



TFCA FINANCING FACILITY

Serious Incident Report for:



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ACRONYM LIST

TERM	DEFINITION
E&S	Environmental and Social
FPIC	Free, Prior and Informed Consent
SI	Serious Incident
TFCA FF	Transfrontier Conservation Area Financing Facility

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1.

Introduction

Any serious incidents (SI) in Transfrontier Conservation Area Financing Facility (TFCA FF) supported activities/projects must be reported immediately after the incident occurred. With a view to the time, it may take to prepare a full Serious Incident Report (see Reporting Form in Appendix 1 to this document), the Grantee is required to submit an immediate e-mail with an informal initial notification to TFCA FF within 48 hours after the occurrence of a serious incident.

A full SI Report shall then be submitted within 10 working days after the e-mail notification. The Grantee shall use the Reporting Template as per Appendix 1. In case the necessary investigations could not be completed within 10 working days, the Reporting Form shall be submitted with the available information and then updated regularly until the investigation is completed and the incident resolved.

The Grantee must ensure that all implementing partners and contractors and sub-contractors are informed about and aware of the Serious Incident Reporting Requirements and adhere to the respective timelines and process.

TFCA FF will provide guidance as required to the Grantee regarding due process for the investigation of a SI including guidance to complete in the Reporting Form. All SI reported to the TFCA FF will be recorded in the TFCA FF Serious Incident Register.

The ESMS introduces tools, processes, responsibilities, and capacity needed for performing the E&S due diligence (ESDD) and provides a framework including E&S policies, plans and procedures that are applicable for TFCA FF at the organisational and project level (i.e., projects receiving grant-funding from the Facility).

The objectives of the ESMS are to:

- Ensure that all TFCA FF financed activities and programs comply with national laws and regulations of the host countries and are aligned with the applicable international E&S standards and guidelines;
- Establish clear roles and responsibilities to all TFCA FF and Grantee staff involved in implementation of this ESMS;
- Guide on the application of several methods and tools in management of E&S issues that may be triggered before, during and after project implementation;
- Guide identification, assessment, management, mitigation and monitoring of E&S risks (especially significant E&S risks which may result from access restrictions, law enforcement (LE) operations, the occurrence of human-wildlife conflict and infringement of human rights, and risks associated with physical infrastructure development associated with TFCA FF financed activities.

1.3 ESMS Structure

The ESMS has been developed in line with the World Bank (WB) E&S Safeguard Standard 9 (ESS9) on Financial Intermediaries (FIs). The ESS9 requires FIs to establish and maintain an ESMS for purposes of identifying, assessing, managing, and monitoring E&S risk and impacts on an ongoing basis. Elements of the ESS9 constitute the main building blocks of the ESMS, Table 1-1 provides an overview of the ESMS structure in respect of the ESS9 guidance.

Table 1-1 ESMS Structure Overview

WB ESS9 GUIDANCE	TFCA FF's ESMS SECTION	DESCRIPTION
	• Introduction	Introduction to the ESMS manual
(i) Environmental and social policy	• E&S policies	Outlines the relevant applicable environmental & social standards, and human rights policies adopted by TFCA FF internally.
	• Applicable E&S legislation, standards and guidelines	Outlines the relevant applicable legal and administrative requirements on a local and international level, including WB's environmental and social safeguard framework and human rights policies.
(iii) Organizational capacity and competency;	• Roles and responsibilities	Summarizes E&S management organizational roles, finances and responsibilities, and refers to training required for capacity development and successful implementation of the E&S management system

(ii) Clearly defined procedures for the identification, assessment and management of the environmental and social risks and impacts of projects and sub-projects;	Integration of ESMS requirements into grant-funding process	Provides an overview of the grant funding cycle and the corresponding provisions of the ESMS, i.e. process for E&S risk screening, categorization of E&S risks and ESDD, development of appropriate E&S management tools, monitoring and reporting requirements. etc.
(iv) Monitoring and review of environmental and social risks of sub-projects and the portfolio	Monitoring, reporting and review	Outlines the monitoring, management review and reporting of E&S risk and impact management -related commitments and aspects on TFCA FF organizational level
(v) External communications mechanism	External communication and disclosure	Outlines the procedures and commitments of the Facility for external engagement and the Facility's grievance mechanism
	Document Control and record management	Outlines Facility's data management internal practices.

2. Defintion of a Serious Incident (SI)

A SI is defined as any unplanned or uncontrolled event with a materially adverse effect on workers, community members or the environment within the area of influence of project activities funded by TFCA FF. In addition, an event that has the potential to have material or immaterial adverse effects on the implementation of TFCA FF funded project activities or gives rise to potential liabilities or reputational risks that could jeopardize the achievement of TFCA FF funded project objectives would be treated as a Serious Incident as well.

Serious Incidents could comprise of one or more of the following aspects:

- Human rights violations that may occur during operations to curb illegal poaching, illegal harvesting of resources and/ or law enforcement activities which may impact the right to life, freedom from torture or degrading treatment (this covers physical abuse), sexual violence, substantial damage to/ confiscation or loss of community or private property (including houses, livestock etc.). These violations may be conducted by project security personnel, project employees, contractors/ subcontractors and/ or public security forces (i.e., regular police, reservists, paramilitar
- Level 3 Grievances (grievances with potential significant adverse impacts, for details see Annex L and Annex O of the TFCA FF Manual); note that Level 3 Grievances are considered as Serious Incident by TFCA FF and must be reported immediately by the Grantee (see Annex L);
- Health and safety of the Grantee or Grantee staff or of project workforce, members of the public and local communities, e.g., serious injuries or fatal accidents during project implementation activities such as construction of infrastructure or traffic accidents caused by project related activities; exposure to hazardous substances;
- Discovery of child labour or forced labour in the project context (including supply chain);
- Health and safety as well as livelihoods of local communities, such as serious injuries, fatalities, and substantial loss of assets due to human wildlife conflicts;
- Threats to social relations and overall social cohesion of local communities caused by project activities, such as violent protests, disputes between local communities and project personnel, inter-community conflicts and conflicts within communities;
- Forced evictions from territories of protected areas or from other sites related to TFCA FF funded project activities, resulting in the demolition of permanent or temporary shelter or assets¹;

¹This does not include evictions related to clearly destructive, unsustainable and illegal use practices that are carried out in accordance with host country legislation and in full alignment with the provisions of the UN Basic Principles and Guidelines on Development Based Evictions and Displacement, including a diligent process.

- All forms of gender-based violence and harassment (GBVH) affecting employees, third-party or sub-contracted employees, community members etc. associated with a TFCA FF funded project;
- Discrimination of local communities' rights in relation to restrictions on traditional lands, territories, resources, or cultural heritage, but in particular regarding indigenous peoples' rights due to the infringement of the Free, Prior and Informed Consent (FPIC) Principle;
- Industrial unrest including workers strikes or employee unrest. This may include strikes by contractor/ subcontractor employees at the project site;
- Environmental risks/ serious contamination due to the release of harmful substances into water, air or land causing significant harm to the environment and the people (e.g., spills);
- Legal non-compliances, such as breach of national or local environmental and social (E&S) policies and laws, contravention of approved Protected Area Management Plans, violation of international treaties including human rights treaties or threatened legal actions to be filed against the Grantee or project members, resulting in fines or court action;
- Illegal movement of people, goods and services, or any action that may be constituted as contributing to the transboundary crime and illicit wildlife (including flora) trafficking;
- Any action that may negatively impact on the principle of sovereign equality and territorial integrity of TFCA Partner Countries, including the sovereign rights of a bordering party;
- Any allegations that stand up in court, that require intervention by the police/other law enforcement authorities.

3.

Full Serious Incident Reporting

The full SI Reporting as per Reporting Form in Appendix 1 shall comprise responses to the following questions: What happened? Why did it happen? What needs to be corrected? Which are the corrective measures required, when will these measures be implemented and by whom?

The Reporting Form has to be used by the Grantee and provides the structure to cover all relevant aspects for a full SI Report. Accordingly, the full SI Report has to comprise at minimum:

- Description of the nature of the SI and its on-site and off-site effects
- Root cause analysis of the SI, including specifications on roles and responsibilities; procedures in place as well as potential management failings; and
- Details of any immediate response and ongoing corrective actions in order to remedy the effects of the SI and prevent reoccurrence, including regulation and potential liabilities.

Information provided in the Report should be clear, unambiguous, and factual (i.e. free from interpretation). Any gaps in the information provided should be highlighted and addressed in the investigation.

4.

Standard Operating Procedure for Serious Incident in Law Enforcement

In accordance with the Code of Conduct, all Law Enforcement Officers are required to immediately report any serious incidents to their Law Enforcement Authorities.

A serious incident is defined as any event that has an adverse effect on Management (Ministry or Protected Area Management Agency) and its Officers, project personnel, community members, members of the public or on the environment that could give rise to liabilities or reputational risks to the Authorities, implementing partners and other stakeholders. **An incident will be considered serious if it:**

- has, or is likely to have a material adverse effect on people or the environment.
- has, or is it likely to be categorized as a severe human rights impact.
- has attracted or is likely to attract substantial adverse attention from third parties.
- may lead to adverse media coverage.
- gives or has the potential to give rise to material legal or financial liabilities and reputational risks.

Serious Incidents include but are not limited to:

- Loss of life or serious injuries occurring during routine patrols, anti-poaching operations, searches, arrests, or any other law enforcement activities inside or outside of protected areas.
- Loss of life or serious injuries caused by natural or other disasters;
- Kidnapping, murder, and any form of violence;
- Serious and costly damage to park infrastructure;
- Any accusation of or direct violation of human rights, including sexual and genderbased violence, abuse, and harassment;
- Forcible or non-consensual eviction of people from protected areas;
- Significant environmental damage; and
- Events of mass mortality of wildlife.

When a Serious Incident occurs:

- The Officers involved should immediately notify their direct Supervisor who will also report the event to the Police Station if the incident involves the loss of life.
- The Supervisor will initiate the internal reporting processes.
- The Senior Office bearer equivalent to a Deputy Director or Assistant Director should complete the serious incident notification form (see annexure A) within 48 hours and submit the available information to the Director or Director General.
- In consultation with the Project staff, the Director will review and finalize the notification and submit it to the Facility and the Donor (KfW).
- **Further investigation will be undertaken if required. Further investigation is likely for:**
 - Incidents involving loss of life
 - Serious Injuries
 - Destruction to Property established with financial support from the Donors.
 - Reported events of gender-based violence
 - Reported events of violent interaction with or between communities
 - Mass wildlife mortalities
- Upon completion of the investigation, the Senior Officer Bearer should ensure that a serious incident report is completed that includes the processes and outcomes of the investigation (Appendix 2). Ideally, this report should be submitted within two weeks. However, it is recognized that other agencies are likely to be involved in this process and accessing the required information from them may take longer.
- Once the serious incident report has been completed, the Senior Officer Bearer will submit this report to the Director or Director General or equivalent for distribution as appropriate (and also to the donor KfW).
- Where required, a corrective action plan will be developed and submitted along with the serious incident report.
- The Senior Office Bearer will report on the implementation and outcomes of the corrective action plan.
- Once all corrective actions have been taken, the incident can be closed.

5. Information on Serious Incident Case Closure

The Grantee shall keep TFCA FF informed about any progress in respect of remedial actions as well as any open issues/conflicts with regard to the incident that would require further clarification and action through regular updates.

APPENDIX 1: SERIOUS INCIDENT REPORTING FORM

SERIOUS INCIDENT REPORT

GENERAL INFORMATION	
Project name, country, region	
Name of executing agency	
Name of the entity submitting the information	
Name of main person(s) /organizations /companies involved in causing the Incident	
Name or anonymized identity of the alleged victim(s), their age, sex, and place of residence, and in cases involving a group or community as much information as possible	

DETAILS ABOUT THE SERIOUS INCIDENT	
Date and time of the Serious Incident (approximate if exact details are unknown)	
Location of the Serious Incident (approximate if exact details are unknown)	
Type of Incident	Health and Safety of Workers Community Health and Safety Social Cohesion Human Rights Forced Evictions Other Please specify: ☐ Indigenous Peoples' rights ☐ Gender-based Violence ☐ Stability of the Environment ☐ Legal Compliance ☐ Reputational Risk ☐
Detailed chronological description of the Serious Incident and its circumstances (attach photos)	
Was anyone injured or killed because of this event?	Yes / No / N/A
If "Yes" provide further details:	
Were any damages experienced because of this event? (e.g. environmental or damage to equipment / property, etc)	Yes / No / N/A
If "Yes" provide further details:	
Have the regulator, local authority government or emergency services been involved in or informed of this event?	Yes / No / N/A
If "Yes" provide further details including their response so far:	

ROOT CAUSE ANALYSIS	
Detailed description of key causal factors, including outside factors or potential management failings and identification of absent / inadequate/ failed/unused management and control measures (e.g., non-compliances with E&S measures or standards)	
Specification of roles and responsibilities relevant to the Serious Incident, including the involvement of authorities	
Description of any reaction to the Serious Incident by the victims, involved families or communities as well as local/ national/international media	
Methods applied for conducting the root cause analysis, (e.g., interviews, document reviews, site visits, police report etc.)	
Witnesses, if any (including where relevant staff, unions, police, other authorities, and other parties)	
IMMEDIATE RESPONSE AND CORRECTIVE ACTIONS	
Description of immediate response and related responsibilities, such as person(s) taken to hospital, police informed, national authorities involved etc.	
Description of corrective actions, next steps, and related responsibilities to prevent the Incident from happening again and/or follow up to close the case or proceed with further investigations (include short action table with responsibilities and schedule)	

Description of any reaction to the incident by the victims, involved families or communities as well as local/national/international media			
INCIDENT REPORT APPROVAL			
	Position	Name	Date
Prepared by			
Approved by (Senior Management)			

APPENDIX 2: SERIOUS INCIDENT REPORT TEMPLATE

GENERAL INFORMATION	
Project name, country, region	
Name of person submitting the information	
Name of main person(s) / organizations involved in the Incident	
Name of the alleged victim(s), their age, sex, and place of residence	
CONFIRMATION OF DETAILS ABOUT THE INCIDENT	
Detailed description of key causal factors, including outside factors or potential management failings and identification of absent / Inadequate / failed/unused management and control measures	
Specification of roles and responsibilities relevant to the Incident, including the involvement of authorities	
Description of any reaction to the incident by the victims, involved families or communities as well as local/national/international media	
Methods applied for conducting the root cause analysis, (e.g., interviews, document reviews, site visits, police report etc.)	
IMMEDIATE RESPONSE	
Description of immediate response and related responsibilities, such as person(s) taken to hospital, police informed, national authorities involved etc.	

CORRECTIVE ACTIONS		
Description of corrective actions, next steps, and related responsibilities to prevent the Incident from happening again.	By Whom:	By When:
1.		
2.		
3.		
4.		
5.		
6.		
7.		

INCIDENT REPORT APPROVAL			
	Position	Name	Date
Prepared by			
Approved by (Senior Management)			