

Annex 4:
**Equivalence of Applicable GoI Legal Framework to Objectives and Operational Procedures
of OP 4.00 Table A1**

1. Annex 2 of this Report contains a detailed matrix comparing *inter alia*, the applicable provisions of the above-cited laws and policies of the GoI with the corresponding Objectives and Operational Principles of OP 4.00 Table A1 for each of the applicable safeguard policies: Environmental Assessment, Natural Habitats, Forests, Physical Cultural Resources, Involuntary Resettlement and Indigenous Peoples. The matrix also contains indicative measures that the GOI could take to bring its legal framework into full equivalence with the Objectives and Operational Principles of OP 4.00 Table A1. These indicative measures take into account and build on policies, draft policies and draft legislation that is currently under consideration, in particular with respect to land acquisition, resettlement and rehabilitation and tribal policy.

2. For each of the six safeguard policies, the following key findings are made with respect to the Equivalence of the the Indian legal system (GOI law) to the corresponding Objectives and Operational Principles of OP 4.00 Table A1. For each separate objective or Operational Principle of OP 4.00, the analysis characterizes GOI law as either “fully equivalent,” “partially equivalent” or “not equivalent.” The complete analysis supporting these findings along with the corresponding direct references to the text of the Constitutional provision, Act, Rule, Notification or Court Order, whatever the case may be, is included in the matrices (Annex 2 of this report).

A. ENVIRONMENTAL ASSESSMENT

- GOI law is fully equivalent to the following objectives and operational principles of OP 4.00 Table A1 with respect to Environmental Assessment:
 - Assess potential impacts of the proposed project on physical, biological, socio-economic and physical cultural resources, including trans-boundary and global concerns, and potential impacts on human health and safety;
 - Assess the adequacy of the applicable legal and institutional framework, including applicable international environmental agreements, and confirm that they provide that the cooperating government does not finance project activities that would contravene such international obligations;
 - Provide for application of the principles in this Table to sub-projects under investment and financial intermediary activities.
- GOI law is partially equivalent to the following operational principles of OP 4.00 Table A1 with respect to Environmental Assessment:

Objectives: To help ensure the environmental and social soundness and sustainability of investment projects [and] to support integration of environmental and social aspects of projects into the decision making process

- Use a screening process for each proposed project, as early as possible, to determine the appropriate extent and type of environmental assessment (EA) so that appropriate studies are undertaken proportional to potential risks and to direct, and, as relevant, indirect, cumulative, and associated impacts. Use sectoral or regional environmental assessment when appropriate.

- Provide for assessment of feasible investment, technical, and siting alternatives, including the "no action" alternative, potential impacts, feasibility of mitigating these impacts, their capital and recurrent costs, their suitability under local conditions, and their institutional, training and monitoring requirements associated with them.
- Where applicable to the type of project being supported, normally apply the Pollution Prevention and Abatement Handbook (PPAH). Justify deviations when alternatives to measures set forth in the PPAH are selected.
- Prevent and, where not possible to prevent, at least minimize, or compensate for adverse project impacts and enhance positive impacts through environmental management and planning that includes the proposed mitigation measures, monitoring, institutional capacity development and training measures, an implementation schedule, and cost estimates.
- Use independent expertise in the preparation of EA where appropriate. Use independent advisory panels during preparation and implementation of projects that are highly risky or contentious or that involve serious and multi-dimensional.
- Involve stakeholders, including project-affected groups and local non-governmental organizations, as early as possible, in the preparation process and ensure that their views and concerns are made known to decision makers and taken into account. Continue consultations throughout project implementation as necessary to address EA-related issues that affect them.
- Provide measures to link the environmental assessment process and findings with studies of economic, financial, institutional, social and technical analyses of a proposed project.
- Disclose draft EA in a timely manner, before appraisal formally begins, in an accessible place and in a form and language understandable to key stakeholders.

B. NATURAL HABITATS

- GOI law is fully equivalent to the following Objectives and Operational Principles of OP 4.00 Table A1 with respect to Natural Habitats:

Objectives: To promote environmentally sustainable development by supporting the protection, conservation, maintenance, and rehabilitation of natural habitats and their functions

- Use a precautionary approach to natural resources management to ensure opportunities for environmentally sustainable development. Determine if project benefits substantially outweigh potential environmental costs;
 - Provide for the use of appropriate expertise for the design and implementation of mitigation and monitoring plans;
- GOI law is partially equivalent to the following operational principles of OP 4.00 Table A1 with respect to Natural Habitats:

- Avoid significant conversion or degradation of critical natural habitats, including those habitats that are (a) legally protected, (b) officially proposed for protection, (c) identified by authoritative sources for their high conservation value, or (d) recognized as protected by traditional local communities;
- Where projects adversely affect non-critical natural habitats, proceed only if viable alternatives are not available, and if appropriate conservation and mitigation measures, including those required to maintain ecological services they provide, are in place. Include also mitigation measures that minimize habitat loss and establish and maintain an ecologically similar protected area;
- Whenever feasible, give preference to siting projects on lands already converted;
- Consult key stakeholders, including local nongovernmental organizations and local communities, and involve such people in design, implementation, monitoring, and evaluation of projects, including mitigation planning.;
- Disclose draft mitigation plan in a timely manner, before appraisal formally begins, in an accessible place and in a form and language understandable to key stakeholders

C. FORESTS¹

- GOI law is fully equivalent to the following Objectives and Operational Principles of OP 4.00 Table A1 with respect to Forests:

Objective: To realize the potential of forests to reduce poverty in a sustainable manner, integrate forests effectively into sustainable economic development, and protect the vital local and global environmental services and values of forests

- Do not finance projects that would involve significant conversion or degradation of critical forest areas or related critical natural habitats, or that would contravene applicable international environmental agreements.

¹ The following three operational principles of OP 4.00 Table A1 with respect to Forests are not applicable to POWERGRID's operations and hence are omitted from this analysis of the ESPP: (5) Support commercial, industrial-scale forest harvesting only when the operation is certified, under an independent forest certification system, as meeting, or having a time-bound action plan to meet, internationally recognized standards of responsible forest management and use; (8) .Support commercial harvesting by small-scale landholders, local communities or entities under joint forest management where monitoring with the meaningful participation of local communities demonstrates that these operations achieve a standard of forest management consistent with internationally recognized standards of responsible forest use or that they are adhering to an approved time-bound plan to meet these standards; and (9) Use forest certification systems that require: (a) compliance with relevant laws; (b) recognition of, and respect for, legal or customary land tenure and use rights as well as the rights of Indigenous Peoples and workers; (c) measures to enhance sound community relations; (d) conservation of biological diversity and ecological functions; (e) measures to maintain or enhance environmentally sound multiple benefits from the forest; (f) prevention or minimization of environmental impacts; (g) effective forest management planning; (h) active monitoring and assessment of relevant forest management areas; and (i) independent, cost effective, third-party assessment of forest management performance against measurable performance standards defined at the national level and compatible with internationally accepted principles and criteria of sustainable forest management through decision making;

- Ensure that forest restoration projects maintain or enhance biodiversity and ecosystem functionality and that all plantation projects are environmentally appropriate, socially beneficial and economically viable;
- Give preference to small-scale community-level management approaches where they best reduce poverty in a sustainable manner;
- GOI law is partially equivalent to the following operational principle of OP 4.00 Table A1 with respect to Forests:
 - Screen as early as possible for potential impacts on forest health and quality and on the rights and welfare of the people who depend on them. As appropriate, evaluate the prospects for new markets and marketing arrangements
 - Do not finance natural forest harvesting or plantation development that would involve any conversion or degradation of critical forest areas or related critical natural habitats;
 - Support projects that adversely impact non-critical natural forests or related natural habitats only if viable alternatives to the project are not available and only if appropriate conservation and mitigation measures are in place;
 - Disclose any time-bound action plans in a timely manner, before appraisal formally begins, in an accessible place and in a form and language that are understandable to key stakeholders

D. PHYSICAL CULTURAL RESOURCES

- GOI law is fully equivalent to the following Objectives and operational principles of OP 4.00 Table A1 with respect to Physical Cultural Resources:

Objectives: To assist in preserving physical cultural resources and avoiding their destruction or damage. PCR includes resources of archaeological, paleontological, historical, architectural, religious (including graveyards and burial sites), aesthetic, or other cultural significance

- For materials that may be discovered during project implementation, provide for the use of “chance find” procedures in the context of the PCR management plan or PCR component of the environmental management plan.
- GOI law is partially equivalent to the following Objectives and operational principles of OP 4.00 Table A1 with respect to Physical Cultural Resources:
 - Use an environmental assessment (EA) or equivalent process to identify PCR and prevent or minimize or compensate for adverse impacts and enhance positive impacts on PCR through site selection and design;
 - As part of the EA, as appropriate, conduct field based surveys, using qualified specialists;

- Consult concerned government authorities, relevant non-governmental organizations, relevant experts and local people in documenting the presence and significance of PCR, assessing the nature and extent of potential impacts on these resources, and designing and implementing mitigation plans; and
- Disclose draft mitigation plans as part of the EA or equivalent process, in a timely manner, before appraisal formally begins, in an accessible place and in a form and language that are understandable to key stakeholders.

E. INVOLUNTARY RESETTLEMENT

- GOI law is fully equivalent to the following Objectives and Operational Principles of OP 4.00 Table A1:
 - Apply the principles described in the involuntary resettlement section of this Table, as applicable and relevant, to subprojects requiring land acquisition;
- GOI law is partially equivalent to the following operational principles of OP 4.00 Table A1 with respect to Involuntary Resettlement:

Objectives: To avoid or minimize involuntary resettlement and, where this is not feasible, to assist displaced persons in improving or at least restoring their livelihoods and standards of living in real terms relative to pre-displacement levels or to levels prevailing prior to the beginning of project implementation, whichever is higher

- Through census and socio-economic surveys of the affected population, identify, assess, and address the potential economic and social impacts of the project that are caused by involuntary taking of land (e.g., relocation or loss of shelter, loss of assets or access to assets, loss of income sources or means of livelihood, whether or not the affected person must move to another location) or involuntary restriction of access to legally designated parks and protected areas (PPAs)
- Consult project-affected persons, host communities and local nongovernmental organizations, as appropriate. Provide them opportunities to participate in the planning, implementation, and monitoring of the resettlement program, especially in the process of developing and implementing the procedures for determining eligibility for compensation benefits and development assistance (as documented in a resettlement plan), and for establishing appropriate and accessible grievance mechanisms. Pay particular attention to the needs of vulnerable groups among those displaced, especially those below the poverty line, the landless, the elderly, women and children, Indigenous Peoples, ethnic minorities, or other displaced persons who may not be protected through national land compensation legislation;
- Disclose draft resettlement plans, including documentation of the consultation process, in a timely manner, before appraisal formally begins, in an accessible place and in a form and language that are understandable to key stakeholders;
- Inform displaced persons of their rights, consult them on options, and provide them with technically and economically feasible resettlement alternatives and needed assistance, including:

- prompt compensation at full replacement cost for loss of assets attributable to the project
 - If there is relocation, assistance during relocation, and residential housing, or housing sites, or agricultural sites of equivalent productive potential, as required;
 - Transitional support and development assistance, such as land preparation, credit facilities, training or job opportunities as required, in addition to compensation measures;
 - Cash compensation for land when the impact of land acquisition on livelihoods is minor; and
 - Provision of civic infrastructure and community services as required.
- Design, document, and disclose before appraisal of projects involving involuntary restriction of access to legally designated parks and protected areas, a participatory process for:
 - Preparing and implementing project components;
 - Establishing eligibility criteria;
 - Agreeing on mitigation measures that help improve or restore livelihoods in a manner that maintains the sustainability of the park or protected area;
 - Resolving conflicts; and
 - Monitoring implementation.
- Implement all relevant resettlement plans before project completion and provide resettlement entitlements before displacement or restriction of access. For projects involving restrictions of access, impose the restrictions in accordance with the timetable in the plan of actions
- GOI law is not equivalent to the following operational principles of OP 4.00 Table A1 with respect to Involuntary Resettlement:
 - Assess all viable alternative project designs to avoid, where feasible, or minimize involuntary resettlement;
 - Identify and address impacts also if they result from other activities that are (a) directly and significantly related to the proposed project, (b) necessary to achieve its objectives, and (c) carried out or planned to be carried out contemporaneously with the project;
 - Give preference to land-based resettlement strategies for displaced persons whose livelihoods are land-based;

- For those without formal legal rights to lands or claims to such land that could be recognized under the laws of the country, provide resettlement assistance in lieu of compensation for land to help improve or at least restore their livelihoods;
- Assess whether the objectives of the resettlement instrument have been achieved, upon completion of the project, taking account of the baseline conditions and the results of resettlement monitoring

F. INDIGENOUS PEOPLES

- GOI law is fully equivalent to the following Objectives and Operational Principles of OP 4.00 Table A1 with respect to Indigenous Peoples:

Objectives: To design and implement projects in a way that fosters full respect for Indigenous Peoples' dignity, human rights, and cultural uniqueness and so that they: (a) receive culturally compatible social and economic benefits; and (b) do not suffer adverse effects during the development process

- Put in place an action plan for the legal recognition of customary rights to lands and territories, when the project involves: (a) activities that are contingent on establishing legally recognized rights to lands and territories that Indigenous Peoples traditionally owned, or customarily used or occupied; or (b) the acquisition of such lands;
- GOI law is partially equivalent to the following operational principles of OP 4.00 Table A1 with respect to Indigenous Peoples:
 - Screen early to determine whether Indigenous Peoples are present in, or have collective attachment to, the project area. Indigenous Peoples are identified as possessing the following characteristics in varying degrees: self-identification and recognition of this identity by others; collective attachment to geographically distinct habitats or ancestral territories and to the natural resources in these habitats and territories; presence of distinct customary cultural, economic, social or political institutions; and indigenous language;
 - Undertake social assessment or use similar methods to assess potential project impacts, both positive and adverse, on Indigenous Peoples. Give full consideration to options preferred by the affected Indigenous Peoples in the provision of benefits and design of mitigation measures. Identify social and economic benefits for Indigenous Peoples that are culturally appropriate, and gender and inter-generationally inclusive and develop measures to avoid, minimize and/or mitigate adverse impacts on Indigenous Peoples;
 - Undertake free, prior and informed consultation with affected Indigenous Peoples to ascertain their broad community support for projects affecting them and to solicit their participation:
 - In designing, implementing, and monitoring measures to avoid adverse impacts, or, when avoidance is not feasible, to minimize, mitigate, or compensate for such effects; and

- in tailoring benefits in a culturally appropriate manner;
 - Where restriction of access of Indigenous Peoples to parks and protected areas is not avoidable, ensure that the affected Indigenous Peoples' communities participate in the design, implementation, monitoring and evaluation of management plans for such parks and protected areas and share equitably in benefits from the parks and protected areas;
 - Do not undertake commercial development of cultural resources or knowledge of Indigenous Peoples without obtaining their prior agreement to such development;
 - Prepare an Indigenous Peoples Plan that is based on the social assessment and draws on indigenous knowledge, in consultation with the affected Indigenous Peoples' communities and using qualified professionals Normally, this plan would include a framework for continued consultation with the affected communities during project implementation; specify measures to ensure that Indigenous Peoples receive culturally appropriate benefits, and identify measures to avoid, minimize, mitigate or compensate any adverse effects; and include grievance procedures, monitoring and evaluation arrangements, and the budget for implementing the planned measures;
 - Monitor implementation of the Indigenous Peoples Plan, using experienced social scientists;
- GOI law is not equivalent to the following operational principles of OP 4.00 Table A1 with respect to Indigenous Peoples:
 - Disclose the draft Indigenous Peoples Plan, including documentation of the consultation process, in a timely manner before appraisal formally begins, in an accessible place and in a form and language that are understandable to key stakeholders.