



Environmental & Social Management System (ESMS)

Standard on Involuntary Resettlement and Access Restrictions

Version 2.0 – May 2016

Code Version Control and History

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Applicable to	IUCN staff, IUCN Commission members, IUCN Members and other partners executing IUCN projects
Purpose	To establish risk assessment and management requirements for IUCN projects to avoid negative impacts on people and local communities when involuntary resettlement or access restrictions are required.
Is part of	IUCN Environmental and Social Management System (ESMS)
Conforms to	Internationally accepted environmental and social standards and safeguards; in particular with the GEF Policy on Agency Minimum Environmental and Social Standards and the Green Climate Fund's Environmental and Social Safeguards
Related Documents	ESMS Manual, IUCN ESMS Standards on Indigenous Peoples, on Biodiversity and Sustainable Use of Natural Resources and on Cultural Heritage
Distribution	available on the Union Portal and IUCN website

Document History

Version	Release date	Summary of changes
Version 1.0	Released in May 2014	
Version 1.1	Released in March 2015	Small adjustments
Version 2.0	Released in May 2016	Refinement of scope description and conditions of applicability, clarification of risk assessment and risk management requirements; addition of detailed guidance notes for an action plan mitigating impacts from access restrictions and for a process framework.

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Environmental and Social Management System Policy Framework

The Environmental and Social Management System (ESMS) is an intrinsic part of IUCN's project cycle. It provides systematic steps and operational tools for managing the environmental and social performance of projects implemented or supported by IUCN. The system allows IUCN to identify potential negative environmental or social impacts of its projects and develop suitable measures to avoid, minimise, or compensate for these impacts. It also ensures that the implementation and effectiveness of mitigation measures are monitored and that any impacts arising during execution of the project are addressed.

The ESMS is guided by eight overarching principles and four standards which reflect key environmental and social areas and issues that are at the heart of IUCN's conservation approach.

Principles

Principle on Taking a Rights-Based Approach

Principle on Protecting the Needs of Vulnerable Groups

Principle on Gender Equality and Women Empowerment

Principle on Stakeholder Engagement

Principle on Free, Prior and Informed Consent

Principle on Accountability

Principle on the Precautionary Principle

Principle on Precedence of the Most Stringent Standards

Standards

Standard on Involuntary Resettlement and Access Restrictions

Standard on Indigenous Peoples

Standard on Biodiversity Conservation and Sustainable Use of Natural Resources;

Standard on Cultural Heritage

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A. Introduction

1. The **Standard on Involuntary Resettlement and Access Restrictions** is a component of IUCN's Environmental and Social Management System (ESMS).
2. IUCN policies recognise the rights of people to secure their livelihoods, enjoy healthy and productive environments, and live with dignity. In fulfilment of these policies, IUCN applies and actively promotes rights-based approaches.
3. In light of these policies, projects undertaken or supported by IUCN generally aim at promoting positive measures for harmonising nature conservation activities with respect for people's rights, particularly human rights. However, development and conservation interventions may require, in certain instances, resettlement of communities and livelihood activities or restrictions of various stakeholders' access to natural resources, which may result in costs for the affected groups and in loss of revenues or other benefits.
4. The standard covers (i) Involuntary resettlement which is also referred to as physical displacement (relocation or loss of shelter) and (ii) access restrictions often also referred to as economic displacement (loss of assets or access to assets that leads to loss of income sources or other means of livelihood).¹
5. For this standard, 'involuntary' means that the people or communities concerned do not initiate or voluntarily propose their resettlement or access restrictions, but that these are proposed by project implementers or third parties. By no means should 'involuntary' be interpreted as forced resettlement or eviction (see paragraph 8, ii). This standard applies to all types of land and resource rights and tenure regimes, including customary and non-legally recognized rights.
6. Project-induced resettlement and access restrictions can have negative impacts on the livelihood of communities, households and individuals. While IUCN projects should always give preference to avoiding resettlement and access restrictions and associated adverse impacts, these measures are at times unavoidable.

B. Purpose of the standard

7. The purpose of this standard is to assure that IUCN projects:
 - i. avoid and minimise, to the maximum extent possible, the need for involuntary resettlements and restrictions on access to natural resources that would affect the livelihood of resource-dependent people and communities;
 - ii. whenever involuntary resettlement or access restrictions are unavoidable, minimise and mitigate their negative social and economic impacts;
 - iii. involve affected individuals and communities in planning processes aimed at avoiding and limiting the use of involuntary resettlement and access restrictions, and at identifying and designing mitigation measures that support sustainable livelihoods and are socially and economically beneficial to affected communities, culturally appropriate and legally acceptable.

¹ See definition of involuntary resettlement in International Finance Corporation (IFC), 2012, *Performance Standards on Environmental and Social Sustainability*, Washington DC: IFC, available at <http://tinyurl.com/IFC2012PS>.

C. Guiding principles

8. The following principles inform all stages of the standard's application. They are mainly drawn from the overarching ESMS principles in the ESMS Policy Framework² but specified for the context of this standard. They are complementary to the policy objectives stated in section A and the purpose statement in section B.
- i. The ESMS Principle on Taking a Rights-based Approach is applied whenever involuntary resettlement and access restrictions are considered. This principle recognises the rights of people to secure their livelihoods, enjoy healthy and productive environments, and live with dignity. When applied to issues of resettlement and access restrictions, it implies that:
 - a. Legal (including customary) rights of specific groups to specific resources in relevant areas must be recognised and respected.
 - b. The natural resource use and tenure regimes (including customary and non-legally recognised rights) in relevant areas should be properly analysed, and the result of this analysis should be the basis for the formulation of plans and measures that consider the complexity and diversity of such regimes.
 - c. If different impacts are incurred from physical relocation of residence and livelihood activities and/or from access restrictions, an integrated approach should be adopted to encompass all economic, social, cultural and environmental dimensions and impacts of these changes.
 - d. Not only impacts related to the current use of natural resources, but also those related to potential future uses must be considered; the latter can be of particular importance for reducing vulnerability and increasing resilience in light of climate change impacts and socio-economic and cultural change.
 - e. Special attention must be given to the needs of and issues affecting poor and vulnerable people and groups, households, communities and regions (identifying, taking into account and addressing gender-differentiated vulnerabilities).
 - f. Project mitigation measures must provide affected communities, after the interventions, with at minimum the same level and quality of livelihoods and security that they had before, and any losses, if unavoidable, must be properly compensated, leaving no negative impacts on the rights and livelihoods of affected communities (no net loss of livelihoods).
 - ii. In its conservation and development projects, IUCN does not support forced removal of peoples or communities from their legitimately owned, possessed, occupied or otherwise used lands and resources. Preference is always given to project activities that do not lead to involuntary resettlement and that do not restrict access to resources and livelihoods. If this cannot be avoided, preference is given to negotiated and agreed settlements, and in any case of expropriation, the rule of law should strictly apply.
 - iii. The ESMS Principle on Stakeholder Engagement is critical for the application of this standard, because of the impact involuntary resettlements and access restrictions can have on communities and their livelihoods. In these instances, the principle requires that a culturally appropriate, non-discriminatory and gender-sensitive stakeholder

² See IUCN ESMS Manual, chapter 2, available at www.iucn.org/esms.

engagement process is put in place. This process must assure that groups and peoples whose lives might be affected by the project (including host populations in areas to which groups will be resettled or in which groups will turn to seek livelihood resources) are properly consulted to verify and assess the significance of impacts; and that affected groups are involved in the development of mitigation measures, in decision making regarding their operationalisation and in monitoring their implementation during the project's lifetime.

- iv. The ESMS Principle on Free, Prior and Informed Consent applies to planning, assessment and implementation processes and activities in all projects that have the potential to result in communities' resettlement or restrictions of access that would affect the livelihood of resource-dependent peoples and communities. Respecting communities' free, prior and informed consent is a fundamental principle that must be at the core of the application of this standard.
- v. In relevant situations, IUCN specifically applies Article 10 of the United Nations *Declaration on the Rights of Indigenous Peoples*, which stipulates that: "Indigenous peoples shall not be forcibly removed from their lands or territories. No relocation shall take place without the free, prior and informed consent of the indigenous peoples concerned and after agreement on just and fair compensation and, where possible, with the option of return."^{3, 4}
- vi. In recognition of the ESMS Principle on Accountability the application of this standard requires a transparent decision-making process and that information related to environmental and social impacts of proposed resettlements or access restrictions are appropriately disclosed to the public. Accountability further implies that local communities and other stakeholders may raise grievances about a project's failure to comply with the provisions of ESMS standards and ESMS principles and procedures to IUCN and/or its partners in project execution. Affected local communities must be informed about the grievance mechanism and the provisions of the ESMS relevant to them.⁵

D. Conformity and relationship with other systems or policies

9. This standard is consistent with internationally accepted norms and standards related to involuntary resettlement and access restrictions, notably Performance Standard 5 on *Land Acquisition and Involuntary Resettlement* of the International Finance Corporation (IFC)⁶ and the World Bank's Operational Policy on *Involuntary Resettlement*.⁷ It also meets the Global

³ Article 10 of the United Nations *Declaration on the Rights of Indigenous Peoples*, 2007, available at http://www.un.org/esa/socdev/unpfii/documents/DRIPS_en.pdf.

⁴ The ESMS Standard on Indigenous Peoples assures that negative impacts on indigenous peoples are avoided or mitigated. However, cases where indigenous peoples face impacts through access restrictions are covered by the ESMS Standard on Involuntary Resettlement and Access Restrictions, available at www.iucn.org/esms.

⁵ The grievance system is explained in the *ESMS Manual*, available at www.iucn.org/esms.

⁶ IFC, 2012, *Performance Standards on Environmental and Social Sustainability*, <http://tinyurl.com/IFC2012PS>.

⁷ World Bank, 2013, *Operational Policy on Involuntary Resettlement*, OP 2.14, available at <http://tinyurl.com/WorldBankIVR>.

Environment Facility's Policy on *Agency Minimum Standards on Environmental and Social Safeguards* and its provisions for involuntary resettlements.⁸

10. The standard also reflects or has been guided by
 - i. the IUCN Policy on *Social Equity in Conservation and Sustainable Use of Natural Resources* (2000);⁹
 - ii. the IUCN Policy on *Conservation and Human Rights for Sustainable Development* (2012);¹⁰
 - iii. the *Conservation and Human Rights Framework* of the Conservation Initiative on Human Rights (2009);¹¹ and
 - iv. the Convention on Biological Diversity's *Akwé: Kon Guidelines* (2004).¹²

E. Scope of application

11. The standard applies when the conservation objectives of an IUCN project
 - i. require or imply possible resettlement or relocation of people; or
 - ii. require or imply
 - restricting access to and/or use of natural resources,
 - restricting physical access to areas of occupation or use,
 - restricting access to social services by prohibiting or limiting physical access to those places or
 - changes in the use and management regimes of natural resourcesand such restrictions may impact negatively on the economic, social, cultural and environmental benefits that people accrue from these resources or areas.
12. The standard's applicability is determined through a case-by-case examination as part of the ESMS screening.¹³ The screening is a preliminary desk assessment of potential impacts and their significance. It is based on information provided by the project proponent including the ESMS Screening Questionnaire and is conducted by the ESMS Coordinator in consultation with members of the IUCN ESMS Expert Team and, as needed, with staff from IUCN regional programmes. The screening determines the project's risk level and requirements to further assess social impacts, as needed.

⁸ Global Environment Facility, 2015, Policy on *Agency Minimum Standards Environmental and Social Safeguards*, available at <http://tinyurl.com/GEFSafeguards2015>.

⁹ IUCN, 2000, Policy on *Social Equity in Conservation and Sustainable Use of Natural Resources*, available at https://cmsdata.iucn.org/downloads/sp_equity_policy.pdf.

¹⁰ IUCN, 2012, Policy on *Conservation and Human Rights for Sustainable Development*, available at <http://tinyurl.com/IUCNPolicyConservation-HR2012>.

¹¹ Conservation Initiative on Human Rights, 2009, *Conservation and Human Rights Framework*, available at https://cmsdata.iucn.org/downloads/cihr_framework_feb_2010.pdf.

¹² Convention on Biological Diversity, 2004, *Akwé: Kon Guidelines, Voluntary guidelines for the conduct of cultural, environmental and social impact assessments regarding developments proposed to take place on, or which are likely to impact on, sacred sites and on lands and waters traditionally occupied or used by indigenous and local communities*, available at <https://www.cbd.int/doc/publications/akwe-brochure-en.pdf>.

¹³ See the ESMS Manual for details about the ESMS screening, available at www.iucn.org/esms.

13. For the purpose of this standard, access to natural resources includes access to both terrestrial and aquatic resources, including marine areas and resources.
14. Negative impacts resulting from access restrictions can be, among other things:
 - i. material impacts such as economic and livelihood losses caused by restricting access to and use of lands, waters and natural resources (including ecosystems and biodiversity),¹⁴ including loss of income from such resources; and
 - ii. non-material impacts on livelihoods related to social, recreational, spiritual, cultural, knowledge and educational values of the lands, waters and natural resources (including ecosystems and /biodiversity).
15. Instances of involuntary resettlement or access restrictions may occur in projects where the relocation of settlements or human activity is needed for the purpose of conservation, ecosystem management or restoration. Based on past experience, in IUCN projects this standard relates more frequently to restrictions to access to resources and to changes in resource use systems rather than to resettlement.
16. The standard applies not only in situations where the project directly restricts access to resources, but also in contexts where the project promotes access restrictions indirectly, for example, through activities framed as raising awareness, training or providing policy advice.
17. Typical examples of IUCN projects and measures that trigger the standard include:
 - i. establishing new legal restrictions on natural resources use (e.g., on hunting) in existing or new protected areas; including changes in resource use systems such as quota systems for harvesting for resources that are used either for consumption or for trade;
 - ii. supporting stricter enforcement of protected area management and associated regulations (including provision of infrastructure or technical equipment for enforcement, training, and so forth);
 - iii. creation of situations that make access to livelihood resources more difficult (e.g., restricting physical access to multiple-use zones, or to schools or health services through designation of no trespassing areas, such as in strict nature reserves);
 - iv. establishing sustainable management schemes for natural resources outside of protected areas which imply changes in traditional resource uses,

whenever such restrictions impact on the rights, livelihoods and quality of life of those involved.

18. This standard must be applied in conjunction and in compliance with applicable legislation of the host country including laws implementing the host country's obligations under international law. However, in accordance with the ESMS Principle on the Precedence of the Most Stringent Standard, the most stringent standard must be given precedence. Thus if the IUCN ESMS standards and procedures are more rigorous than national laws on human rights and social and gender equity matters, projects must adhere to the more stringent IUCN standards. This standard and other IUCN standards follow international law and jurisprudence in human rights and social and gender equity matters, and are therefore likely to be more effective in addressing specific issues (such as resettlement of people with non-legally recognised rights) than national laws that may not yet take into account the latest advances in relevant legislation and policy.

¹⁴ Examples are agricultural and pastoral lands, fodder, medicinal plants, fishing and other marine and coastal resources, hunting grounds, fuel wood and loss of shelter.

F. Requirements

19. If a project requires involuntary resettlement or if the ESMS screening has determined that required access restrictions will significantly impact the livelihood of resource-dependent peoples, the project will be classified as a high-risk project and a full Environmental and Social Impact Assessment (ESIA) will be conducted. If impacts are less adverse and can be more readily addressed by mitigation measures, the project will be classified as a moderate-risk project and a partial ESIA (e.g. Social Impact Assessment) will be necessary.¹⁵
20. The expert(s) responsible for the ESIA or the Social Impact Assessment (SIA), will assess the project site, produce a comprehensive map of all affected communities, analyse the risks (including those for host populations living in areas where groups will be resettled or communities to which groups will turn to fulfil their resource needs) and identify a suitable risk management strategy.¹⁶ This involves achieving an in-depth understanding of the diversity and complexity of natural resource use and tenure regimes (including customary and non-legal rights).
21. Affected people must be consulted in a culturally appropriate way during the ESIA process and be active and effective participants in decision-making processes relevant to them. Free, prior and informed consent must be obtained for any project or project activity that requires resettlement or causes access restrictions affecting the livelihood of resource-dependent people and communities as set out in paragraph 8 (iv).
22. Risk management must first and foremost make all reasonable attempts to avoid resettlement or access restrictions. This might involve giving preference to alternative project approaches and/or adjusting the boundaries of a protected area.
23. Where avoidance is not possible, adverse social and/or economic impacts from resettlement or access restrictions must be minimised by developing a fair and adequate way to compensate communities for livelihood losses. Compensation mechanisms must be developed in consultation with relevant stakeholders and legitimate representatives of affected groups and designed to be socio-economically and culturally suitable, considering a range of options for in-kind, non-monetary and monetary compensation, as appropriate. For affected households whose livelihoods are land- or subsistence-based priority should be given to land-based compensation approaches (e.g., offering alternative land or access to resources of at least equal value). Forms of in-kind compensation might include supporting communities with culturally appropriate alternative livelihoods or income-earning opportunities.
24. As part of the ESIA/SIA process, four instruments may be needed, depending on whether involuntary resettlement or restrictions of access is anticipated and whether the specifics of the risk are known.
 - i. **Resettlement Action Plan.** For all projects that involve involuntary resettlement, a Resettlement Action Plan is required. This Action Plan must specify all resettlement arrangements and the measures for avoiding or reducing negative impacts. It establishes the basis for the agreement with the affected parties. The outline of such a

¹⁵ See the *ESMS Manual* for more detailed information on types of impact assessment, available at www.iucn.org/esms.

¹⁶ Please refer to the ESMS Guidance Notes on Environmental and Social Impact Assessment (ESIA) and on Social Impact Assessment for more details available at www.iucn.org/esms.

plan is described in the ESMS Guidance Note on Resettlement Action Plan.^{17,18} Further details are in paragraphs 28-34.

- ii. **Resettlement Policy Framework.** If projects or sub-projects may involve involuntary resettlement but the location and the population to be displaced, as well as the overall resettlement costs, are unknown during appraisal, a Resettlement Policy Framework must be formulated. The purpose of this policy framework is to guide the subsequent formulation of the Resettlement Action Plan by establishing the resettlement and compensation principles, the organisational arrangements, the legal context and the design criteria to be applied to respect the rights and meet the needs of the people who may be affected. The final Resettlement Action Plan must be submitted to IUCN for approval. The elements of the framework are described in ESMS Guidance Note on Resettlement Policy Framework.¹⁹
- iii. **Action Plan to Mitigate Impacts from Access Restrictions.** If an IUCN project may restrict access to natural resources that would affect the livelihood of resource-dependent people and communities within or outside legally designated parks and protected areas, an Action Plan to Mitigate Impacts from Access Restrictions is required. This Action Plan specifies the required access restrictions and the measures for avoiding or reducing the negative impacts and establishes the basis for the agreement with the affected parties. See ESMS Guidance Note on Action Plan to Mitigate Impacts from Access Restrictions.²⁰ Further details are in paragraphs 28-34.
- iv. **Access Restriction Mitigation Process Framework.** If a project requires access restrictions but the project preparatory phase is not long enough to undertake and finalise the required participatory planning, the participatory process will continue during the inception phase of project implementation. To formalise this, an Access Restriction Mitigation Process Framework must be developed and agreed with affected stakeholders during the project's design phase. This framework establishes a process by which potentially affected sectors, groups and communities participate in the identification of issues and objectives, the determination of mitigation measures and their implementation and monitoring. Guidance for this process is provided ESMS Guidance Note on Access Restriction Mitigation Process Framework.²¹

25. The way these instruments relate to each other and with other steps of the ESMS is illustrated in Figure 1 using a project with potential access restrictions as example.

26. In applying the ESMS Principle on Accountability, information about expected impacts from resettlement or access restrictions and about the process of public consultations and respective results must be appropriately disclosed. For high risk projects a draft version of the applicable action plan or framework must be made available in a timely manner before the final consultation in a place accessible to key stakeholders, including project affected groups, and in a form and language understandable to them. The ESMS Manual provides further details on disclosure requirements.

¹⁷ ESMS Guidance Note on Resettlement Action Plan, available at www.iucn.org/esms.

¹⁸ Additional guidance may be sought from relevant sources, notably the IFC's *Handbook for Preparing a Resettlement Action Plan*, available at <http://tinyurl.com/IFC2002HandbookResettlement>.

¹⁹ ESMS Guidance Note on Resettlement Policy Framework, available at www.iucn.org/esms.

²⁰ ESMS Guidance Note on Action Plan to Mitigate Impacts from Access Restrictions, available at www.iucn.org/esms.

²¹ ESMS Guidance Note on Access Restriction Mitigation Process Framework, available at www.iucn.org/esms.

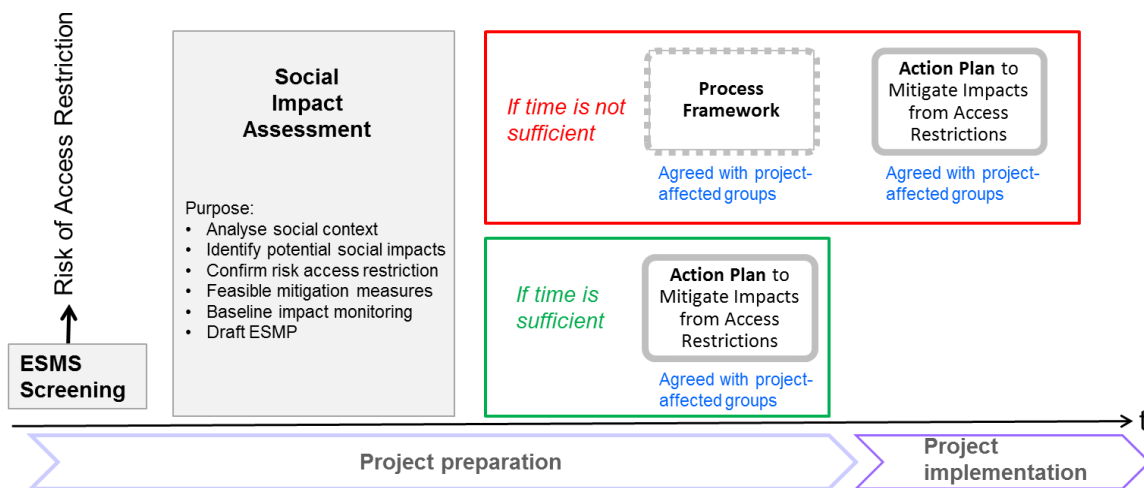


Figure 1: Instruments used when access restrictions apply

27. All action plans and frameworks are subject to approval by IUCN to ensure that the provisions of this standard are applied and the findings of the ESIA/SIA and appropriate mitigation measures have been appropriately incorporated into the project proposal. This approval is part of the ESMS clearance process of the project proposal.

Provisions for developing an action plan

28. The action plan developed as part of the ESIA for a project requiring resettlement or causing impacts from access restrictions must provide a detailed description of the extent of expected impacts, disaggregated by affected groups, and of the agreed mitigation and compensation measures. It must further determine who is entitled to compensation and/or benefits and to what extent – using clear and transparent systems for such determination. This guarantees fairness and prevents illegitimate claims. The action plan must further specify arrangements for implementation – the steps together with a detailed schedule, provisions for monitoring and required resources – keeping in mind that a framework can be submitted if some elements are unknown at the time of project design.

29. To assure effective mitigation of impacts the action plan must:

- i. determine activities and investments for livelihood restoration and enhancement;
- ii. specify and detail the approach and mechanism for providing in-kind, non-monetary or monetary compensation, as appropriate, for loss of assets and for loss of access to assets;
- iii. take into account the cultural, symbolic and religious relationship between people and nature, and identify activities to sustain that relationship;
- iv. identify activities aimed at capacity-building and strengthening local institutions, and at enhancing social services (e.g., health and education), if applicable; and
- v. specify compensation and / or technical and financial assistance to re-establish commercial activities, if applicable.

30. The action plan must spell out all choices, options and negotiated positions, taking all dimensions into consideration, and ensuring that alternatives offered are at least of equal value and provide comparable benefits and services to the affected people. The action plan must further demonstrate compliance with applicable laws and the provisions of this standard and that all legal rights (including customary and non-legally recognized rights) of the individuals, households and communities concerned have been respected.

31. The costs of implementing the action plan will be borne by the project, in a manner clearly spelled out in the project design and associated budget.
32. If there is no agreement on resettlement or access restrictions within the initially proposed timeframe, IUCN will establish an arrangement whereby, under its own responsibility and with the involvement of the relevant government or government agencies and the stakeholders concerned, other processes and possible options will be explored, including redesign of project strategies, to allow for further consultation and negotiation without stalling implementation of project actions that do not affect the concerned stakeholders. In such cases, IUCN will ensure that project preparation and/or design include provision of support for such processes.
33. Compensation must be calculated on the basis of full replacement cost. This method establishes the amount of compensation based on the amount necessary to replace the lost assets or lost access to assets using the market value plus transaction costs. If losses cannot be valued through replacement cost (e.g., traditional crop land in regions without a 'land market', access to public services, to customers, and to suppliers or access to assets such as fishing, grazing, or forest areas) an estimation of the loss will be made on the basis of the value of goods and services generated. All losses must be considered as legitimate for compensation, including those based on customary and non-legal tenure and resource use regimes, but excluding those that involve illegal activity.
34. The action plan must be a negotiated agreement that includes written contractual obligations to which the legitimate parties are legally bound.

G. Responsibilities and competencies of IUCN

35. General roles and responsibilities are described in the ESMS Manual. Whenever appropriate, the ESMS Coordinator will seek guidance and technical support from the Senior Advisor, Social Policy (who is a member of the ESMS Expert Team) and from IUCN staff in relevant regional and country offices. In addition, the ESMS Coordinator can rely on the expertise of selected members of the IUCN Commission on Environmental, Economic and Social Policy (CEESP) and/ or other IUCN Commissions as appropriate.²² External expertise will also be used whenever necessary, especially for the preparation and monitoring of the resettlement action plan.

²² See IUCN website for contact details at www.iucn.org.