forests and biological diversity, ensuring that they are not used for the conversion of natural forests; ii). incentivize the protection and conservation of natural forests and their ecosystem services, and enhance other social and environmental benefits; iii) enhance the sustainable management of forests, including the application of independent, credible certification for commercial, industrial-scale timber harvesting; iv) maintain or enhance biodiversity and ecosystem functionality in areas where forest restoration is undertaken; and/or v) ensuring that plantations are environmentally appropriate, socially beneficial and economically viable, and utilize native species wherever feasible.
8. Prioritization of small-scale community-level management approaches where they best reduce poverty in a sustainable manner.
9. Promotion of an integrated water resources management approach that seeks the coordinated development and management of water, land and related resources in order to maximize the economic and social welfare in an equitable manner and without compromising the sustainability of ecosystems.
10. Sustainable management of living natural resources safeguarding biodiversity and the life-supporting capacity of air, water, and soil ecosystems, and ensuring that people who are dependent on these resources are properly consulted, women and men have opportunities to equally participate in development, and benefits are shared equitably.
11. Supporting the adoption of appropriate and culturally sensitive sustainable resource management practices.
 |
| Standard 2: Climate Change Mitigation and Adaptation | 1. Assessing the viability or longer-term sustainability of Project outcomes due to potential climate change. This will involve the identification of components that are sensitive or vulnerable to emerging or anticipated manifestations of climate change.
2. Assessing opportunities for (i) facilitating adaptation via synergies with existing or planned activities, (ii) combining mitigation (e.g. reduction in GHG emissions) and adaptation measures, and (iii) exploiting potentially beneficial changes in climatic or environmental conditions to deliver developmental benefits.
 |
| Standard 3: Community Health, Safety and Security | 1. Assessing the risks to the safety of affected communities during the design, construction, operation and decommissioning of projects
2. Establishing preventative measures and plans to address risks in a manner commensurate with the identified risks and impacts. These measures will favour the prevention or avoidance of risks and impacts over their minimization and reduction
3. Structural elements and services are to be designed, constructed, operated and decommissioned in accordance with national legal requirements, good international practice, and any relevant international obligations and standards by competent professionals and certified or approved by competent authorities or professionals.
4. Geological and geophysical hazards must be considered and appropriate risk assessments are to be undertaken where needed.
 |
| Standard 4: Cultural Heritage | 1. Avoid supporting activities that may lead to significant adverse impacts to Cultural Heritage
2. Where avoidance is not possible—ensuring that all viable and feasible alternatives have been explored—UNDP minimizes potential impacts per the mitigation hierarchy and adopts appropriate mitigation measures
3. Where potential adverse impacts may be significant, a Cultural Heritage Management Plan should be developed as part of the overall Environmental and Social Management Plan
4. Ensure that chance find procedures are included in all plans and contracts regarding project-related construction, including excavations, demolitions, movement of earth, flooding, or other changes in the physical environment
5. With potential adverse impacts, qualified and experienced Cultural Heritage experts and relevant stakeholders assist in the identification, documentation and
6. Avoid restricting access to Cultural Heritage sites and to the instruments, objects, artefacts, cultural and natural spaces and places of memory necessary for expressing intangible Cultural Heritage
7. Determine whether disclosure of information regarding Cultural Heritage would compromise or jeopardize its safety or integrity or endanger sources of information
8. Engage in meaningful consultations and inform affected communities of their rights under Applicable Law, the scope and nature of the proposed development, and the potential consequences of such integration and utilization.
9. Ensure respect for the dynamic and living nature of intangible Cultural Heritage and the right of communities, groups and, where applicable, individuals to continue the practices, representations, expressions, knowledge and skills necessary to ensure the viability of their intangible Cultural Heritage.
 |
| Standard 5: Displacement and Resettlement  | The Project should avoid and mitigate economic displacement by: 1. Identifying Project options (including ‘no action’ and ‘in situ’ options), their potential impacts, and avoidance measures. Assessment has to include a survey of potentially affected individuals and communities and an evaluation of their relationship and rights to lands and resources used and occupied.
2. Public dissemination in accessible form and language of a written justification for the displacement activity and at least 90 days notice to affected persons prior to the date of displacement.
3. Providing access to effective remedies and to timely and affordable expertise, including legal counsel, to provide an understanding of rights and options.
4. Executing effective and informed consultations with affected populations and good faith efforts to secure negotiated settlements, even when expropriation options are available.
5. Developing a Livelihood Restoration Plan (including situations in which access to resources is restricted but no physical relocation is necessary) to be publicly disclosed at least 90 days prior to displacement activities. This Plan has the include all requirements as per UNDP SES and ensure the following:
6. Displaced individuals and communities are compensated for loss of assets or loss of access to assets at full replacement cost.
7. In addition to compensation for lost assets, if any, economically displaced persons whose livelihoods or income levels are adversely affected will also be provided opportunities to improve, or at least restore, their means of income-earning capacity, production levels, and standards of living. An independent review, considering baseline data, will confirm that capacity, production levels and standards of living have been improved or restored. Additional considerations include the following:

For persons whose livelihoods are land-based, replacement land that has a combination of productive potential, locational advantages, and other factors at least equivalent to that being lost should be offered as a matter of priority.For persons whose livelihoods are natural resource-based and where Project-related restrictions on access apply, measures will be undertaken to either allow continued access to affected resources or provide access to alternative resources with equivalent livelihood-earning potential and accessibility. Where appropriate, benefits and compensation associated with natural resource usage may be collective in nature.If circumstances make it difficult for the Project to provide land or resources as described above, and if evidence exists of mutual agreement with affected people for alternative measures, alternative income earning opportunities may be provided, such as credit facilities, training, or employment opportunities.1. Transitional support is provided to displaced persons and communities as necessary, based on a reasonable estimate of the time required to restore their income-earning capacity, production levels, and standards of living.
2. Executing an ex-post evaluation of livelihood levels to examine if objectives of this Standard were met.
 |
| Standard 6: Indigenous Peoples | 1. Prohibition of any violation of human rights of indigenous peoples as affirmed by Applicable Law and the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP).
2. Ensuring that social and environmental assessments involve an assessment of indigenous peoples’ substantive rights, as affirmed in Applicable Law.
3. Identification of indigenous peoples
4. Recognition of indigenous peoples’ collective rights to own, use, and develop and control the lands, resources and territories that they have traditionally owned, occupied or otherwise used or acquired, including lands and territories for which they do not yet possess title.
5. Execution of a free, prior and informed consent (FPIC) of the indigenous peoples before implementing any activity that may result in involuntary resettlement or economic displacement, ensuring compliance with Standard 5: Displacement and Resettlement.
6. At the earliest stage of Project conceptualization and design, and iteratively throughout implementation and closure, mechanisms will be identified and implemented to guarantee the meaningful, effective and informed participation of indigenous peoples on all matters. Culturally appropriate consultation will be carried out with the objective of achieving agreement and FPIC will be ensured on any matters that may affect the rights and interests, lands, resources, territories (whether titled or untitled to the people in question) and traditional livelihoods of the indigenous peoples concerned. Project activities that may adversely affect the existence, value, use or enjoyment of indigenous lands, resources or territories shall not be conducted unless agreement has been achieved through the FPIC process.
7. Developing a review and/or assessment of potential impacts and benefits to the indigenous communities, conducted transparently and with the full, effective and meaningful participation of the indigenous peoples concerned.
8. Ensuring that arrangements, evidenced in a documented outcome, are concluded with indigenous peoples for the equitable sharing of benefits to be derived by the Project in a manner that is culturally appropriate and inclusive and that does not impede land rights or equal access to basic services including health services, clean water, energy, education, safe and decent working conditions, and housing
9. Special considerations have to be taken about:
10. Gender: While respecting the norms, values and customs of the indigenous peoples and communities concerned, the Project will pay particular attention to the rights and special needs of women and girls, will not discriminate against women and girls and will ensure that women and girls have equal opportunities to participate and benefit.
11. Vulnerable and marginalized indigenous peoples: Particular attention will be paid to the rights and special needs of indigenous elders, youth, children, persons with disabilities, including consideration of special measures to improve their participation in decision-making and their general well-being.
12. Elaboration of an Indigenous Peoples Plan if it is determined that the Project may affect the rights, lands, resources or territories of indigenous peoples, an “Indigenous Peoples Plan” (IPP) will be elaborated and included in the Project documentation. This plan will be developed in accordance with the effective and meaningful participation of indigenous peoples and in accordance with the UNDP Indigenous Peoples Plan Guidelines (“IPP Guideline”). The IPP will be integrated into the design and implementation of the Project, have a level of detail proportional to the complexity of the nature and scale of the proposed Project and its potential impacts on indigenous peoples and their lands, resources and territories. In no case shall Project activities that may adversely affect indigenous peoples, including the existence, value, use or enjoyment of their lands, resources or territories take place before the action plan is carried out.
13. With the meaningful collaboration and contributions of indigenous peoples, methods will be developed and implemented for verifying and reporting that the Project has been designed and implemented in a manner consistent with this Standard. Transparent participatory monitoring arrangements will be put in place wherein indigenous peoples will jointly monitor Project implementation with the Implementing Partner
 |
| Standard 7: Labour and working conditions | 1. Identification and assessment of potential hazards and risks, particularly those that could result in serious ill health or death and those identified through worker health surveillance;
2. Elimination of hazards and minimization of risks through implementation of preventive and protective measures in the following order of priority;
3. Safety and health training, including on the proper use and maintenance of personal protective equipment;
4. Emergency prevention and preparedness and response arrangements to emergency situations; and
 |
| Standard 8: Pollution Prevention and Resource Efficiency | 1. Avoid use of pesticides in supported activities.
2. Integrated Pest Management (IPM) and Integrated Vector Management (IVM) approaches are to be utilized that entail coordinated use of pest and environmental information along with available pest/vector control methods, including cultural practices, biological, genetic and, as a last resort, chemical means to prevent unacceptable levels of pest damage. If after having considered such approaches recourse to pesticide use is deemed necessary
3. Adopt safe, effective and environmentally sound pest management in accordance with the WHO/FAO International Code of Conduct on Pesticide Management13 for the safe labeling, packaging, handling, storage, application and disposal of pesticides.
4. Hazards of pesticide use are to be carefully considered and the least toxic pesticides selected that are known to be effective, have minimal effects on non-target species and the environment, and minimize risks associated with development of resistance in pests and vectors.
5. A Pest Management Plan is developed where use of a significant volume of pesticides is foreseen to demonstrate how IPM will be promoted to reduce reliance on pesticides and describes measures to minimize risks of pesticide use.
6. Do not use pesticides that contain active ingredients that are banned or restricted under applicable international treaties and agreements, or meet the criteria of carcinogenicity, mutagenicity, or reproductive toxicity as set forth by relevant international agencies
7. Users of any pesticides shall be trained to handle pesticides in a proper and responsible manner and utilize appropriate application equipment and adequate personal protective equipment.
 |

The Project will ensure the compliance with all domestic regulations described in this section and will take advantage of the opportunities that specific laws provide for the success of the project objectives. In some aspects UNDP SES may establish higher standards and imply additional requirements compared to what is compulsory under national legislation. Where there is a discrepancy in the relative stringency of national regulation, international regulation and UNDP SES, the most stringent of the conflicting provisions shall be adhered to.

A summary of the risk significance under each SES principle and standard, and the project-level safeguard standards triggered by each project (indicated with ticks) are shown in the table below.

**Table 5 SES Standards Triggered**

| **Overarching Principle / Project-level Standard** | **Rating** |
| --- | --- |
| Human Rights | **✓****Substantial** |
| Gender Equality and Women’s Empowerment | **✓****Moderate** |
| Accountability | **✓****Substantial** |
| Standard 1: Biodiversity Conservation and Sustainable Natural Resource Management | **✓****Moderate** |
| Standard 2: Climate Change and Mitigation | **✓****Moderate** |
| Standard 3: Community Health, Safety and Working Conditions | **✓****Substantial** |
| Standard 4: Cultural Heritage | **✓****Moderate** |
| Standard 5: Displacement and Resettlement | **✓****Moderate** |
| Standard 6: Indigenous Peoples | **✓****Substantial** |
| Standard 7: Labour and working conditions | **✓****Moderate** |
| Standard 8: Pollution Prevention and Resource Efficiency | **✓****Moderate** |
| **Number of risks in each risk rating category** |
| High | 0 |
| Substantial | 3 |
| Moderate | 10 |
| Low | 1 |
| Total number of project risks | 14 |
| Overall Project Risk Categorization | **Substantial** |

The UNDP’s Social and Environmental Screening Procedure (SESP) has resulted in an overall “substantial” risk rating for the project. According to the 2021 SESP guidelines, a project is considered to have “substantial” social and environmental risk when it *“includes activities with potential adverse social and environmental risks and impacts that are more varied or complex than those of Moderate Risk projects but remain limited in scale and are of lesser magnitude than those of High Risk projects (e.g. reversible, predictable, smaller footprint, less risk of cumulative impacts)”.*

# Required procedures for screening, assessment and management

As detailed earlier, the project underwent an initial risk screening during the concept stage which resulted in the project being categorized as ‘**Substantial’ risk**. During the conduct of the SESP, a selection of further assessments and management tools were identified as necessary. In the case of this Project, assessments and the development of these specific management plans may need to take place during project implementation due to the fact that many site-specific activities are not yet known and that project resources from the budget are needed to complete the assessment and management plans for forthcoming project activities. As such, this ESMF has been developed to serve as a framework/tool that guides the screening and categorization, level of impact assessment, required institutional arrangements, and processes to be followed for components or activities that will be further specified during project implementation. The ESMF ensures that appropriate management measures that comply with the SES are adopted prior to implementation of the relevant forthcoming activities.

In addition to the ESMF, many of the initially identified risks were also addressed by including specific elements in the design of its activities. Four focused assessments were prepared during PPG phase: i) a Stakeholder Engagement Plan (Annex 7 of the ProDoc); ii) a Gender Analyses and Gender Action Plan (Annex 10 of the ProDoc); and iii) an Ethnic Minority Planning Framework (Annex 8b of the ProDoc**)**

These assessments establish measures to manage the associated risks. In addition to the focused assessments/frameworks listed above (that were undertaken during the project preparation phase), screening, assessment and management/mitigation for future upstream (i.e. via SESA) and downstream (via scoped ESIAs) will need to take place. The procedures and requirements for both of these are outlined below.

7.1 Strategic Environmental and Social Assessment for Upstream Activities

A Strategic Environmental and Social Assessment (SESA) will be undertaken that will cover the following:

|  |  |
| --- | --- |
| Activity No.  | Description  |
| 1.2.4 | Finalize national tourism area planning criteria and guidelines and operational mechanisms such as landscape zoning and protection of high-biodiversity and tourism value habitats in PAs and in designated national tourism and heritage areas. This will include (i) endorsement of criteria and guidelines by inter-agency partnership and coordination platform; (ii) printing of guidelines and making them available to key stakeholders, in both hard and digital formats; (iii) leverage guidelines for the development of capacity and training modules (to be used as part of Output 3.5) and supporting awareness materials; and (iv) integrating them into the tourism impact management, compliance and monitoring framework; |
| 1.3.1 | Develop a long-term roadmap and vision for ecologically sustainable nature-based tourism based on priorities of Vietnam’s NBSAP for 2021-2025. |
| 1.3.2 | Develop national guidelines, standards and triggers for integrating nature-based tourism concerns into prioritized master planning, sectoral and local development |
| 1.3.4 | Review and contribution to a national policy amendment to strengthen and enable a greater share of tourism revenue to be earmarked for biodiversity conservation. |
| 1.4.7 | Develop national policy on PPP and community participation in nature-based tourism based on testing of and experiences with guidelines. |
| 1.5.5 | Develop guidelines for nature and wildlife watching/viewing tours for application and refinement in targeted PAs and high-value national tourist areas. |
| 2.3.6 | Develop guidelines on and responding to Human Wildlife Conflict and build skills on working local communities, especially with ethnic minority groups and integrating them into patrols. |
| 2.3.8 | Planning of 3 corridors leveraging guidelines and management needs and the development of a feasibility study and supported by corridor management plans |
| 2.4.5 | Training on investigation and handling techniques, including criminal investigation skills, preparation of administrative dossiers to process violations, conflict de-escalation and defensive skills, training in the usage of tools by environmental police requested to ensure there is sufficient expertise and knowledge to identify violations and make arrests. |
| 3.2.2 | Develop a strategy for changing in social norms and behaviour promote society’s acceptance of a more sustainable approach to nature-based tourism that protects wildlife / biodiversity |

The SESA will be carried out by independent experts in accordance with UNDP’s SES policy and the [UNDP SES Guidance Note on Assessment and Management](https://info.undp.org/sites/bpps/SES_Toolkit/SES%20Document%20Library/Uploaded%20October%202016/UNDP%20SES%20Assessment%20and%20Management%20GN%20-%20FInal%20Nov2020.pdf) to identify and assess social and environmental impacts associated with the proposed regulations in a participatory manner with stakeholders as follows:

* 1. Identify social and environmental priorities to be included in planning and policy processes
	2. Assess gaps in the institutional, policy, and legal frameworks to address these priorities
	3. Identify potential adverse social and environmental impacts associated with policy options
	4. Engage decision makers and stakeholders to ensure a common understanding and broad support for implementation
	5. Formulate policy and institutional measures needed to close policy and legal gaps, address institutional weaknesses, and avoid adverse social and environmental impacts.

The SESA process will ensure that impacts to local communities, their livelihoods, rights, resources and the biophysical receptor environment are taken into consideration in the decision-making process while developing legislative tools and strategies. Any institutional and capacity gaps identified during this process will be addressed through the training that will be conducted for the specified activities.

The SESA will be comprised of a concise report that summarizes the main findings and results of SESA, including (a) SESA stakeholder engagement process; (b) key social and environmental priorities and issues associated with chosen policy/strategy initiative; (c) institutional arrangements for coordinating integration of social and environmental issues into chosen policy/strategy initiative; (d) legal, regulatory, policy, institutional and capacity recommendations to address any identified gaps for managing the social and environmental priorities and implementing applicable social and environmental policies; (e) results of assessment of social and environmental risks/impacts associated with the implementation of the proposed regulations; (f) identification of measures (e.g. policies, institutional strengthening, governance reform) to address and manage anticipated adverse social and environmental risks and impacts, including a summary Action Matrix (and (g) where applicable, final or advanced draft of ESMF as framework for managing social and environmental risks during implementation of the proposed regulations or strategies.

7.2 Scoped Environmental and Social Impact Assessment (ESIA) and ESMPs for selected sites/downstream activities

Four main project activities, and one project output (2.6) will require scoped ESIAs, and shall not commence until such reports have been produced and disclosed (following UNDP SES requirements on information disclosure periods). Scoped ESIA’s will be required for:

Activity 2.4.2 Technical support to renovate and/or set up visitor and education and rescue center facilities in the core zone of each national park to support nature-based tourism programs and capacity building.

Activity 3.3.4 Trade-in program: guns and traps in exchange for fertilizer and seeds and technical knowledge.

Activity 3.3.1 Engage and work with local communities and rangers to raise awareness on the laws and penalties regarding poaching and trafficking of illegal wildlife.

Activity 3.2.4 Enhance law enforcement efforts targeting illegal wildlife traders and intermediaries with the objective of increasing detection rate, arrests and prosecution.

Output 2.6 Demonstration of PMES in Nui Chua

Prior to the commencement of any of the above listed activities, a site-specific/scoped environmental and social impact assessment (ESIA) will be conducted in accordance with UNDP’s SES policy and the [UNDP SES Guidance Note on Assessment and Management](https://info.undp.org/sites/bpps/SES_Toolkit/SES%20Document%20Library/Uploaded%20October%202016/UNDP%20SES%20Assessment%20and%20Management%20GN%20-%20FInal%20Nov2020.pdf).

Each ESIA will be developed and carried out by independent experts in a participatory manner with stakeholders. The ESIA will further identify and assess social and environmental impacts of the project and its area of influence; evaluate alternatives; and design appropriate avoidance, mitigation, management, and monitoring measures.

1. Per the SES, the ESIA will assess project activities at the scale deemed appropriate for compliance with the SES.
2. The ESIA will identify environmental and social sensitive receptors within the activity’s area of influence.
3. It will address all relevant issues related to the SES Overarching Principles and Project-level Standards, as identified in the project’s SESP and any other issues identified in the course of the ESIA.

The output of the scoped ESIA will be an ESIA report, and an environmental and social management plan (ESMP) for each activity. The ESMP will define desired social and environmental management outcomes and specify social and environmental indicators, targets, or acceptance (threshold) criteria to track ESMP implementation and effectiveness. It will also provide estimates of the human and financial resources required for implementation and monitoring and identify organizational structure and processes for implementation.

During the initiation of the scoped ESIAs, it may be determined that certain activities requiring scoped ESIA’s (as listed above) may be grouped together into one scoped ESIA. Any such decisions will be taken in compliance with UNDP SES requirements.

In addition, given the nature of the perceived impacts associated with above listed activities (i.e. mainly social/human rights in nature) it may be determined during the inception phase of this project to undertake this “scoped ESIA” following the SAPA methodology (so long as this meets continues to meet the requirements of UNDP SES).

The SAPA methodology is designed to help PA managers and other key stakeholder groups increase and more equitably share positive impacts, and reduce the negative impacts. It can be used at any type of PA – those owned/managed by communities, the private sector or the state – and uses a multi-stakeholder approach to ensure that the key stakeholders lead assessment, interpretation of the results and development of recommendations for action[[28]](#footnote-28). The SAPA methodology uses a combination of i) community meetings to identify the more significant social impacts, ii) a short household survey to explore in more depth these social impacts and related governance issues and iii) stakeholder workshops to discuss and interpret the survey results, explore other key issues and generate ideas for action to improve the situation.

7.3 Further Screening, Assessment and Management

The SESP undertaken in PPG phase and its findings are based on the broad scope of activities, outputs and outcomes of the designed Project. Thus, the potential impacts and management measures are designed to manage those impacts in their broadest sense, and the significance categorization of “Substantial” is based on an indication of three significant risks. The relevance of these risks may vary across sites or evolve in time, and the significance or likelihood of associated risks or impacts is not necessarily uniform in all demonstration experiences of the Project. Further screening is required to identify site-specific magnitude and intensity of risks, in order to effectively manage them.

Further screening, assessment and management will be undertaken as part either; (i) SESA, for ‘upstream activities’ (see section 7.1) or (ii) the conduct of scoped ESIA(s), for downstream activities (see section 7.2).

Whilst the majority of project activities and demonstration sites are known at his time, there is the potential that certain project activities will need to change (either modality/focus or geographic location). This could be due to the evolving nature of the project/adaptive management, or if the project is unable to come to a mutually agreeable form of official consent (as required through UNDP’s SES requirements on FPIC). In such circumstances, any ‘new’/substantive changes to the project will require screening, assessment and management, using the SESP methodology to ensure that any impacts are identified, their significance is assessed, and any required impact-specific management actions are developed and applied

* **Screening** of further project activities that have not been included in the existing SESP, will take place as specific new activities are designed. Screening will use the SESP template, and rate foreseen impacts as “High”, “Substantial”, “Moderate” or “Low”.
* **Assessment** of further activities will be commensurate with the magnitude of the envisaged risk, and targeted specifically at the risk, especially taking into account risks to poor, vulnerable or marginalized communities and individuals. Full stakeholder consultation will be required at all stages.
* **Management** of identified risks will follow the “mitigation hierarchy” model. Management of additional site-specific activities will be integrated into the future ESMP. The ESMP is dynamic, and may require amendments as new project activities are identified, screened, assessed and implemented. When required, additional stand-alone plans for the activity may be developed, or addendums made to existing stand-alone plans, such as a Livelihood Action Plan or Indigenous Peoples’ Plan, or a site-specific addition to the Gender Action Plan.

After Project inception, and once the FPIC process with ethnic minorities is undertaken and are fully designed in detail, the current EMPF (Annex 8b of the UNDP Project Document) will be replaced by an Ethnic Minorities Plan (EMP) that reflect the findings and conclusions of the FPIC process.

As part of the annual report of Project advances through the PIR’s, the Project SESP will be reviewed and adjusted as necessary if new social and environmental risks arise.

Throughout the Project, participation of women and ethnic minorities will be ensured, through implementation and monitoring of the respective Ethnic Minorities and Gender plans. Depending on the implementation of these plans and the consultations with the participating communities, all necessary adjustments will be made to prevent or anticipate any new risks.

During implementation, the project will be re-screened with the UNDP SESP:

1. as prescribed by the project’s SESAs and ESIAs/ESMPs;
2. when determined necessary by the Project Manager (after consideration of the advice from PMU staff with responsibility for safeguards), the Project Board, or UNDP; and/or
3. when project circumstances change in a substantive or relevant way.

#  Stakeholder engagement and information disclosure process

Discussions with project stakeholders, including local communities at project sites, commenced during the PPG phase. A list of the stakeholders engaged in these consultations has been included Annex 9.4. The project also has an individual Stakeholder Engagement Plan (Annex 7 of UNDP Project Document) and Gender Action Plan (Annex 10 of UNDP Project Document).

These Plans will be followed to ensure that stakeholders are engaged in project implementation and particularly in the further assessment of social and environmental impacts and the development of appropriate management measures. Project Stakeholder Engagement Plans will be updated during project implementation based on the assessments and management plans conducted in line with this ESMF, as needed.

Potentially affected stakeholders will be engaged during the implementation of this ESMF. This will include FPIC consultations with ethnic minorities if applicable.

As part of the stakeholder engagement process, UNDP’s SES require that project stakeholders have access to relevant information. Specifically, the SES (SES, Policy Delivery Process, para. 21) stipulates that, among other disclosures specified by UNDP’s policies and procedures, UNDP will ensure that the following information be made available:

* Stakeholder engagement plans and summary reports of stakeholder consultations
* Social and environmental screening reports with project documentation
* Draft social and environmental assessments, including any draft management plans
* Final social and environmental assessments and associated management plans
* Any required social and environmental monitoring reports.

As outlined in the SES and UNDP’s Social and Environmental Screening Procedure (SESP), the type and timing of assessments and management plans vary depending of the level of social and environmental risk associated with a project as well as timing of the social and environmental assessment.

This ESMF (and the project SESP) will be disclosed via the UNDP Vietnam website in accordance with UNDP SES policy. The subsequent project ESMPs or stand-alone management plan(s) will also be publicly disclosed via the UNDP Vietnam website once drafted, and finalized and adopted only after the required time period for disclosure has elapsed.

These requirements for stakeholder engagement and disclosure will be adhered to during the implementation of this ESMF, and the subsequent implementation of the resulting ESMPs and any stand-alone management plans.

# 9 Grievance redress mechanism

## 9.1 UNDP’s Accountability Mechanisms

UNDP’s SES recognize that even with strong planning and stakeholder engagement, unanticipated issues can still arise. Therefore, the SES are underpinned by an Accountability Mechanism with two key components:

* 1. A Social and Environmental Compliance Review Unit (SECU) to respond to claims that UNDP is not in compliance with applicable environmental and social policies; and
	2. A Stakeholder Response Mechanism (SRM) that ensures individuals, peoples, and communities affected by projects have access to appropriate grievance resolution procedures for hearing and addressing project-related complaints and disputes.

UNDP’s Accountability Mechanism is available to all of UNDP’s project stakeholders.

The Social and Environmental Compliance Unit (SECU) investigates concerns about non-compliance with UNDP’s Social and Environmental Standards and Screening Procedure raised by project-affected stakeholders and recommends measures to address findings of non-compliance.

The Stakeholder Response Mechanism helps project-affected stakeholders, UNDP’s partners (governments, NGOs, businesses) and others jointly address grievances or disputes related to the social and/or environmental impacts of UNDP-supported projects.

Further information, including how to submit a request to SECU or SRM, is found on the UNDP website at: <http://www.undp.org/content/undp/en/home/operations/accountability/secu-srm/>

## 9.1 Project-level Grievance Redress Mechanism

MONRE will establish and implement, as described in the Project Document, a transparent, fair and free-to-access project-level Grievance Redress Mechanism (GRM), approved by stakeholders, which will be put in place at the start of implementation. Interested stakeholders may raise a grievance at any time to the Project Management Office, the Executing Agency, Implementing Agency (UNDP), or the GEF.

The project must assign a staff who is responsible for operating and monitoring grievance redress from national to local level, and for reporting periodically on the project progress report. A standard procedure to handle grievance should be going through following steps:

* **Step 1:** Receive and register grievance (through email, letter, fax, phone, meetings;
* **Step 2:** Acknowledge, Assess, Assign: Acknowledge receipt and outline how grievance will be processed, assess eligibility, and assign organizational responsibility for proposing a response;
* **Step 3:** Propose Response: There are often three types of responses including: (1) Direct action to resolve the complaint; (2) Further assessment and engagement with the complainant and other stakeholders to determine jointly the best way to resolve the complaint; (3) Determination that the complaint is not eligible for the GRM, either because it does not meet the basic eligibility criteria, or because another mechanism (within the organization or outside it) is the appropriate place for the complaint to go.
* **Step 4:** Communicate proposed response to complainant and seek agreement on the response: This step will deliver response back to the complainant in a timely fashion, in writing using language that is easily accessible to the complainant. Responders may also contact the complainant by telephone or set up a meeting to review and discuss the initial approach with the complainant. The response should include a clear explanation of what the complainant’s choices are, given the proposed response. Those choices may include agreement to proceed, request for a review of an eligibility decision or a referral decision, further dialogue on a proposed action, or participation in a proposed assessment and engagement process. In addition, the response should note any other organizational, judicial or non-judicial but official government avenues for redress that the complainant may wish to consider.
* **Step 5:** Implement the response to resolve the grievance: at this step, there is an agreement between a complainant and the GRM staff to move forward with the proposed action or stakeholder process, then the response should be implemented.
* **Step 6:** Review the response if unsuccessful: the GRM staff should review the situation with the complainant, and see whether any modification of the response might meet the concerns of the complainant. If not, the GRM staff should inform the complainant about other alternatives that may be available, including the use of judicial or other administrative mechanisms for recourse. Whatever alternative the complainant chooses, it is important for GRM staff to document their discussion with the complainant and the complainant’s informed choice among alternatives
* **Step 7:** Close out or refer the grievance

The Grievance Redress Mechanism set out in this ESMF encourages mutually acceptable resolution of issues as they arise. It has been designed to:

* Be a legitimate process that assures stakeholders that their concerns will be assessed in a timely, fair and transparent manner;
* Provide adequate assistance for those that may have faced barriers in the past to be able to raise their concerns;
* Provide clear and concise procedures for each stage of the Grievance Redress Mechanism process;
* Ensure equitable treatment to all individuals and groups through a consistent, formal approach that, is fair, informed and respectful to a concern, complaints and/or grievances;

The GRM will be gender- and age-inclusive and responsive and address potential access barriers to ethnic minority peoples, women, the elderly, the disabled, youth and other potentially marginalized groups as appropriate to the Project. The GRM will not impede access to judicial and will be readily accessible to all stakeholders at no cost. Information about the Grievance Redress Mechanism and how to make a complaint and/or grievance must be communicated during the stakeholder engagement process and placed at appropriate places for the information of the key stakeholders. Eligibility criteria for this Grievance Redress Mechanism include:

* Perceived negative economic, social or environmental impact on an individual and/or group, or concern about the potential to cause an impact as result of the project;

Any kind of impacts that have occurred or likely to occur; and explanation of how the project caused or may cause such impacts;

this Project shall also follow the Vietnam government legislations namely Law on Complaint and Law on Denunciation which were approved by Vietnam National Assembly in 2011 and revised in 2018 respectively. These are legal platforms that provide an accessible, rapid, fair and effective response to concerned stakeholders. However, to assure vulnerable groups who often lack access to formal legal regimes, the Project must provide necessary support as they will be able to be treated fairly and their complaints may be resolved immediately. This GRM might be revised and updated if necessary depending actual situation of the project. It must be delivered to local communities and other interested stakeholders so as they will fully understand and will be able to raise a grievance/complaint regarding social and environmental issues at all times to local People’s Committee (PPC) for consideration

Complaints and grievances related to any aspect of this Project will be first handled through negotiation aimed at achieving consensus. They should pass through three levels before they are taken to a court of law as a last resort. People will be free from any fees for complaints. The three levels include:

* **First level** - At Commune People’s Committee (CPC) people may bring his/her complaint to any member of the CPC, in writing or verbally. It is incumbent upon said member of CPC to notify the CPC about the complaint. The CPC will meet personally with the aggrieved person and will have 15 days following the lodging of the complaint to resolve it. The CPC secretariat is responsible for documenting and keeping file of all complaints awaiting at the CPC for settlement;
* **Second Level** - At District People’s Committee (DPC) If after 15 days the aggrieved person does not hear from the CPC, or if the CPC gives its solutions, but s/he is not satisfied with the decision taken on his/her complaint, she/he may bring the case, either in writing or verbally, to any member of DPC or District. The District in turn will have 30 days to resolve the case. The District Committees responsible for documenting and keeping file of all complaints that it handles;

**Third Level** - At the Provincial People’s Committee (PPC) If after 30 days the aggrieved person does not hear from the District Committee, or if s/he is not satisfied with the decision taken on his/her complaint, s/he may bring the case, either in writing or verbally, to any member of the Provincial PC. The Provincial PC has 45 days within which to resolve the complaint to the satisfaction of all concerned. The PPC is also responsible for documenting and keeping file of all complaints that it handles; Final Stage - Court of Law If after 45 days following the lodging of the complaint with the PPC, the aggrieved DP does not hear from the PPC, or if he/she is not satisfied with the decision taken on his/her complaint, the case may be brought to a court of law. The judgment of the Court is the final results that the concerned parties have to comply with. In this project, legal judgment may refer to the Law on Complaint 2011, the Law on Biodiversity 2008, Land Laws 2013, the Law on Environmental Protection 2014 or the Forest Law 2017 as legal base for their decision

# 10 Institutional arrangements and capacity building

##  Roles and responsibilities for implementing this ESMF

The roles and responsibilities of project staff and associated agencies in the implementation of this ESMF is as follows. This ESMF does not cover the roles and responsibilities associated with implementation of the subsequent ESMPs and/or stand-alone management plans; those will be defined for each PA’s subsequent management plan that is developed in the project inception phase, as required per this ESMF.

**Implementing Partner:**

The national executing entity - also referred to as the national ‘Implementing Partner’ (IP) in UNDP terminology - for this project is the Ministry of Natural Resources and Environment (MONRE), Vietnam Environment Administration (VEA), Nature and Biodiversity Conservation Agency (BCA)[[29]](#footnote-29).

The MONRE/BCA is responsible for:

* Ensuring that the required assessment (ESIA or targeted assessment) and assessment report and the required management plan(s) (an ESMP and/or stand-alone management plan, as above) are developed, disclosed for public consultation and approved, and management measures are adopted and integrated during project implementation;
* Project planning, coordination, management, monitoring, evaluation and reporting.
* Reporting, fairly and accurately, on project progress against agreed work plans in accordance with the reporting schedule and required formats;
* Maintaining documentation and evidence that describes the proper and prudent use of project resources in conformity to the signed Project Document and in accordance with applicable regulations and procedures (e.g. SES);
* Ensuring all requirements of UNDP’s SES and national regulatory/policy frameworks and relevant international standards have been addressed (e.g. mitigation of identified adverse social and environmental impacts);
* Procurement of goods and services, including human resources required to ensure compliance with this ESMF;

**Responsible Parties**

Consistent with Decree 114/2021/ND-CP[[30]](#footnote-30) on management and use of Official Development Assistance and concessional loans of foreign donors, the Responsible Parties are (i) the Ministry of Culture, Sport and Tourism (MOCST) that will nominate the Institute of Tourism Development Research under mandate of the Vietnam National Administration of Tourism (VNAT) to be directly responsible for implementation of the project activities; along with (ii) the PA Management Board of Nui Chua National Park; and (iii) the PA Management Board of Phong Nha-Ke Bang National Park. Protected Area Management Boards within the targeted landscapes in the two provinces will be responsible for nurturing nature-based tourism by also implementation of protected areas management and enforcement actions critical to the project’s success.

**Project stakeholders and target groups:**

**UNDP:**

UNDP is accountable to the GEF for the implementation of this project. This includes oversight of project execution to ensure that the project is being carried out in accordance with agreed standards and provisions. UNDP is responsible for delivering GEF project cycle management services comprising project approval and start-up, project supervision and oversight, and project completion and evaluation. UNDP is also responsible for the Project Assurance role of the Project Steering Committee. UNDP’s role includes the following:

* Provide oversight on all matters related to safeguards;
* Inform all the stakeholders and right-holders involved in, or potentially impacted, positively or negatively, by the GEF-financed projects, about the UNDP’s corporate Accountability Mechanism (described below);
* Ensure that the Compliance Review and the Stakeholder Response Mechanisms are operational during the lifetime of the projects;
* Ensure adherence to the SES for project activities implemented using funds channelled through UNDP’s accounts, and undertake appropriate measures to address any shortcomings;
* Verify and document that all UNDP SES requirements have been addressed;
* Provide technical guidance on implementation of this ESMF and administrative assistance in recruiting and contracting expert safeguards services (as required), and monitor adherence of each project to the ESMF and UNDP policies and procedures.

**Second line of defense**

* + Regional Bureau oversees RR and Country Office compliance at portfolio level
	+ BPPS NCE RTA oversees technical quality assurance and GEF compliance. BPPS NCE PTA oversees RTA function
	+ UNDP GEF Executive Coordinator and Regional Bureau Deputy Director can evoke DOA/cancel/suspend project or provide enhanced oversight.

The UNDP Resident Representative assumes full responsibility and accountability for oversight and quality assurance of this Project and ensures its timely implementation in compliance with the GEF-specific requirements and UNDP’s Program and Operations Policies and Procedures (POPP), its Financial Regulations and Rules and Internal Control Framework. A representative of the UNDP Country Office will assume the assurance role and will present assurance findings to the Project Board, and therefore attends Project Board meetings as a non-voting member.

**Project Management Unit:**

* Supervise and manage implementation of measures defined in this ESMF;
* Assign specific responsibilities for implementation of this ESMF, including monitoring, and community consultations on the draft management plans to a staff member(s) of the PMU;
* Maintain relevant records associated with management of environmental and social risks, including updated SESPs, impact assessments, a log of grievances together with documentation of management measures implemented;
* Report to the Implementing Partner, the Project Steering Committee, and UNDP CO on the implementation of the ESMF;
* Ensure that all service providers are informed of their responsibilities for the day-to-day compliance with the ESMF.

As noted above, the projects’ subsequent ESMPsand stand-alone management plan**s** as required**,** will describe the roles and responsibilities in the implementation of those plans. Those new roles and responsibilities will be assessed and integrated, as appropriate, as part of the participatory decision making and implementation proceedings of the project. The project organization structure is shown below.



**Project Steering Committee:**

The Project Steering Committee provides strategic guidance to implementation of the project including oversight for safeguards and the implementation of this ESMF. It is also responsible for taking corrective action as needed to ensure the project achieves the desired results. In order to ensure UNDP’s ultimate accountability, Project Steering Committee decisions should be made in accordance with standards that shall ensure management for development results, best value money, fairness, integrity, transparency and effective international competition.

 Specific responsibilities of the Project Steering Committee include:

* Provide overall guidance and direction to the project, ensuring it remains within any specified constraints;
* Address project issues as raised by the project manager;
* Provide guidance on new project risks, and agree on possible mitigation and management actions to address specific risks;
* Agree on project manager’s tolerances as required, within the parameters set by UNDP-GEF, and provide direction and advice for exceptional situations when the project manager’s tolerances are exceeded;
* Advise on major and minor amendments to the project within the parameters set by UNDP-GEF;
* Ensure coordination with various government agencies and their participation in project activities;
* Review combined delivery reports prior to certification by the implementing partner;
* Address project-level grievances;
* Review the final project report package during an end-of-project review meeting to discuss lesson learned and opportunities for scaling up.
* Monitor implementation of this ESMF and compliance with national and international regulations, and UNDP social and environmental standards;
* Decision making for the adoption of necessary measures including full integration of management measures within project Outputs and annual work plans;
* Establish and support GRM mechanism to address any grievances.

**Budget**

Funding for implementation of the ESMF is included in the Project budget. The estimated costs are indicated in the Table below. Costs associated with the time of Project Management Unit Staff coordinating the implementation of this ESMF or UNDP support are not shown. It should also be noted that the budget presented in Table 6 does not include the costs associated with undertaking any primary ecological or social studies required as part of ESIA.

|  |  |
| --- | --- |
| National ESIA/ESMP specialist/s for scoped ESIAs/ESMPs 50 Days @ 192 USD/Day  | $9, 600 |
| National IPP Specialist (for turning EMPF to an EMPP/IPP) and undertaking further FPIC consultations during implementation 30 Days @ 192 USD/Day  | $5,760 |
| International SESA Specialist 50 Days at 800 USD/Day  | $40,000 |
| Travel expenses for consultations (national consultants)  | $3,000 |
| Awareness raising and capacity development around GRM | $6,000 |
| Total (USD)  | $64,360 |

1. i.e., 1.2.2, 1.2.4, 1.3.3, 1.4.3, 1.4.7, 1.5.4, 2.1.5, Output 2.2, Output 2.3, 2.4.3, 2.5.3. [↑](#footnote-ref-1)
2. it may be determined during the inception phase of this project to undertake the “scoped ESIA” following the SAPA methodology (so long as this continues to meet the requirements of UNDP SES). See section 7.2 for further details. [↑](#footnote-ref-2)
3. <https://www.ilo.org/hanoi/Areasofwork/child-labour/lang--en/index.htm> [↑](#footnote-ref-3)
4. Law No. 17/2008/QH dated June 3, 2008 on the promulgation of legal documents, Article 2 [↑](#footnote-ref-4)
5. Article 1 of the 2004 Law on Promulgation of Legal Documents of the People's Council and the People's Committee (Law No. 31/2004/QH 11 dated December 3, 2004). [↑](#footnote-ref-5)
6. Updated 06 October 2015 [↑](#footnote-ref-6)
7. Order No.18/2013/L-CTN 8 December, 2013: On the promulgation of the Constitution, Article 5(2) and (3). [↑](#footnote-ref-7)
8. Law No. 100/2015/QH13, 27 November, 2015: The Criminal Code of Vietnam, Article 116(1)(b) [↑](#footnote-ref-8)
9. Law No. 91/2015/QH13, 24 November, 2015: The Civil Code of Vietnam, Article 3(1) [↑](#footnote-ref-9)
10. Law No. 91/2015/QH13, 24 November, 2015: The Civil Code of Vietnam, Articles 33(1) and 29(1) [↑](#footnote-ref-10)
11. Law No. 91/2015/QH13, 24 November, 2015: The Civil Code of Vietnam, Article 38(1) [↑](#footnote-ref-11)
12. Which “includes intangible and tangible cultural heritages which are spiritual and material products having historical, cultural or scientific value…” – Law No. 18/2001/QH10 29 June, 2001: On Cultural Heritage, Article 1 [↑](#footnote-ref-12)
13. Law No. 18/2001/QH10 29 June, 2001: On Cultural Heritage, Article 5 [↑](#footnote-ref-13)
14. Law No. 18/2001/QH10 29 June, 2001: On Cultural Heritage, Article 3 [↑](#footnote-ref-14)
15. Law No.16/2017/QH14 15 November, 2017: Forestry Law, Article 7 [↑](#footnote-ref-15)
16. Order No.18/2013/L-CTN 8 December, 2013: On the promulgation of the Constitution, Article 43 [↑](#footnote-ref-16)
17. Order No.18/2013/L-CTN 8 December, 2013: On the promulgation of the Constitution, Article 63(1) [↑](#footnote-ref-17)
18. Order No.18/2013/L-CTN 8 December, 2013: On the promulgation of the Constitution, Article 63(2) [↑](#footnote-ref-18)
19. Law No. 72/2020/QH14, November 17, 2020 and documents guiding the implementation of the Law. [↑](#footnote-ref-19)
20. Decree No. 08/2022/ND-CP dated 10 January 2022. [↑](#footnote-ref-20)
21. Decree No.08/2022/ND-CP, Article 121 [↑](#footnote-ref-21)
22. Draft decision on forthcoming national environmental protection strategy to 2030, vision to 2050, Article 1, 3(b) [↑](#footnote-ref-22)
23. Law No. 20/2008/QH12, dated 13 November 2008 [↑](#footnote-ref-23)
24. Law No: 16/2017/QH14, dated 15 November 2017 [↑](#footnote-ref-24)
25. Dated 01 April 2021 [↑](#footnote-ref-25)
26. PPC of Quang Binh (2020): Report on conservation of world natural heritage Phong Nha-Ke Bang National Park [↑](#footnote-ref-26)
27. Ninh Thuan Provincial People Committee (2020): Dosier for Proposed Nui Chua Biosphere Reserve [↑](#footnote-ref-27)
28. <https://www.sprep.org/attachments/VirLib/Global/sapa-report.pdf> [↑](#footnote-ref-28)
29. BCA is a functional agency under the Vietnam Environment Administration under the Ministry of Natural Resources and Environment of Vietnam. BCA provides the advisory function to help the Director General of the VEA in government management and law enforcement for nationwide nature and biodiversity conservation. [↑](#footnote-ref-29)
30. On December 16, 2021, the Government of Vietnam issued [Decree No. 114/2021/ND-CP](https://english.luatvietnam.vn/decision-no-114-2021-nd-cp-dated-december-16-2021-of-the-government-on-management-and-use-of-official-development-assistance-oda-and-concessional-214346-Doc1.html#:~:text=Decree%20114%2F2021%2FND%2DCP%20on%20management%20and%20use,concessional%20loans%20of%20foreign%20donors&text=On%20December%2016%2C%202021%2C%20the,concessional%20loans%20of%20foreign%20donors.) on management and use of official development assistance and concessional loans of foreign donors. [↑](#footnote-ref-30)