



AFRICAN DEVELOPMENT BANK GROUP

NIGERIA ENVIRONMENTAL AND SOCIAL COUNTRY SYSTEM ASSESSMENT

PREPARED BY

**Environmental and Social Safeguards and Compliance
Department
African Development Bank**

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LIST OF ACRONYMS

AEIAN	Association for Environmental Impact Assessment of Nigeria
AfDB	African Development Bank
AGRIA	Associated Gas Reinjection Act
FGR	Flare Gas (Prevention of Waste and Pollution) Regulations
CBD	Convention on Biological Diversity
CBN	Central Bank of Nigeria
CCA	Climate Change Act
CCF	Climate Change Fund
CEHRD	Centre For Environment, Human Rights and Development
DFI	Development Financial Institution
E&S	Environmental and Social
EA	Environmental Assessment
EAD	Environmental Assessment Department
ESA	Environmental and Social Assessment
ESI	Environmental Sensitivity Index
ESIA	Environmental and Social Impact Assessment
FME _{env}	Federal Ministry of Environment
FMF	Federal Ministry of Finance
FMH&UD	Federal Ministry of Housing and Urban Development
FMWA&SD	Federal Ministry of Women Affairs and Social Development
FSS2020	Financial System Strategy Secretariat
GE	Gender Equality
GGWSS	Great Green Wall of the Sahara and the Sahel
GIIP	Good International Industry Practice
HWA	Harmful Waste Act
HYPREP	Hydrocarbon Pollution Remediation Project
IEPN	Institute of Environmental Practitioners of Nigeria
IAP	Industrial Arbitration Panel
IFI	International Financial Institution
INSTRAW	International Research and Training Institute for the Advancement of Women
ISS	Integrated Safeguard System
LAAC	Land Allocation Advisory Committee
LSG	Lagos State Government
LUA	Land Use Act
MDAs	Ministries, Departments and Agencies
MDB	Multilateral Development Bank
MFI	Multilateral Financial Institution
NACA	National Action Committee on HIV/AIDS
NAFDAC	National Agency for Food Drug Administration and Control
NAGGW	National Agency for Great Green Wall
NAPPPHR	National Action Plan for the Promotion and Protection of Human Rights

NAPTIP	National Agency for Prohibition of Trading in Persons
NBSAP	National Biodiversity Strategy and Action Plan
NCCC	National Council on Climate Change
NCCP	National Climate Change Policy
NCDC	National Centre for Disease Control
NCFRMI	National Commission for Refugees, Migrants, and Internally Displaced Persons
NCMM	National Commission on Museum and Monuments
NCWD	National Centre for Women Development
NEMA	National Emergency Management Agency
NDC	Nationally Determined Contribution
NES	Nigerian Environmental Society
NESREA	National Environmental Standards and Regulations Enforcement Agency
NGA	National Gallery of Art
NIMASA	Nigerian Maritime Administration and Safety Agency
NISPON	Nigerian Institute of Safety Professionals of Nigeria
NIWA	National Inland Waterways Authority
NMDPRA	Nigerian Midstream and Downstream Petroleum Regulatory Agency
NOSCR	National Oil Spill Compensation Rate
NOSDRA	National Oil Spill Detection and Response Agency
NPE	National Policy on Employment
Nen	National Policy on Environment
NPS	National Park Service
NSCDC	National Security and Civil Defense Commission
NIR1	First National GHG Inventory Report
NUPRC	Nigerian Upstream Regulatory Commission
NURP	National Urban and Regional Planning
OS	Operational Safeguard
PIA	Petroleum Industry Act
RAP	Resettlement Action Plan
SEA/SH	Sexual Exploitation and Abuse/Sexual Harassment
SFP	Sustainable Finance Principles
SLA	Shangisha Landlord Association
TOR	Terms of Reference
UNODC	United Nations Office on Drugs and Crime
WAMASON	Waste Management Society of Nigeria
WRA	Water Resources Act
WURL	Water Use and License Regulation

1 EXECUTIVE SUMMARY

1.1 Overview of key findings and recommendations

Nigeria has a robust body of statutes for safeguarding against environmental and social risks. The Environmental Impact Assessment Act, Chapter E12, Law of the Federation of Nigeria (EIA Act E12 LFN) 2004 is the prime Act that mandates the conduct of environmental and social impact assessment in Nigeria. The EIA Act was originally enacted as a military Decree in 1992 but later codified as EIA Act Cap E12 LFN (Chapter E12, Law of the Federation of Nigeria) by a democratic parliament in 2004. In addition, there are other Acts such as National Environmental Standards and Regulations Enforcement Agency (NESREA) Act, Nigerian Maritime Administration and Safety Agency (NIMASA) Act, National Oil Spill Detection and Response Agency (NOSDRA) Act, Petroleum Industry Act (PIA) as well as regulations, standards, policies and plans that support the EIA Act in safeguarding the environmental and social (E&S) risks associated with development projects.

Nigeria operates a three-tier governance structure: Federal Government, States (36 nos. and Federal Capital Territory), and Local Governments (774 nos.), with statutes including, Acts, regulations, policies, edicts (state governments) and byelaws (local governments). A checklist of Nigeria's E&S policies/strategies, laws, decrees, orders, specifications have been compiled and elaborated. The policies/strategies, laws, decrees, orders, specifications compiled in this report cover the ten (10) African Development Bank (AfDB) Operational Safeguard (OS) under its Integrated Safeguards System (ISS). The key finding is that while Nigeria's E&S legal framework is extensive, enforcement is weak and critical emerging issues – notably climate change resilience and low-carbon green growth – require stronger integration into policy and practice to meet AfDB's ISS requirements.

The prime statute that governs E&S assessment in Nigeria is the EIA Act E12 LFN 2004, but there several other statutes that safeguard aspects of E&S, and most of them are federal laws. Whereas the EIA Act is implemented by Environmental Assessment Department (EAD), many of the other safeguard statutes are implemented by different ministries from the EIA Act, and this incumbers the EIA process because of difficulty in achieving synergy between different Ministries, Departments and Agencies (MDAs). For instance, the EIA Act E12 LFN 2004 empowers only the EAD to superintend and issue EIA certificate. Nevertheless, some state governments, and the Federal Capital Territory (FCT), using the cover of National Urban and Regional Planning (NURP) Act 2010, also request and approve EIA for urban development, without recourse to EAD; which is contrary to the provisions of both the EIA Act and the NURP Act. Similarly, NESREA, an enforcement agency, is meant to complement the activities of EAD (a technical department); however, in practice their operations overlap, sometimes conflicting in their roles, especially with respect to certification of practitioners.

The institutional and administrative structures responsible for environmental and social safeguards in Nigeria include Federal Ministries, their Departments and Agencies, the Central Bank of Nigeria (CBN) and related financial agencies such as Securities and Exchange Commission (SEC) and the State Ministries of Environment, and Local Government departments in charge of environmental and social welfare. However, the Federal Ministry of Environment (FMEnv) has the overarching responsibility in matters pertaining to environmental and social assessment in Nigeria. Within FMEnv, the Environmental Assessment Department (EAD) has the sole mandate for implementing Nigeria's EIA process.

In terms of institutional capacity, the EAD is manned by competent staff, and it operates the Environmental Impact Assessment (EIA) Act CAP E12 LFN 2004, which mandates that all development projects, private or public, be subjected to environmental impact assessment prior to implementation. There is a clearly defined EIA process that includes project screening, scoping,

impact assessment, impact mitigation, monitoring and management and decommissioning, with emphasis on stakeholder engagement and public participation. The EIA process requires transparency and community involvement as an integral part of the process.

However, Nigeria's EIA process is marred by low level of enforcement, insufficient public participation, abuse of exclusion clause, overstretched regulatory capacity and ineffective sanctions for non-compliance. The EIA Act empowers the EAD to sanction proponents for non-compliance with the EIA Act; however, sometimes some MDAs implement major projects without due compliance with the EIA Act.

Analysis of an EIA of a power transmission project prepared following the national system revealed that the impacts of project alternatives were not assessed to aid decision on the preferred alternative, the scope appears inadequate, while the EIA team lacked critical technical specialist. The incomplete scope, absence of critical expertise, and failure to assess the potential impacts of project alternatives suggest the EIA report did not basically comply with OS1. Furthermore, the EIA report did not adequately elaborate on the issues relating to other Operational Safeguards (OS2-OS10). The limited scope of baseline social and environment data acquired means the EIA report would not comply with OS4 (community health and safety), OS5 (land related matters and involuntary resettlement), OS6 (biodiversity and living resources), OS7 (vulnerable groups) OS8 (cultural heritage) and OS10 (stakeholder engagement) in the form it was approved by EAD. The report did not demonstrate accountability in terms of social engagement and public disclosure, suggesting that it did not comply with OS10. Nigeria's E&S safeguard system is silent on financial intermediaries as outlined in AfDB's OS 9 that deals on Financial Intermediaries (FIs).

Further, although some of the national safeguards may compare well with the AfDB ISS, e.g., OS2 on Labour and Working Conditions, the national safeguards are not effectively enforced, which requires the strengthening of the relevant institutions responsible for enforcing the safeguards. Presently, several factors inhibit the enforcement entities from achieving their mandates. These include overstretched workforce (and aging manpower), paucity of funds and low budgetary releases, bureaucratic challenges, political interferences, and general apathy to due process by some project proponents.

As such, among the assessment's key findings is that Nigeria's E&S safeguards system is underpinned by a range of robust legal instruments including the Constitution, EIA Act, NESREA Act, Climate Change Act, and others. To fully align with internal E&S standards, however, gaps include: (i) outdated EIA Act; (ii) critical alignment gaps notably stakeholder engagement and public disclosure, social protection, cultural heritage, and financial intermediary oversight; (iii) overlapping mandates and weak coordination among key agencies; (iv) capacity constraints including limited technical staff and insufficient funding; and (v) limited digitization of E&S data and systems.

Opportunities identified include revision of the EIA Act, enhancing enforcement capacity, clarifying competing and overlapping mandates, enhancing public disclosure and stakeholder engagement, bolstering training and resourcing of E&S practitioners, elevating voluntary principles applicable to FIs to enforceable regulations, and digitizing E&S data and systems.

Based on the gaps/challenges, the following recommendations are made and the parties responsible for implementing the recommendations indicated:

Challenges	Recommended Solution	Action Party
1. Outdated EIA Act	<ul style="list-style-type: none"> Update the EIA Act in line with global best practices and standards; Finalize approval and adoption of the 	<ul style="list-style-type: none"> Nigerian Government

Challenges	Recommended Solution	Action Party
	revised EIA Act	
2. Weak enforcement capacity	<ul style="list-style-type: none"> • Increase funding; enhance and modernize workforce; enhance inter-agency coordination 	<ul style="list-style-type: none"> • Nigerian Government
3. No enforceable financial intermediary safeguards (OS9)	<ul style="list-style-type: none"> • Elevate voluntary principles such as the NSBP and NSFP to regulatory status with enforceable regulations mandating NSBP and NSFP compliance for all licensed FIs and regulated entities 	<ul style="list-style-type: none"> • Nigeria Government/ CBN/SEC • Development partners, including MFIs
4. Inadequate protection of intangible heritage (OS8)	<ul style="list-style-type: none"> • Domesticate UNESCO Convention on Intangible Cultural Heritage (2003); Revise NCMM Act. 	<ul style="list-style-type: none"> • Nigerian Government
5. Overlapping agency roles	<ul style="list-style-type: none"> • Clarify mandates and roles; eliminate duplication; enhance cooperation through MoUs 	<ul style="list-style-type: none"> • Nigerian Government/FMEnv
6. Involuntary resettlement practices misaligned with OS5	<ul style="list-style-type: none"> • Reform Land Use Act; adopt inclusive and fair compensation mechanisms 	<ul style="list-style-type: none"> • Nigerian Government/FMEnv/MHUD • Development partners, including MFIs
7. Centralized ESIA process causes delays	<ul style="list-style-type: none"> • Decentralize the EAD departments with zonal offices to enhance accessibility and ease the administrative process; streamline the ESIA process where appropriate; adopt digital platforms 	<ul style="list-style-type: none"> • FMEnv
8. Weak public disclosure and stakeholder engagement	<ul style="list-style-type: none"> • Review the EIA process to espouse robust stakeholder engagement and public participation; institutionalize free, prior and informed consent (FPIC); intensify awareness and information campaigns; use digital tools and platforms for broader outreach 	<ul style="list-style-type: none"> • FMEnv • Development partners, including MFIs
9. Shortage of high quality ESIA professionals (despite the presence of numerous ESIA practitioners), coupled with shortage of funds, which affects the quality of ESIA documents.	<p>Leverage centers of excellence ((e.g. World Bank SPESSE) in Nigeria to train environmental practitioners who would then undergo professional certification by chartered professional bodies such as Institute of Environmental Practitioners of Nigeria (IEPN); partner with chartered environmental professional groups such IEPN and non-chartered groups (Nigerian Environmental Society, Waste Management Society of Nigeria, and Association for Environmental Impact Assessment of Nigeria); to achieve a robust certification process</p>	<ul style="list-style-type: none"> • Nigerian Government • Development partners, including MFIs

Challenges	Recommended Solution	Action Party
	to improve the quality of ESIA documents; invest in training programs and increase financial and technical support for EIA initiatives which will strengthen capacity to improve the quality of E&S documents.	
10. Limited data and system digitization, including dearth of reliable data and lack of synergy between proponents, practitioners and regulatory bodies resulting in delays in securing project approvals.	<ul style="list-style-type: none"> Establish a national E&S database, digital archive, and E&S information system 	<ul style="list-style-type: none"> FMEEnv Development partners, including MFIs
11. Low budgetary allocations and staffing resulting in weak enforcement of statutes by regulatory agencies	<ul style="list-style-type: none"> Increase funding allowing enforcement agencies to deliver on their mandates and modernize workforce strategy (recruitment, training) 	<ul style="list-style-type: none"> Nigerian Government

1.2 Summary of the environmental and social context in Nigeria

Nigeria is in West Africa, a tropical region with contiguous ecological zones that include savannas, lowland rainforests, freshwater swamps, mangrove swamps, and coastal vegetation. Nigeria has pockets of mountains across the central and northern part of the country, with a mountain belt stretching along its eastern border (from the North to the South). At the southern end is the Niger Delta, a vast wetland area with barrier islands, mangroves, freshwater swamp forests, and lowland rainforests; and bears most of the crude oil produced and exported by Nigeria. Nigeria's ecosystems are rich in biodiversity, providing nutritional support to people in both rural and urban communities. The fauna found in the natural ecosystem of Nigeria also provides bushmeat. It has been reported that Bushmeat serves as a major source of protein in places where "domestic alternatives are scarce." It has been reported that in West African coastal regions, Bushmeat provides as much as 80-90% of protein needs of the locals¹. Also, the forests provide fruits, medicines and condiments, in addition to construction materials, renewable energy, religious and recreational sites, and opportunities for eco-tourism.

However, Nigeria's biodiversity stock and natural ecosystems are threatened by unprecedented rates of degradation². This unprecedented degradation results from deforestation, overgrazing, desertification, and increasing poverty that are worsened by climate change and economic instability. This scenario is exacerbated by institutional weaknesses, ineffective laws, poor enforcement, corruption, and poor funding.

Nigeria has a population of over 200 million people³, and is multi-ethnic and culturally diverse, consisting of more than 250 ethnic groups. Most (>95%) of Nigerians profess to practice the monotheistic religions of Islam or Christianity, with the rest practicing African Traditional Religions⁴. Nevertheless, Nigerians also cherish their culture and tradition, and this can be seen in their food, appearances, festivals, celebrations and their ways of life in general.

Climate change is an emerging threat that compounds existing environmental and social challenges. Nigeria's increasing exposure to droughts, floods, and extreme weather events necessitates that

development planning integrates climate adaptation and mitigation measures. These measures must support a transition to a low-carbon, green growth economy, in line with Nigeria's Climate Change Act and National Climate Change Policy.

1.3 Major challenges and opportunities in Nigeria's E&S Assessment System

The major challenges and opportunities identified in the Nigeria's E&S system can be grouped as follows:

Legal and administrative framework

The EIA Act as currently being implemented does not fully comply with AfDB OS1-OS10; e.g., issues of land acquisition and financial intermediaries. However, the Act has been under review at parliament. The Forest Act 1956 is outdated and needs to be reviewed in line with the current realities. Trade Union (Amendment) Act, 2005, amending the Trade Union Act 1974 to curtail industrial actions, ended up weakening Trade Unions' capacity to negotiate. Also, there is no explicit law dealing with sexual exploitation and abuse in the workplace (apart from schools). The Violence Against Persons (Prohibition) Act 2015, espouses more of sexual abuse in the context of domestic violence rather than workplace situations.

Even though Nigeria has legislations that, if properly considered in E&S assessment, can satisfy most of the AfDB ISS, the E&S safeguards in Nigeria lack sufficient focus for some critical risks or impacts of project-related activities such as involuntary resettlement, financial intermediaries and protection of intangible heritages. The Nigerian E&S assessment system does not have a legislation equivalent to OS9, i.e., there is no definitive statutory mandate for financial intermediaries in E&S assessments of process in Nigeria. However, there is the Nigerian Sustainable Banking Principles (NSBP)⁵ and Sustainable Financial Principle (SFP) that encourage banks, discount houses and development finance institutions (regulated by CBN to adopt NSBP) and other financial institutions (regulated by Securities and Exchange Commission, SEC, to adopt SFP). However, both NSBP and SFP are not mandatory, and its non-adoption does not attract any statutory penalties. Nevertheless, NSBP and SFP espouse E&S sustainability in the operations of banks and other financial institutions in Nigeria and more banks have adopted them over the years.

Nigeria operates three-tier governance system with the Federal Government as the sovereignty, and the State and Local governments as subnational governments. The federal ministry of environment (FMEnv) is the entity with overarching role in managing the Nigerian environment. The Environmental Assessment Department (EAD) of the FMEnv has the mandate of overseeing the E&S assessment system in Nigeria.

Technical, financial and institutional capacity

The enforcement of E&S statutes covers wide areas of knowledge, requiring technical and scientific know-how and professionalism, which constitute a challenge to the MDAs that are themselves burdened with shortages of personnel (in terms of number and expertise).

Weak governance and corrupt practices are acknowledged to hinder meaningful actions in all facets of life in Nigeria, including the enforcement of statutes, coupled with weak penalties for statutory violations. The low level of understanding of the EIA process by many project proponents in Nigeria influence their budgetary allocations for EIA and related E&S requirements.

Some of the MDAs in charge of other legislation relevant to E&S lack dedicated desk officers for E&S safeguard aspects of the MDA's operations. Also, there is the absence of in-house legal support within the EA Department to assist the E&S desk officers with legal drafting and interpretation of environmental and social statutes.

Linkages and operational roles and responsibilities

There is no strong alignment between development priorities and consideration of environmental and social risks. Also, there is paucity of manpower to cover the entire country and to address crosscutting issues with interconnected impacts in Nigeria.

Some E&S safeguards laws are domiciled in different agencies in unrelated ministries (e.g., the EIA Act is domiciled with FMEnv. and the Land-Use Act is in FMH&UD). The bureaucracy associated with regulatory processes coupled with multiplicity of relevant MDAs, often presents as if there were conflicts in the operations of the MDAs.

The EIA, NESREA and NOSDRA Acts, and paucity of resources do not grant the personnel of those MDAs the impetus to ensure strict enforcement of environmental standards. Also, there are shortages of E&S personnel in the MDAs to cover the entire country and economic sectors in Nigeria. Consequently, the ESIA reports are seen as mere regulatory compliance documents that end up confined to the shelves.

Stakeholder management and public disclosure

The EIA Act CAP E12 LFN 2004 focuses more on environmental than social aspects and this contributes to weakening the social aspects of EIA process. Although the requirement for stakeholder engagement is indicated, the Act is not elaborate in terms of social aspects. The Act focuses solely on environmental aspects, with no mention of social aspects and no clear instruction on social assessment or inclusive participation other than mandating the agency in charge of the EIA process to, *“before the Agency gives a decision on an activity to which an environmental assessment has been produced, the Agency shall give opportunity to government agencies, members of the public, experts in any relevant discipline and interested groups to make comment on the environmental impact assessment of the activity.”*

The EIA process mandates a 21-day public display of EIA reports; however, most of the project-affected people do not get to know when EIA reports are displayed and, even when they know, they have trouble in accessing the display venues. Also, the language in which the report is written limits public participation as many people are not proficient in the English language. A pragmatic approach for improving the engagement and participation of PAPs is to engage traditional leadership early in the disclosure process.

The statutory land tenure system and Land Use Act (LUA) hardly address resettlement issues to the level of expectations outlined in AfDB OS5 and coupled with low level of stakeholder engagement and information disclosure, LUA's ability to comply with OS5 becomes undermined. Further, the general insecurity across the country especially the violent ones like kidnapping, robbery, banditry and separatist movements, hinder the availability of, and access to, information by stakeholders.

Opportunities in Nigeria's E&S system

The Nigerian E&S assessment system is well entrenched that, with appropriate intervention, can satisfy the requirements of AfDB's ISS and OSs. There is in operation overarching legislation mandating E&S assessment (EIA Act Cap E12 LFN 2004) for every development proposal. Also, there are other legislations, including Acts, regulations and standards that play to E&S safeguards, which with proper enforcement can satisfy the requirements of AfDB Operational Safeguards. Opportunity also exists to leverage Nigeria's recent climate policy developments (e.g., the Climate Change Act 2021) to transform the existing E&S system into one that also robustly supports green growth and climate resilience.

Similarly, Nigeria has adequate trainable graduates of E&S disciplines and practitioners, and scalable institutional capacity that, with appropriate intervention in terms of professional certification, can be deployed for continual improvement of Nigeria's E&S assessment system.

2 ANALYSIS OF COUNTRY ENVIRONMENTAL AND SOCIAL SAFEGUARDS SYSTEM

2.1 Introduction

2.1.1 Purpose and Scope of Assessment

The African Development Bank (AfDB) Group undertook an Environmental and Social Country System Assessment for Nigeria. The Environmental and Social Country System Assessment aimed to evaluate the effectiveness of existing environmental and social frameworks, policies, and institutions in Nigeria, as well as their alignment with international best practices, particularly focusing on the African Development Bank's updated Integrated Safeguards System and Operational Safeguards (2023). The review and update were aimed at, among others, harmonizing the AfDB ISS with the safeguard frameworks of other Multilateral Development Banks (MDBs) and International Financial Institutions (IFIs), and related private sector operations. The revision provided more clarity and guidance on the requirements, the roles and responsibilities of the Bank and the Borrowers to enhance the operational effectiveness of the policy. The revised ISS includes ten (10) Operational Safeguards (OS) to align with peers in development financing. The review also includes ~~inclusion of~~ resettlement financing in project costs and support for improving national resettlement systems. The new Operational Safeguards also laid emphasis on indigenous peoples as a vulnerable group and ensured the standardization of Stakeholder Engagement Plans for high-risk projects.

The aims of the ISS are to protect people's rights, support societal wellbeing, ensure investment sustainability, sustainable natural resource use and protect AfDB's reputation. It also emphasizes evaluating Borrowers' environmental and social systems from the following perspectives:

- *Legal Framework:* National, state, and local laws and regulations related to environmental and social impact assessments.
- *Institutional Infrastructure:* Bodies responsible for implementing and enforcing laws.
- *Capacity and Expertise:* Human and technical resources for the preparation, implementation and monitoring of the ESA reports

The Environmental and Social Country System Assessment evaluated the effectiveness of existing environmental and social frameworks, policies, and institutions in Nigeria, as well as their alignment with international best practices, particularly focusing on the African Development Bank's Integrated Safeguards System (ISS) and Operational Safeguards (OS) updated in the year 2023. The updated ISS and OS came into force from June 2024, and it applies to all operations (sovereign and non-sovereign) supported by the Bank Group, regardless of the source of financing, including operations supported by the trust funds administered by the Bank, throughout their life cycle (*Identification, Preparation, Appraisal, Negotiation, Implementation, Mid-term review, Closure*).

2.1.2 Methodology and approach

Desk Research

Relevant documents, including policies, laws, regulations, and guidelines from relevant ministries, departments, and agencies (MDAs) were reviewed. The functions, roles and responsibilities of the various ministries relevant to achieving the objectives of AfDB ISS 2023 (OS1 to OS10) were identified. The relevant documents from those ministries were reviewed to determine their actual relevance to the goals of AfDB ISS. Data on development projects, E&S compliance, and enforcement mechanisms were analyzed.

Consultations

Consultation is a veritable tool for gathering critical information. A comprehensive electronic survey questionnaire was shared via social media platforms of environmental practitioners, and ten responses were recorded (each of them experienced in E&S assessments)⁶. In addition to electronic questionnaires, consultations (via phone) were carried out with the head of EAD, leadership of professional environmental associations, academics in public universities and E&S practitioners. The people consulted via telephone are engaged across diverse organizations, including private sector, public sector and multilateral development projects. The consultations were conducted using interviews, focus group discussions, and electronic surveys. The consultation process was guided by a checklist of questions specifically crafted to achieve the task for this mission. A rapid engagement assessment suffices for the mission. (see limitations of the study). Consequently, the directorate-level staff of the Environmental Assessment Division (EAD) as well as the leadership of professional environmental practitioners were consulted. All consultations with the entities mentioned have been conducted virtually through telephone chats and the administration of questionnaires. Bilateral Team meetings were held with some critical stakeholders that include regulators and practitioners

The critical stakeholders for Nigeria's Environmental and Social Assessment System are as follows:

Priority List of MDAs in the Context of this Assignment

- Environmental Assessment Division (*has the mandate to implement ELA Act in Nigeria*)
- Nigerian Environmental Standards, Regulations Enforcement Agency (*excluding oil and gas*)
- National Climate Change Council (*oversees climate change issues*)
- Nigerian Oil Spill Detection and Response Agency (*in charge of spill response and clean up*)
- Central Bank of Nigeria (*oversees bank financial intermediaries*)
- Securities and Exchange Commission (*oversees non-bank financial intermediaries*)
- National Centre for Women Development (*mandate for women and children*)
- Federal Ministry of Labour and Employment (*in charge of Labour and labour-related disputes*)
- Nigerian Upstream Petroleum Regulatory Commission (NUPRC) (*ELA for oil & gas projects*)
- National Midstream and Downstream Petroleum Regulatory Authority (NMDPRA)
- Federal Ministry of Housing and Urban Development (*implements the Land use Act*)

List of other public entities relevant to this assignment

- National Gallery of Arts (custodian arts and cultural heritage)
- National Commission for Refugees, Migrants, and Internally Displaced Persons
- Hydrocarbon Pollution Remediation Project (cleanup of oil polluted areas)
- National Parks Commission (oversees national parks and reserves)
- National Action Committee on HIV/AIDS (eradication of STDs and HIV/AIDS)
- National Emergency Management Agency (responds to emergencies across Nigeria)
- National Centre for Disease Control (responds to epidemic/pandemic)
- National Security and Civil Defense Commission (responsible for internal civil security)
- National Agency for Food Drug Administration and Control (food and drug safety)
- Standard Organization of Nigeria (standards and quality certifications)

Professional Entities to be consulted (if time permits)

- Institute of Environmental Practitioners of Nigeria
- Association of Environmental Impact Assessment of Nigeria
- Nigerian Environmental Society
- Waste Management Society of Nigeria
- Nigerian Institution of Estate Surveyors and Valuers

- Environmental Managers Association of Nigeria

Capacity Assessment

The capacity of the relevant federal MDAs, especially Federal Ministry of Environment (EA Department, NESREA, NOSDRA, NCCC), CBN, Federal Ministry of Labour (Industrial Arbitration Panel) Federal Ministry of Women Affairs (FMWA)), were assessed, through desk studies, in terms of their capacity to manage E&S risks and impacts effectively. The capacity assessment considered technical expertise of the personnel, resources at their disposal, and the coordination mechanisms within or between the MDAs.

Data Collection and Analysis

Quantitative and qualitative data were to be collected using electronic survey. The data were to provide concise and clear information on Nigeria's E&S assessment system. However, because of low-level of responses (only 10 responses to the electronic questionnaire), results obtained from the electronic survey are not robust enough to provide clarity. This approach can further be strengthened through physical consultations including interviews, workshops, focused group discussions.

Gap Analysis and Recommendations

Eventually, the gaps and shortcomings of the national E&S assessment system are identified and areas for improvement identified. Recommendations were made for enhancing the legal, institutional, and policy frameworks of Nigeria's ESA system.

2.1.3 Structure of the report

The report is structured in five broad sections as follows:

- Executive summary containing a concise summary of the information presented in the report.
- Analysis of Nigeria's E&S safeguard system comprising of the laws, standards, regulations, institutions responsible for enforcement of E&S regulations and standards, and a comparison of the AfDB safeguard systems and the national system.
- Conclusions based on the country system assessment and the overall comparative analysis by AfDB OSs, identifying the limitations of the mission and lessons learnt.
- Recommendations, including broad and specific recommendations to both the Nigerian government and AfDB based on the outcomes of the study.
- Annexes showing additional information that provide clarity to the information in the main body of the report.

2.2 Country Context

With a population of over 200 million people, Nigeria is the most populous country in Africa. Nigeria is a multi-ethnic and culturally diverse federation consisting of more than 250 ethnic groups, including Hausa, Fulani, Yoruba, and Igbo, each with its own language and customs. Nigeria also has the largest economy⁷ with estimated gross domestic product (GDP) of USD421 billion in 2021, with prospects for sustained and healthy economic growth enabling a fast recovery from the meltdown occasioned by Covid-19 pandemic. Nigeria has taken bold steps to reposition its economy on the path of sustainable growth. These include the decision of the government to remove subsidies on refined petroleum products and to float Naira to introduce flexibility and transparency in foreign exchange management. The key economic sectors driving Nigeria's growth include agriculture, trade,

transportation, oil and gas, financial services, telecommunications and ICT in general, in addition to the e-economy which is fast growing.

Nigeria, though the largest economy in Africa, is grappling with social, environmental, and economic challenges, which precipitates insecurity and political unrest. Therefore, understanding environmental, social and governance (ESG) issues in the Nigerian context involves recognizing these challenges and identifying opportunities for improvement.

2.2.1 Overview of Nigeria's geography and demographic profile

Nigeria lies between latitudes 4°16'N and 13°52'N and longitudes 2°49'E and 14°37'E and shares borders with the Atlantic Ocean (South), Benin (West), Niger and Chad (North), and Cameroon (East). Nigeria covers a surface area of 923,769 square kilometres, out of which only 13,000 square kilometre is covered by water.

Relief and Topography of Nigeria is mostly gentle and rolling with escarpments in the Northern part and broad peneplains in the south, while the central region is dominated by the Jos Plateau. The Eastern border of Nigeria features mountains reaching up to 2,000 meters in the South. The coastline stretches for 853 kilometers along the Atlantic Ocean from Nigeria's border with Benin Republic in the West, to Cameroon border in the East.



Figure 2.1. Map of Nigeria (Source: <https://www.britannica.com/place/Nigeria>)

Nigerian maritime area covers 46,500 squares kilometers, while her exclusive economic zone (EEZ) stretches over 210,900 square-kilometers. The Western coast of Nigeria has a barrier bar lagoon complex those transitions into mud beaches east of Lagos. In the central coast is found the Niger delta, which consists of sandy beach ridge barrier islands backed by extensive mangrove swamps. Barrier islands rim the Niger delta from Benin to Opobo River. The eastern coastline, towards Cameroon, is a strand complex. Nigeria has a rather narrow continental Shelf: from <30 kilometers off Lagos coast to 75 kilometers off the Niger delta coastline.

Nigeria has a tropical climate with warm temperatures that decreases from North to South, with definite dry and wet seasons. The rain bearing Southwesterly wind (from the Atlantic Ocean) predominates during the rainy season, while Northeasterly dry wind (from the Sahara Desert) is dominant in the dry season. Rainfall in the North rarely exceeds 500 mm annually, mostly from June to July, and in drier areas it is as low as 250mm per annum. Ambient temperature varies between 8-40 °C, but extreme temperatures have been experienced in recent years, which is being attributed to climate change⁸. During the dry season, usually from October to April, the relative humidity at dawn hours averages about 30% while at noon it is less than 10%. The coastal area is hot and humid. Annual temperature is 26-32° C, with a peak from November to March. The annual rainfall in the coastal area is in the range: 2,400-4,000 mm. The monthly temperature ranges is 22-32° C. Rainfall is about 50 mm/hour during the months of July and August, which results in flash floods. In the dry period, the Harmattan dust laden Northeastern dry wind from the Sahara Desert reaches the coastal areas, producing hazy conditions.

The landscape of Nigeria is made of, from the south to the north, a narrow coastal belt of mangrove swamps, rolling hills and tropical rainforests to a dry central plateau with open woodlands and savanna, then to the semi-desert on the fringes of the Sahel in the extreme north. The Nigerian landscape is punctured by geological features such as the Mandara mountains and the Plateaus of Mambila, Jos and Obudu. The drainage system of the country is dominated by the Niger River, and Benue River, and the Niger Delta (the third largest delta on planet earth)⁴. In the context of climate change, these diverse ecosystems face unprecedented threats—from intensified drought in the north to coastal erosion and flooding in the south. This environmental variability necessitates that future development projects incorporate adaptive measures that protect both the natural landscape and the communities that depend on them.

Most of Nigeria's landmass is arable with agriculture accounting for about 70% of Nigeria's gross domestic production (GDP), which is dominated by rainfed agriculture. Nigeria faces the challenge of climate change, which affects agricultural activities. The effects of climate change on Nigerian agriculture include reduced agricultural output resulting from unpredictable rains and rising temperatures. Also, climate change causes droughts and unprecedented flooding, making it difficult to accurately predict weather patterns for agricultural planning. Further, the unreliability of weather conditions results in unstable food prices occasioned by losses in productivity.

The population of Nigeria is estimated to be 223,804,632 million in 2024 and this places Nigeria as the most populous country in Africa⁹ and the 6th largest in the world. As of 2022, more than half of the population were aged between 15 and 65 years, while slightly more than 40% were under 14 years. The elderly (65 years and above) constitute less than 3%¹⁰ of Nigeria's population, suggesting that Nigeria has a young and growing population (growing at the rate of 2.41%)⁶. At the current rate of growth, the population of Nigeria is expected to approach 400 million people by the year 2050¹¹.

Nigeria is a multi-ethnic and culturally diverse federation consisting of more than 250 ethnic groups, including Hausa, Yoruba, Igbo, Fulani, Ijaw, Tiv, Kanuri, and several others: each with its unique language, customs and traditions. Most Nigerians are religious and more that 95% profess to practice the monotheistic religions of Islam or Christianity, while the rest practicing African Traditional Religions. Nevertheless, Nigerians cherish their cultures and traditions, and this can be seen their foods, appearances, festivals, celebrations and their ways of life in general.

2.2.2 Political and economic context (political landscape and governance structure, economic overview, and key sectors)

Nigeria is a federation of thirty-six (36) states, seven-hundred and seventy-four (774) local government areas (LGAs), with one federal capital territory (FCT). Nigeria is a developing economy with diverse ecological settings covering a land area of 923,770 km¹. Nigeria is not only the most populous country

in Africa, it also has the highest Gross Domestic Product (GDP) and rich in natural resources including oil and gas, solid minerals, and precious metals. Although Nigeria's economy underwent depression followed by the Covid-19 pandemic, the real GDP is currently growing at 3.11%¹⁴ and grew to 26.84% in the first quarter of 2022⁴.

With a GDP of US\$472.62 billion in 2022³, Nigeria reportedly has the largest economy in Africa, and its real GDP growth in Q4 2023 was 3.46%¹². The economy is contending with high inflation reaching a 24-year high of 31.7% in February 2024⁴. Nigeria is endowed with vast amounts of petroleum and natural gas reserves, solid mineral deposits and vast arable land. However, Nigeria's economy is mostly dependent on foreign exchange earnings from a single-commodity (petroleum), even though agriculture remains the dominant contributor to the GDP – 24.5% GDP in 2020 and 23.7% in 2021, Agriculture is the sector that employs about 34.66%² of Nigerians (in 2020), with the potential to absorb about 70%² of the population to boost and stabilize the economy. Although Nigeria is the largest producer of crude oil and earns the bulk of its foreign earnings from sale of crude oil, Nigeria is a net importer of refined petroleum products. This is despite the existence of four state-owned petroleum refineries, five operating private modular refineries (each with <10,000 bpd capacities)¹³. A private refinery with a refining capacity of 650,000 crude per day came onstream in Q2 2024¹⁴, with forecast to produce at full capacity by Q4 2024. Meanwhile, refined petroleum continues to be imported for local consumption and subsidized, although the Petroleum Industry Act 2021 forbids petroleum subsidy payment beyond 2023¹⁵. Nigeria also imports non-oil goods, including food and beverages, primary and processed industrial goods, and sundry goods from the European Union (EU), United States of America (USA), China, Japan, India, South Africa and Korea. Nigeria's transport sector comprises of the largest road network in West Africa, airports, rail lines, and seaports (Lagos, Warri, Port Harcourt, Onne and Calabar), in addition to private ones including the Lekki Deep Sea Port.

Despite its economic potential, most of Nigeria's exports comprise of crude oil and gas, which gives a negative balance of trade: importing NGN12.643 trillion worth of goods and services against total exports bill of NGN9.053 trillion in Q1 2024¹⁶. Moreover, Nigeria's dependence on fossil fuels underscores the urgent need for economic diversification through green growth. Policy reforms and investment in renewable energy, as outlined in the National Renewable Energy and Energy Efficiency Policy and the Climate Change Act 2021, are essential for transitioning to a sustainable, low-carbon economy.

2.2.3 Environmental and social overview (major environmental zones and biodiversity, social diversity and cultural context, overview of E&S challenges and opportunities)

Contiguous ecological zones from North to South are the savannas, lowland rain forest, freshwater swamp and mangrove swamp forest and the coastal vegetation. A mountain forest zone is along the Southeastern border. The savannas are divided into Sahel, Sudan, Guinea and derived savanna that is presently experiencing severe degradation¹⁷. The central Jos Plateau, the Mambila Plateau and the Obudu ranges have montane ecosystems, due to their elevation and unique vegetation¹⁸.

The coastal shore consists of barrier islands, sandy beaches, lagoons, estuaries (up to 10-150 km inland), mud beaches and creeks, and the Niger Delta. Brackish water habitats occupy 12,900 km² and mangroves 9,723 km², while the barrier-bar islands occupy 5,590 km². The barrier island, which is intersected by tidal channels, separates the intertidal mangrove swamps from sea¹⁹. The Niger Delta was formed by the interaction of the sediment laden river water and coastal processes, creating beach-ridges, barrier islands, a freshwater floodplain and brackish mangrove swamp, interrupted by twenty-one (21) main estuaries, lagoons and bays. It originates where the Niger and Benue rivers split into a network of channels, before entering the sea. It is amongst the world's largest wetlands, covering

more than 20,000 km² and 500 km of coastline. The Niger Delta is made of four ecological zones: barrier islands, mangroves, freshwater swamp forests and lowland rainforests.

Nigeria's diverse environmental zones—from coastal mangroves and freshwater swamps to savannahs and rainforests—are increasingly challenged by climate change, which intensifies risks such as erratic rainfall, extreme weather events, and prolonged droughts. These climate impacts exacerbate longstanding issues of deforestation, biodiversity loss, and water scarcity, directly affecting community livelihoods and socio-economic stability. Recognizing these threats, Nigeria has embedded ambitious climate targets in the Climate Change Act 2021 and its updated Nationally Determined Contribution, both of which aim to reduce greenhouse gas emissions and promote adaptive, resilient development. This integrated approach reinforces the nation's commitment to green growth and aligns with the African Development Bank's strategic focus on climate resilience and sustainable development^{20, 21, 22}.

The ecosystems in Nigeria are rich in biodiversity that provide nutritional support to about half of inhabitants of rural Nigeria and about one-third of urban and peri-urban communities. Several types of food or nutritional supplements are obtained from the wild in their natural ecosystem. The natural ecosystem of Nigeria provide food for human nutrition, e.g., proteins (bush meat, snails, periwinkles, and fish), fruits (bush mango, edible kola, assorted nuts, local plum, native pear, etc.), vegetables and condiments ('hot leaves', species of spices, 'scent leaves', among others)²³. The ecosystem diversity across the length and breadth of Nigeria, defines the uniqueness and diversity of nutritional support from biodiversity in Nigeria. Nigeria's natural ecosystem also provide wood for the construction/furniture industry, materials (laterite/sand/gravels) for the building industry, source of renewable energy, and aesthetic scenery for eco-tourism, among others.

Nigeria is a signatory to several agreements and convention and have domiciled many. These include the core conventions on biodiversity, ecosystem conservation and cultural heritage. Nigeria went further to establish national parks, cultural heritage sites, Ramsar sites, forest reserves, game reserves, biosphere reserves, bird sanctuaries and sacred groves¹³. In addition, Nigeria has established an Ecological Fund that is being allocated 2% of national budget every year, with the sole duty of attending to ecological matters. In addition, Nigeria has put in place a framework for Reducing Emissions from Deforestation and Forest Degradation in Developing Countries (REDD+). The REDD+ of the United Nations Framework Convention on Climate Change (UNFCCC) is meant to tackle greenhouse gas (GHG) emissions resulting from deforestation and degradation of forests²⁴. The import of REDD+ is to formulate a financial value for carbon stored in forests, through provision of incentives to encourage developing economies to reduce GHG emissions, to foster sustainable development.

However, Nigeria's biodiversity stock and natural ecosystem are currently being depleted at unprecedented rates due to several factors; including population explosion, deforestation, overgrazing, climate change, desertification, habitat losses, invasive species and environmental pollution, which is worsened by increasing poverty occasioned by a challenging economy. According to Nigeria's First National Greenhouse Gas (GHG) Inventory Report, NIR1, 2000-2017²⁵, the forest land shrank in size from 15,796,400 hectares to 13,700,310 hectares (a loss of 14.32% of forest cover in 17 years). Within the same period (2000-2017) forest exploitation increased drastically: the quantity of round wood removed increased by 36.3%, while that of fuelwood increased by 11.0%. Also, NIR1 indicated that the area of land used for annual agriculture expanded by 11.5%.

These challenges coupled with the lapses and weaknesses in many public institutions in Nigeria have worsened the status of biodiversity and natural resource conservation. The Forest Act 1956, which is the Nigerian law that focuses on biodiversity, is outdated and needs reviewing to align with current realities. This scenario indicates that compliance with OS 1 may require extra scrutiny and capacity-

building in terms of current trends in biodiversity management, as well as provision of technical assistance to enhance Nigeria's capacity for implementing biodiversity safeguards in line with OS3.

Similarly, the National Biodiversity Strategy and Action Plan (NBSAP) 2015-2020 needs to be evaluated to determine its effectiveness. Nigeria has received support and collaborated with the Convention on Biological Diversity (CBD), Global Environment Facility (GEF) and the United Nations Environment Programme (UNEP) to tackle its biodiversity challenges. However, biodiversity challenges persist, and more than 864 species of birds, 117 amphibians, 203 reptiles, more than 775 species of fish, and 285 mammal species, are presently threatened²⁶, underscoring the need to update the Forest Act, 1956, align national laws with AfDB ISS and international standards, and promote adherence to national commitments under international biodiversity agreements.

Climate change exacerbates these environmental challenges by altering weather patterns, increasing the frequency of extreme events, and accelerating ecosystem degradation. Integrating climate risk and mitigation strategies into environmental management is vital for preserving biodiversity and ensuring the long-term viability of natural resources. Protecting the nation's natural capital assets is *sine qua non* to GHG emissions mitigation strategies with associated co-benefits as enhancing community adaptive abilities to climate change. Thus, mainstreaming climate change adaptation and low-carbon initiatives is not only necessary to protect the environment but also to secure socio-economic stability in a changing climate.

2.3 Presentation of country environmental and social safeguards system

As development is a multidimensional concept, encompassing society, economy, and the use of resources, interacting with the environment, there is need to institute safeguards that protect the environment and the wellbeing of society.

2.3.1 The Constitution of the Federal Republic of Nigeria

Nigeria is a sovereign republic governed by a constitution as its supreme law. The Constitution establishes the structural framework for governing Nigeria, namely the executive, legislative, and judicial branches. The current constitution was enacted in 1999, marking the beginning of the Fourth Nigerian Republic. Over the years, the constitution has been reviewed and altered: the first, second, third alterations occurred in 2010; the fourth in 2017; and fifth in 2023²⁷.

The supremacy of the constitution is established under Chapter I, Part I, Section I, subsection 1 and 2 thus: *“(1) This Constitution is supreme and its provisions shall have binding force on all authorities and persons throughout the Federal Republic of Nigeria. (2) The Federal Republic of Nigeria shall not be governed, nor shall any persons or group of persons take control of the Government of Nigeria or any part thereof, except in accordance with the provisions of this Constitution.”*

There are explicit constitutional provisions for environmental and social safeguards in the Nigerian constitution. Specifically, the sections of the constitution espouse on E&S safeguards include:

- Chapter II, 16(1)b *“control the national economy in such manner as to secure the maximum welfare, freedom and happiness of every citizen on the basis of social justice and equality of status and opportunity”*
- Chapter II, 17(3)(a) *“all citizens, without discrimination on any group whatsoever, have the opportunity for securing adequate means of livelihood as well as adequate opportunity to secure suitable employment”;*
- Chapter II, 17(3)(b) *“conditions for work are just and humane, and that there are adequate facilities for leisure and for social, religious and cultural life”;*
- Chapter II, 17(3)(c) *“the health, safety and welfare of all persons in employment are safeguarded and not endangered or abused.”; and (d) “there are adequate medical and health facilities for all persons”;*
- Chapter II, 17(3)(e) said *“there is equal pay for equal work without discrimination on account of sex or on any other ground whatsoever”;*

- Chapter II 17(1) *“the State social order is founded on ideas of Freedom, Equality and Justice”;*
- Chapter II, 17(2)(a) *“every citizen shall have equality of rights, obligations and opportunities before the law”;*
- Chapter II, 17(2)(b) *“the sanctity of human person shall be recognised, and human dignity shall be maintained and enhanced”;*
- Chapter II, 17(3)(f) *“children, young persons and the aged are protected against any exploitation whatsoever, and against moral and material neglect”.*
- Chapter II, 20(a) of the constitution that *“The State shall protect and improve the environment and safeguard the water, air and land, forest and wildlife of Nigeria.”*
- Chapter II 21(a) thus: *“protect, preserve and promote the Nigerian cultures which enhance human dignity and are consistent with the fundamental objects...”*
- Chapter II 21 (b) *“encourage the development of technological and scientific studies which enhance cultural values”.*
- Chapter III, 44 *“(a) requires the prompt payment of compensation therefor; and (b) gives to any person claiming such compensation a right of access for the determination of his interest in the property and the amount of compensation to a court of law or tribunal or body having jurisdiction in that part of Nigeria.”*

However, Chapter I Part II Section 6(6)(c) of the same constitution states that the judiciary *“shall not except as otherwise provided by this Constitution, extend to any issue or question as to whether any act of omission by any authority or person or as to whether any law or any judicial decision is in conformity with the Fundamental Objectives and Directive Principles of State Policy set out in Chapter II, of this Constitution”;* which means that the provisions of Chapter II is not justiciable in Nigeria, implying that non-adherence to this Chapter of the constitutions cannot be legally prosecuted.

2.3.2 Policy and regulatory framework (E&S policies and regulations)

Nigeria operates a three-tier governance structure comprising of a national Federal Government, States, and Local Governments at the subnational levels. At all levels of government, there are statutes including, acts, regulations, policies, edicts and byelaws. A gross checklist of Nigeria E&S statutes is given in Annex 5.3, while the relevant statutes that espouse environmental and social safeguards are summarized as follows:

- ***National Policy on Environment, NPEn (Revised), 2016***

Nigeria’s National Policy on Environment (NPEn), as revised, provides guidance for managing the environmental (and social) concerns, and protecting the natural resources of the country. The strategic objective of NPEn is to coordinate environmental protection and natural resources conservation for sustainable development, while NPEn’s specific objectives include:

- ✓ ensure that the quality of Nigeria’s environment promotes good health and well-being;
- ✓ foster sustainable natural resource utilization and restoration/maintenance of biodiversity of Nigeria’s ecosystems;
- ✓ promote individual and community participation in environmental improvement initiatives;
- ✓ provide clarity on the linkages between E&S and economic development issues; and
- ✓ stimulate public awareness and engendering a national culture of environmental preservation.

- ***Environmental Impact Assessment Act, (EIA Act CAP E12 LFN, 2004)***

The Environmental Impact Assessment (EIA) Act was enacted as EIA Decree, 1992 but became an Act of parliament now known as EIA Act CAP E12 LFN, 2004. The EIA Act is a crucial legislation that prescribes the mandatory consideration of potential environmental impacts of projects before they are undertaken. Due consideration for the provisions of the EIA Act is crucial in the decision-making process for any development project in Nigeria. In general, the EIA act spells out the objectives and the general principles guiding the environmental impact assessment in Nigeria. The

prime objective of the EIA Act is to foster sustainable development by identifying, mitigating and managing the environmental and social impacts of development projects.

The basic aim of EIA Act is to establish the environmental and social effects of an activity, before reaching a decision on the said activity. The EIA Act is applicable to all activities irrespective of the entity involved be they individuals or authorities, corporate bodies, or unincorporated bodies, public or private, and inclusive of the Nigerian State and subnational (State and Local) governments. The EIA Act prohibits anybody or entity (in their private or public capacities) from undertaking or authorizing projects that have not complied with the provisions of the EIA Act. Non-compliance with the EIA Act is a criminal offence, and the Act has outlined penalties for non-compliance. . Also, the Act contains conditional exemption clauses that grant the Minister the power to allow projects to proceed without EIA.

The EIA Act requires, as much as possible and feasible, that all the social and environmental issues associated with each project/activity be identified and assessed at an early stage in the EIA process. The Act also obligates the proponents to identify, evaluate and rank all significant environmental and social issues and identify and evaluate any residual and cumulative impacts, during the EIA process. In addition, the Act mandates that mitigation and or amelioration measures, including avoidance/compensation, are proffered for significant impacts.

The EIA Act requires public participation during the entire EIA process and clearly states that prior to reaching any decisions on any EIA, government agencies, the public, experts, and interested groups must be given the opportunity to comment on the EIA document and process deployed in its preparation. The process/procedure for engaging the public in the EIA process includes public display of the EIA report (to allow the public to review and express their thoughts), mediation (to include stakeholder concerns), and review panel (to allow for public participation in the EIA process).

Specifically, the EIA Act grants powers to the Environmental Assessment Department (EAD) of the Federal Ministry of Environment to ensure that proponents comply with the provisions of the EIA Act, and sanction defaulters. The Act outlines mandatory activities, including certification, project implementation, impact mitigation and monitoring, and compliance monitoring; that must be preceded by robust EIA report approved by the EAD. The EIA Act also provides for screening and categorization of projects requiring mandatory EIA (See Fig. 2).

• ***National Environmental Standards & Regulations Enforcement Agency (NESREA) Act, 2007***

NESREA is an agency of the Federal Ministry of Environment that is responsible for enforcing environmental standards and regulations in Nigeria, except for the oil and gas sector. The NESREA (Establishment) Act of 2007 confers on the agency the duty to protect the environment, biodiversity conservation for sustainable development of Nigeria's natural resources. In addition, NESREA is saddled with roles that include coordination and liaison with relevant stakeholders within and outside Nigeria on matters of enforcement of environmental standards, regulations, rules, laws, policies and guidelines.

The NESREA Act empowers the Agency (NESREA) to enforce all environmental laws, guidelines, policies, standards, and regulations in Nigeria. The Act also empowers NESREA to enforce compliance with international environmental agreements, protocols, conventions, and treaties to which Nigeria is a signatory²⁸.

In line with its mandate, NESREA has the remit of sealing off non-compliant facilities, as they did in February 2024 in Lagos. Furthermore, NESREA plans to extend such actions across Nigeria²⁹. NESREA is also collaborating with the United Nations Office on Drugs and Crime (UNODC), to develop a code of conduct (ethics, mutual respect, and integrity) to enhance professionalism.³⁰

- ***The Nigerian Oil Spill Detection and Response Agency (NOSDRA) Act of 2006***

NOSDRA is also an agency of the Federal Ministry of Environment that is mandated to deal with issues of detecting and responding to oil spills in Nigeria. The Nigerian Oil Spill Detection and Response Agency was established by NOSDRA Act 2006³¹ and the Act has specific sections detailing oil spill response procedures. Section 5 of the Act outlines the responsibilities of the Agency regarding preparedness, detection, and response to oil spillages in Nigeria. These efforts are coordinated from their headquarters in Abuja and across various zonal offices, mainly in the Niger-Delta region. The National Oil Spill Detection and Response Agency (NOSDRA) has the following core mandates:

- ✓ ensure surveillance and compliance with environmental legislation in the petroleum sector and detect oil spills.
- ✓ receive reports of oil spillages and coordinate oil spill response activities throughout Nigeria.
- ✓ coordinate the implementation of the National Oil Spill Contingency Plan (NOSCP) and any plans for the removal of hazardous substances issued by the Federal Government.
- ✓ ensure Nigeria's compliance with the International Convention on Oil Pollution Preparedness, Response, and Cooperation (OPRC)³².

Being the lead agency for oil spill contingency plans in Nigeria, NOSDRA discharges its responsibilities through the deployment of the following tools:

- ✓ *Investigations and Remediation:* Conducting joint investigations and environmental clean-up of affected sites.
- ✓ *Monitoring and Inspections:* Overseeing oil spill drills and compliance inspections nationwide, with zonal offices in key regions.
- ✓ *Tier 3 Response:* Implementing national-level oil spill response monitoring from its control centre.
- ✓ *Reporting Tools:* Utilizing tools like the oil spill monitor and gas flare tracker for pollution reporting.
- ✓ *Compensation Framework:* Developing a National Oil Spill Compensation Rate (NOSCR) since 2017 for fair compensation to affected communities.
- ✓ *Environmental Protection:* Using an environmental sensitivity index map (ESI) to prioritize high-risk areas for protection and clean-up.
- ✓ *Compliance Monitoring:* Covering midstream and downstream sectors in environmental compliance monitoring.

- ***Harmful Waste (Special Criminal Provisions etc.) Act CAP HI LFN 2004***

The Harmful Waste Act (HWA) was enacted to prohibit any entity from carrying, dumping or depositing harmful wastes in the air, land or waters of Nigeria, except with expressed lawful authority. The contravention of the HWA is considered a criminal offence, and such contravention attracts life imprisonment, in addition to forfeiture of land or anything used to commit the offence. The HWA aligns with AfDB Operational Safeguard 3 concerning resource-use efficiency and pollution prevention.

- ***Land Use Act CAP L5 LFN, 2004***

The land acquisition in Nigeria is achieved through (i) customary land tenure where land is inherited from one's ancestors; (ii) willing-buyer-willing seller; and (iii) via allocation by government³³. The Land Use Act aimed to ease access to land for all Nigerians, prevent speculative purchases of communal land, streamline and simplify the management and ownership of land. The Act also aimed to make land available to governments at all levels for development and provide a unified system of administration of rights of occupancy for a secured land tenure. It vests all land in the State governments and Local Governments making them the ultimate authorities over land ownership and management. Whereas the State government oversees land administration within its

boundaries, lands outside the urban centers, i.e., rural land, is vested in the Local government. The LUA defines the principles related to land tenure and defines the powers of state governors, to issue “certificates of occupancy”, and conditions for issuing certificates and property development licenses in urban centers. Likewise, the LUA empowers the Local Government authorities to grant “statutory rights of occupancy” of lands within their respective jurisdictions.

The Local Government has the authority to administer and regulate the use of such land within its jurisdiction. The LUA provides for the establishment of a Land Allocation Advisory Committee (LAAC) to advise the Local Government on any matter connected with the management of land. The LAAC also has the responsibility to advise on matters related to the resettlement of people affected by land take.

The Act also provides guidelines for fixing and revising ground rent penalties and compensation for improvement of land. The state governors are vested with the power to revoke any right of occupancy under certain circumstances, with provisions for compensation and re-settlement within its jurisdiction. The LUA also defines the jurisdiction of high courts and other courts in land-related matters.

Although the principle of compensation is premised on equity and equivalence, compensation due to land revocation in line with LUA only considers the current values of unexhausted portions of the revoked land.

- ***The Petroleum Industry Act 2021***

The signing into effect of the Petroleum Industry Act (PIA) in August 2021, marks a critical milestone for Nigeria’s oil and gas sector. The PIA replaces and encompasses all previous petroleum-related laws to comprehensively reform the Nigerian Petroleum Industry. The PIA provides legal, governance, administrative, regulatory, and fiscal frameworks for the industry, and establishes the Nigerian Upstream Petroleum Regulatory Commission (NUPRC) to oversee the upstream petroleum operations, and the National Midstream and Downstream Petroleum Regulatory Authority (NMDPRA) for the midstream and downstream sectors of the oil and gas industry in Nigeria.

The PIA impacts the upstream, midstream, and downstream sectors, it emphasizes host community development, fiscal terms, and regulatory oversight. The PIA represents a significant step toward modernizing Nigeria’s petroleum industry, ensuring responsible resource management, and fostering sustainable development, and the key objectives of the PIA include, but necessarily limited to:

- promote transparency, accountability, and effective governing institutions;
- create a commercially oriented national petroleum;
- address environmental and social concerns; and
- enhance the industry’s overall efficiency and sustainability.

Relying on the powers under Section 33 (y) of the Petroleum Industry Act, No. 6, of 2021, and all other powers enabling it in that behalf, both NUPRIC and NMDPRA have promulgated regulations that bother on E&S safeguard in the oil and gas industry in Nigeria that includes the following:

- Upstream Petroleum Environmental Regulations, 2022
- Nigerian Upstream Petroleum Host Communities Development Regulations, 2022
- Midstream Gas Flare Regulations, 2023
- Gas Flaring, Venting & Methane Emissions (Prevention of Waste & Pollution) Regulations 2023
- Midstream & Downstream Petroleum Environmental Regulations, Statutory Instrument, 2023

The PIA and regulations therefrom play very profound roles in E&S management in the petroleum sector of Nigeria and align with several OSs of the AfDB. In general, the PIA, and regulations therefrom, align with OS1, OS3, OS4, OS5, OS7 and OS10.

- ***Associated Gas Re-Injection Act (AGRIA) of 1979***

The Associated Gas Re-Injection Act (AGRIA) was enacted in 1979 with the prime objective of addressing the environmental impact of burning associated gas (a byproduct of oil production) into the atmosphere. Gas flaring pollutes the air, exacerbates climate change, and presents health hazards. AGRIA mandates industry operators to submit their gas re-injection plans to the petroleum minister responsible for petroleum matters. Operators are incentivized to re-inject associated gas into reservoirs or apply it to industrial uses, rather than flaring the gas.

However, AGRIA is challenged by technical limitations and insufficient economic incentives, inadequate gas infrastructure that are costly and time-consuming to develop, inadequate incentives to re-inject as compared to flaring. To address the limitations of AGRIA, the Flare Gas (Prevention of Wastes and Pollution) Regulations was enacted in 2018, to reduce gas flaring and promote the utilization of gas

- ***Flare Gas (Prevention of Waste and Pollution) Regulations (FGR) of 2018***

The Flare Gas Regulations (FGR 2018) aim at reducing the environmental and social impacts of gas flaring. Gas flaring contributes to air pollution, climate change, and health hazards. The objectives of the FGR are to reduce environmental impact, conserve natural resources and create economic opportunities to improve social wellbeing. For instance, instead of flaring, gas can be captured and utilized for power generation or other viable uses.

The FGR draw their authority from Section 9(1) of the Petroleum Act that empowers the Minister of Petroleum Resources to issue regulations related to petroleum operations, and Section 5 of the Associated Gas Re-Injection Act (AGRIA), which is the foundation for addressing gas flaring and associated environmental concerns in Nigeria.

- ***The Nigerian Maritime Administration and Safety Agency Act (NIMASA Act) 2007***

NIMASA is an agency of the Federal Ministry of Marine and Blue Economy (FMM&BE). The NIMASA Act 2007 establishes the Nigerian Maritime Administration and Safety Agency and defines the objectives, scope, and functions of the Agency, as well as outlines its structure, including the membership of the Board, and the powers and functions of the Agency. The Act also provides for the funding of the Agency and setting up of Maritime Fund.

NIMASA is empowered to regulate maritime labour, shipping registration and development, ship safety and security, and marine pollution and to impose charges and levies for breaches of the Act. NIMASA has the power to detain ships and establish Marine Casualty Investigation Committee in case of any incident.

- ***The National Park Service (NPS) Act N65 LFN 2004***

National Park Service is an agency of the Federal Ministry of Environment. The NPS Act N65 LFN 2004 prohibits the introduction of a plant or animal into the National Park, prospecting for genetic materials or any biological material from a National Park. The NPS Act prohibits the transfer of a genetic material or indigenous knowledge about them owned or in the possession or custody of Nigerian entities, including individuals, except with written approval. Where approval is given, provisions is to be made for sharing of research opportunities and benefits derived from the genetic material or indigenous knowledge relating to the genetic material. The Act declare it an offence if anyone “prospect for a genetic material in a National Park; removes or attempts to remove a biological material from a

National Park; transfers a genetic material or indigenous knowledge relating to a genetic material, without the consent...”. Also, anyone “who aids, abets, procures or conspires with another person or attempts to commit any of the offences specified in this Act or regulations made under this Act is guilty of an offence as if he himself had committed the offence...”.

• ***The Nigerian Urban and Regional Planning Act No. 10 of 2010***

Nigerian Urban and Regional Planning Act (NURPA) was previously known as Nigerian Urban and Regional Planning Decree 88 of 1992, as amended by Decree No. 18 of 1999. The NURPA charged the Federal Government with the responsibility to formulate, promote and foster:

- ✓ national policies for urban and regional planning and development. and to set standards including the education and training of town planners and support staff;
- ✓ co-operation and co-ordination among sub-national governments (States and Local) in the preparation and implementation of urban and regional plans;
- ✓ supervision and monitoring of execution of projects in urban and regional plans; and
- ✓ Section 33 of Decree of 88 of 1992, as amended by NURPA, requires an Environmental Impact Statement (EIS) for the following categories of development: 1) residential development more than 2 hectares; 2) industrial/commercial buildings with over four floors or with a permissible space of 5,000 square meters; or 3) major and significant recreational projects.

The NURPA also empowers State Government to synergize with the federal government to ensure consistency in physical development across Nigeria. The NURPA also mandates the States to formulate policies for urban and regional planning, providing technical assistance to Local Governments in planning and managing rural areas. The NURPA outlines the responsibility of the Local Government includes the preparation and implementation of; town plans, rural area plans; local plans, subject plans and to control development within its area of jurisdiction other than developments over Federal or State lands.

• ***Water Resources Act (Cap. W2 LFN 2004), Amendment in 2016***

WRA 2004, as amended in 2016, has vested the rights and control of water in the Federal Government. Section 18 (1) of the WRA Cap. W2 LFN 2004 was amended in 2016, to review upward the stipulated fines and penalties for offences under the Act. The WRA stipulates that the Federal Government is responsible for the use and control of all surface and groundwater and of any watercourse affecting more than one State as described in the Schedule to WRA. This includes the totality of the content of the river, including the water, the bed and banks thereof, are by virtue of WRA, vested in the Government of the Federation. The federal government for the purpose is obliged to; “promote the planning, development and use of Nigeria's water resources; ensure the co-ordinate activities that are likely to influence the quality, quantity, distribution, use and management of water; ensuring the application of appropriate standards and techniques for the investigation, use, control, protection, management and administration of water resources; and facilitating technical assistance and rehabilitation for water supplies.

The provisions of the WRA shall not be construed as infringing or constituting a compulsory acquisition of any right over, or interest in property. Notwithstanding the fact that the WRA has vested the rights and control of such water courses that traverse more than one state in the Federal Government, WRA has also granted the rights to the use of water as follows:

“...any person may take water without charge for his domestic purpose or for watering his livestock from any watercourse to which the public has free access; or may use water for the purpose of fishing or for navigation to the extent that such use is not inconsistent with any other law for the time being in force; or who has a statutory or customary right of occupancy to any land, may take and use water from the underground water source or if abutting on the bank of any

watercourse, from that watercourse, without charge for domestic purposes, for watering livestock and for personal irrigation schemes.”

The WRA clearly defines the process for acquisition of rights to use or take water, stating that *“any person or any public authority may acquire a right to use or take water from any watercourse or any groundwater described in the Schedule to this Act for any purpose in accordance with the provisions of this Act and any regulations made pursuant thereto.”*

Notwithstanding any other provision of the WRA, the Minister shall have power to define the places from which or the way and the times at which such water may be taken or used, including during actual or predicted time of water shortages, the amount which may be taken by any person. The Minister shall also prohibit, temporarily or permanently, the taking or use of water from any source if, in the opinion of the Minister, the use of such water would be hazardous to health, or *when the rights granted to user are likely to override the public interest*. The Minister shall also enforce the need for certification and licensing of any person undertaking the work of drilling for water. Under WRA, the Minister is empowered to regulate the place, depth, manner of construction or mode of operation of any borehole or well; and to determine the times that groundwater may be abstracted

The nationally centralized water licensing system makes it easier to obtain a license by satisfying a common licensing requirements, as compared to meeting multiple requirements where the water catchment cuts across states (there are a 36 and Federal Capital) and multiple LGAs (a total 774). The challenge, however, is that almost every industrial and commercial activity involving water, or use of water requires licensing the issuance of which is government by the Water Use License Regulation (WURL) 2016, as amended in 2020. Specifically, the WURL has listed a wide range of licensable activities (a total of 19) and licensable uses (20 in total). It shall be noted that possession of land tenure rights does not override the need for compliance with WURL.

- **Water Use and License Regulation 2016 (as amended 2020)**

The Water Use and license Regulation (WURL) was enacted specifically to protect, conserve and control water resources for equitable and sustainable social and economic development and to maintain environmental integrity. The WURL also ensures an equitable and sustainable allocation, supply and distribution of water resources to foster best practices and conduct. In addition, the Act prescribes licensing for specified categories of water uses and specifies the conditions for licensing. The technical requirements for licenses or authorized developers and water service providers and users, as well as the infrastructure used for water services meet the technical, social and commercial obligations in a manner that promotes the wellbeing of citizens. The WURL states that *“licensees are accountable and responsive to customer and community needs: and that “public water services are supplied efficiently and economically in accordance with standards that reasonably meet the social, industrial and commercial needs of the community.”*

Part I, Section 2(1) of WURL has granted certain categories of users the right to use water without a license. That is, they do not need to grant any license to use water, so long as they do use water in accordance with the provisions of WURL under Section 2(1-4). These categories of water users include, among others, the use of water for personal purposes, subsistent living, cultural purposes, feeding of livestock, storage of water for purposes, etc. Part I, Section 3(1) declares that the right to use water, with or without license, is independent of the rights to ownership or occupancy of a land. That is to say that the right to own or occupy any parcel of land does not also grant the right to use water in the parcel of land or any other land, without a license, if such use requires licensing as specified in Part II of WURL.

The WURL provisions align with the principles of the AfDB’s ISS, particularly:

- ✓ OS 1 (Environmental and Social Assessment): Ensures water-related impacts of projects are identified and mitigated.

- ✓ OS 3 (Resources Efficiency and Pollution Prevention and Management): the objectives of which include the promotion of sustainable use of water resources.
- ✓ OS 4 (Community Health, Safety and Security): the scope of OS4 encompasses projects that that results in the release of and exposure of the community to hazardous materials or chemicals, including seepage into ground water, and/or contamination of surface water supplies.
- ✓ OS 6 (Habitat and Biodiversity Conservation & Sustainable Management of Living Natural Resources): supports maintenance of ecological functions of habitats (including freshwater or marine habitats).

• ***National Inland Waterways Authority Act, 2004 (formerly Decree No. 13 of 1997)***

The National Inland Waterways Authority (NIWA) was established by the National Assembly Act to improve and develop Nigeria's inland waterways for navigation. The main purpose of the NIWA Act is to define the mandate for the administration and management of inland waterways in Nigeria. Consequently, the NIWA Act provided for the establishment of the National Inland Waterways Authority (NIWA) as the regulatory body responsible for overseeing inland water navigation. The Functions of NIWA is to ensure safe navigation, prevention of pollution and promotion of NIWA's functions include ensuring safe navigation, promoting efficient transportation, and preventing pollution from the use of waterways.

The regulatory function of NIWA covers inland navigation, piers, jetties, and dockyards. NIWA also inspects and approves inland watercraft and shipyard operators' activities and grants permits and licenses for sand dredging and other activities. The NIWA Act prescribes penalties for offences related to obstruction and pollution of waterways. The Act thus empowers NIWA to manage and regulate Nigeria's inland waterways and protect the environment, while ensuring safe and sustainable navigation.

• ***The National Energy Policy, 2005***

The National Energy Policy (NEP) is a comprehensive framework for sustainable energy development in Nigeria. The NEP guides Nigeria toward sustainable energy development, balancing economic growth, environmental protection, and social well-being. The Federal Executive Council (FEC) approved the NEP in 2003, but it was launched in 2005, and subsequently reviewed in 2013, 2018, and 2021 to adapt to changes in the energy dynamics in the country. In terms of implementation, NEP provides short, medium, and long-term strategies for policy implementation, and emphasizes collaboration, planning, and prioritization.

The key objectives of NEP include the optimum utilization of Nigeria's energy resources for sustainable national development, and to engender active participation of the private sector in energy development. The NEP covers Nigeria's energy sectors and resources, including petroleum (covering crude oil, natural gas, and shale hydrocarbon resources), coal and tar sands/bitumen), nuclear energy, renewable energy (hydropower, solar, wind, and hydrogen), bioenergy, and electricity. *The NEP also emphasizes energy efficiency and conservation, environmental risks, climate change, gender, and financing for energy projects.* Compliance with NEP aligns with key requirements of AfDB OS3 that promotes the sustainable use of resources (including energy) and prevention of pollution resulting from solid, liquid and gaseous wastes, radiation, vibration, noise, and electromagnetic wastes into the ecosystem.

• ***Nigerian Climate Change Act 2021***

The Climate Change Act 2021 (CCA) is Nigeria's efforts at mitigating the impact of climate change and promoting sustainable development. The CCA provides a framework for climate actions at the national level that positions Nigeria to achieve long-term goals in terms of climate change mitigation and adaptation. The CCA espouses the mainstreaming of climate actions and programs into

environmental policies and national development towards net-zero greenhouse gas emissions by the year 2050-2070.

In June 2024, the Nigerian President approved the mandate for the Special Envoy on Climate Action (SPEC)³⁴ with powers and roles derived from the CCA. The CCA also provides for a Climate Change Fund (CCF), which receives sundry sums, subventions and grants and donations, funding from International Organizations, fines and charges from private and public entities, carbon tax and carbon emission trading. The Fund is used for the payment of salaries and other emoluments of members of the Council, for funding new climate change mitigation projects, for conducting assessments of climate change impact on vulnerable communities. The CCA provides for a system of carbon budgeting, aiming at controlling and limiting the temperature increase according to Nigeria's international obligations.

The CCA also enabled development of National Climate Change Action Plan and defines the climate change obligations of MDAs and other entities, including private concerns, integration of climate change into educational curricula; and promotion of nature-based solutions to reducing greenhouse gas emission and mitigating climate change issues. The Presidential Committee on Climate Action and Green Economic Solutions (P-CAGE), inaugurated in June 2024, collaborates with other MDAs and serves as the lead negotiator on climate-related matters and carbon market initiatives on behalf of the Federal Government of Nigeria, reporting directly to the President. The P-CAGE supervises all interfaces between the Secretariat of the National Council on Climate Change (NCCC) and the NCCC Supervising Council, chaired by the President. The P-CAGE is the chief diplomat and prime representative of the Federal Republic of Nigeria on all climate-related engagements and negotiations while supervising the Energy Transition Office.

In general, the CCA integrates climate considerations into the governance and development agenda of Nigeria, while addressing global climate obligations. Therefore, aligning AfDB-funded projects with the CCA ensures both compliance Nigerian statutes, satisfaction of OS3, Bank Climate Change Mainstreaming Principles (climate risk assessment and GHG accounting tracking and reporting), Joint MDB Climate Finance Tracking Methodology; MDB Paris Alignment Methodology and adherence to international best practices.

- ***National Climate Change Policy, 2021-2030***

The National Climate Change Policy (NCCP) in Nigeria³⁵ was developed by the National Council on Climate Change, an agency of the Federal Ministry of Environment. The NCCP is the framework that guides Nigeria's response to the challenge of climate change and aims to foster low-carbon and high-growth economic development, to build a climate-resilient society and strengthen national institutions and regulatory mechanisms (policy, legislative and economic) for the governance of climate change.

The CCA facilitated the establishment of The Nigeria Climate Change Policy Response and Strategy (NCCPRS), the framework guiding Nigeria's response to the development challenges posed by climate change, which was developed through a participatory process involving relevant Ministries, Departments, and Agencies at Federal and State levels, private sector operators, and the communities. The formulation of action plan and implementation framework, sensitization, capacity building and strengthening in research and development in climate change matters, climate change governance, financing Nigerian Climate Change Policy Response and Strategy (NCCPRS) programmes, and international cooperation.

- ***The Nigeria Centre for Disease Control and Prevention (NCDC) Establishment Act 2018***

The Nigeria Centre for Disease Control and Prevention (NCDC) Establishment Act was the statute that established the NCDC. The NCDC is an agency of the Federal Ministry of Health, and it is

Nigeria's lead agency for implementation of international health regulations and coordination. The key objectives include: (i) protection of Nigerians from the impact of communicable diseases of public health importance; (ii) maintains high state of alertness to detect and respond to disease outbreaks, public health disasters, and mass morbidity and mortality due to pathogenic, chemical, or biological agents; (iii) the development and coordination of an information network for the reporting and notification of communicable diseases; (iv) development and communication of guidelines and standards for relevant public health activities; and (v) the provision of advisory on public health threats, safe patient management and self-protection of public health professionals. The NCDC Act aligns with the community health safeguard aspects of AfDB's OS 4 in terms of communicable diseases.

- ***National Commission on Museums and Monuments, NCMM, Act Cap N19 LFN 2004***

The NCMM is an agency of the Federal Ministry of Culture, Tourism and National Orientation. The enactment of the National Commission for Museums and Monuments Act of 1979 was the first attempt at addressing the issues around the cultural heritage in Nigeria. It was a bold attempt at preserving the culture and cultural heritage of the people of Nigeria. However, the Act has been judged to have some limitations that hinder its ability to address the issues it was set out to tackle. A critical issue with the Act is that it does not consider the provisions of the Land Use Act of 1978 regarding the vesting of title in land to the state governments³⁶, which affects the management and preservation of cultural heritage sites. The NCMM is also marred by paucity of resources that render it ineffective in the management of national museums, antiquities, and monuments.

- ***Trafficking in Persons (Prohibition) Enforcement and Administration (TPPEA) Act 2003***

The TPPEA Act 2003 is the statute that enacted the National Agency for the Prohibition of Trafficking in Persons (NAPTIP), an agency of the Federal Ministry of Women Affairs and Social Development. The mandate of NAPTIP is combat human trafficking and other similar human rights violations in Nigeria³⁷. The agency provides the platform for addressing human trafficking, to protect children from trafficking and other forms of exploitation, including Child Labor and sexual exploitation and abuse. NAPTIP also provide support to address violence against people, and similar crimes against persons³⁸.

- ***Violence Against Persons (Prohibition) Act (VAPPA) 2015***

The VAPP Act prohibits all forms of violence, including physical, sexual, psychological, and domestic, and harmful traditional practices. The main aim is to "prohibit all forms of violence against people, ensure appropriate punishment for offenders, and provide maximum protection and effective remedies for victims". VAPP Act criminalized Sexual Gender Based Violence (SGBV), Harmful Practices (HP) and Violence Against Women and Girls (VAWG). The VAPP Act expanded the definition of rape to include non-consensual penetration of anybody opening of any, and by any, of the genders. Thus, both males and females can be perpetrators as well as victims of rape. This Act aligns with aspects of OS7. However, the VAPPA Act is a federal law and most states have not domesticated it due to socio-cultural dissension, therefore, suffers weak enforcement.

Although the VAPP Act 2015 criminalizes sexual harassment, it does not dwell on prohibition of sexual harassment in the workplace, as the VAPP Act focuses on domestic gender violence³⁹. VAPP Act is not equally implemented across the entire jurisdictions of Nigeria as only two states (Lagos and Rivers) and the Federal Capital Territory have criminalized sexual harassment in the workplace⁴⁰. The implementation of gender-based laws is marred by prolonged delays in the court system, insufficient human expertise in sexual violence adjudication, bureaucratic hurdles, and impunity by powerful offenders who exploit loopholes in Nigeria's judicial system to escape punishment⁴¹.

- ***Nigerian Labour Act, Cap L1 2004***

The Nigerian Labour Act is a comprehensive legislation that governs labour practices in Nigeria. The Act was enacted to repeal and replace the Labour Code Act and consolidate the laws relating to labour⁴². The Nigerian Labour Act aims to regulate employment contracts and relationships between employees and employers. Consequently, the Act provides for protection of wages, contracts of employment, and sets terms and conditions of employment. The key provisions of the Nigeria Labour Act include the following:

- ✓ provides for the issuance of employment contracts for all employees;
- ✓ stipulates the minimum wage that must be paid to employees;
- ✓ regulates the working hours, rest periods, and conditions for overtime;
- ✓ provides for leave entitlements, including annual leave, sick leave, and maternity leave;
- ✓ governs termination of employment and redundancy procedures; and
- ✓ sets the basis for employee benefits to those eligible.

In addition, the Nigerian Labour Act addresses workplace safety by mandating employers to comply with the provisions of the Factories Act, to ensure the safety of workers, provide of a safe workplace and work equipment, and ensure that work equipment is in safe working conditions. The Labour Act provides for mandatory benefits such as pension and gratuity, and compensation for work-related injuries, illnesses, or death. It provides for fair treatment and protection against unfair dismissal, suspension, termination, demotion, or other sanctions; and protection of wages, which must be paid in legal tender compliance with legitimate payment schedules.

However, gaps still exist in the Labour Act in terms of gender equality. Specifically, Section 55(1) prohibits women from working nightshift on production lines or in factories and industries involving manual labour. This effectively discriminates against women by limiting their promotion to management levels, which often require experience across all work schedules including night shifts. Also, the Labour Act does not explicitly provide workplace grievance mechanisms, and the compliance enforcement is weak due to inadequate capacity and funding.

In general, the Nigerian Labour Act aligns with AfDB's ISS Operational Safeguard 2 (Labour and Working Conditions). However, there are key areas where further alignment or enhancement may be needed, which may be addressed by integrating national laws with international standards. These can be achieved by deploying the following measures:

- ✓ Compliance with both the Labour Act and international labour standards clearly outlines scenarios for the employment of people under 18 years;
- ✓ Establishment of Labour Management Plans (LMPs) for projects to ensure compliance with both the Labour Act and AfDB ISS requirements;
- ✓ For Occupational Health and Safety (OHS), need to supplement compliance with Labour Act with internationally recognized standards such as ISO 45001 in project-specific frameworks;
- ✓ Incorporation of gender-sensitive policies in project implementation to complement the Labour Act;
- ✓ Capacity building for employers and workers and enhanced monitoring and audits; and
- ✓ Strengthen Institutional Capacity for labour inspection and enforcement agencies to address resource and capacity challenges.

- ***Labour Conventions Ratified by Nigeria***

Nigeria has also ratified 2 of 3 key international labour conventions on occupational safety and health. Conventions C155 (Occupational safety and health) and C187 (Promotional framework) have been ratified by Nigeria, but convention C161 on “Occupational health services” is yet to be ratified⁴³. The

unratified convention C161 supports entities that provide advisory services to both employers and employees on establishing and maintaining a safe and healthy working environment and adapting work to workers' capabilities based on their physical and mental health conditions. In terms, of grievances, the Nigerian system mandates each organization to have an internal mechanism, which must be exhausted before resorting to external arbitration or litigation.

- ***The Factories Act, CAP F1, Laws of the Federation of Nigeria (L.F.N) 2004***

The main laws on Occupational Safety and Health in Nigeria are the Factory Act and the major regulations under the Factories Act include:

- ✓ *Factories (Wood working Machinery) Regulations, LN 189 1958*: this regulation provides guidance for the conduct of any factory or parts thereof and to any place to which Section 46 of the Act applies in which woodwork occurs. It speaks about the provision of equipment and machinery, fencing and guards in such establishments;
- ✓ *Factories (Notification of Dangerous Occurrences) Regulations LN 105 of 1961*: Provides guidance for the notification of accidents and dangerous occurrences in accordance with Section 51- 52 of the Act, whether death or disablement occurs;
- ✓ *Docks (Safety of Labour) Regulations, LN 42 of 1958*: Provides guidance for the process of loading, unloading or bunking any vessel in any dock in a Port and to all machinery or plant used in those processes;
- ✓ *Factories (Registration, Fees etc.) Regulations 2007*: Provides for fees payable for the certification and appointment of „approved persons“ for the purposes of lifting equipment inspection and certification and registration and renewal of Certificate of Registration of Factory Premises;
- ✓ *Docks (Sanitary Accommodation) Regulations, 1958*: Provides for the provision of sanitary conveniences to all docks under the jurisdiction of the Docks (Safety of Labour) Regulations.
- ✓ *Declaration of Industrial Diseases Notice. LN. 114 of 1956*: Provides for the identification of diseases or illnesses that might be contracted by an employed person by reason of the nature of his employment; and
- ✓ *First Aid Boxes (Prescribed Standards) Or der. LN 188 of 1958*: Gives specifications for the provision of first aid boxes to be provided at factories in line with the number of employees present.

In general, the Factories Act aligns with occupational health and safety provisions of OS 2, and according to a publication by the Federal Ministry of Labour and Employment,⁴⁴ the entities in charge of enforcing the Factory Act and regulations thereof, within their respective domains of authority, include the following:

- ✓ OSH Department, Federal Ministry of Labour and Employment;
- ✓ OSH Department, Federal Ministry of Health;
- ✓ Federal Ministry of Environment;
- ✓ Nigerian Nuclear Regulatory Authority;
- ✓ The National Upstream Regulatory Commission (NUPRC); and
- ✓ Nigerian Maritime Administration and Safety.
- ✓ Lagos State Safety Commission; and
- ✓ National Emergency Management Authority.

- ***The National Policy on Employment (NPEm), 2017***

Legislative powers are shared between the Federal and State governments, but the Federal government has exclusive power over labour issues such as trade unions, industrial relations, and worker welfare. However, both the Federal and State governments can legislate occupational safety and health, as well as promote industrial, commercial, or agricultural development. The NPEm was

formulated with the assistance of, and in collaboration with, the International Labour Organization to address employment challenges in Nigeria⁴⁵. The NPEM is guided by Chapter II, section 17 of the 1999 Constitution that espouses the following:

- ✓ Equal opportunity for all citizens to secure employment without discrimination;
- ✓ Just and humane working conditions with adequate leisure and social facilities;
- ✓ Protection of health, safety, and welfare of workers; and
- ✓ Equal pay for equal work regardless of sex or other discriminatory grounds.

The aims and objectives of Nigeria's National Employment Policy include:

- ✓ Accelerate employment generation;
- ✓ Reduce high rates of unemployment; and
- ✓ Achieve full, productive, and freely chosen employment.

Key strategies for realizing the aims and objectives of the National Policy on Employment include the following:

- ✓ Revitalizing the private sector.
- ✓ Transforming agriculture;
- ✓ Improving infrastructure;
- ✓ Enhancing market access for businesses; and
- ✓ Providing credit facilities.

• ***Central Bank of Nigeria Act, 2007***

The Central Bank of Nigeria (CBN) Act of 2007⁴⁶ provides for the establishment of the CBN, its objectives, head office, and branches, it outlines the capital requirements, operating surplus, and general reserve fund of the CBN, and contains the details of the Board of Directors and management structure of the CBN. The Act empowers CBN to control and administer the Federal Government's monetary and financial sector policies. It also mandates CBN to ensure monetary and price stability, issue legal tender currency, maintain external reserves, promote a sound financial system, and advise the Federal Government on economic and financial matters.

• ***Banks and Other Financial Institutions (BOFIA) Act 2020***

The Nigerian BOFIA Act 2020 was enacted to overhaul and reposition the banking and finance sector with a view to enhancing the soundness and resilience of the financial system for sustainable growth and development of the Nigerian economy. However, the BOFIA Act 2020 does not explicitly mention environmental considerations⁴⁷. Whilst the BOFIA Act 2020 does not explicitly address environmental considerations, it does provide a framework for financial institutions to operate responsibly and ethically in compliance with all extant laws. Therefore, BOFIA can be implied to expect financial institutions to comply with all environmental laws and regulations that safeguard the environment and social wellbeing of Nigeria, but it did not empower them to ensure E&S compliance for all projects in their portfolio.

An acceptable standard of practice is that financial institutions involved in funding or supporting development projects are to ensure that Environmental and Social Impact Assessments (ESIAs) are conducted for those projects. Financial intermediaries can enforce compliance with social and environmental safeguards if they link their project funding operations to compliance with E&S safeguards. However, financial institutions are not required by any law to tie their loan disbursement to environmental and social compliance, which means that the BOFIA Act does not address the safeguard requirements outlined in OS9.

2.3.3 Institutional and administrative structure (key institutions responsible for environmental and social safeguards)

• **Federal Ministry of Environment**

The Federal Ministry of Environment (FMEnv) is the arm of the Federal Government that is saddled with the executive responsibility of protecting the Nigerian environment, conserving her natural resources and fostering sustainable development of the country. The FMEnv was created in 1999 and mandated to be the guardian of Nigeria's natural environment, resources and actualize the national and global vision of the Federal Republic of Nigeria.

The Ministry also serves as the best agent for domestication of global environmental practices. The vision of FMEnv is “to be a Nation that develops in harmony with its environment”, while the mission is to “to ensure environmental protection, natural resources conservation and sustainable development”. The mandate of the FMEnv can be summarized as follows:

- ✓ Securing a conducive environment for good health and wellbeing of fauna and flora, while promoting sustainable use of natural resources;
- ✓ Restoring and maintaining the ecosystem, ecological process and preserving biodiversity, and promoting awareness and understanding of environmental linkages; and
- ✓ Cooperating with other Ministries Departments and Agencies, the private sector and local and international civil society organizations on environmental matters.

• **Environmental Assessment Department of the FMEnv**

The agency in charge of Environmental and Social Assessment in Nigeria is the EAD of the Federal Ministry of Environment. The EAD is a technical department established at the inception of the Ministry in 1999 and charged with the responsibility of implementing the EIA Act E12 LFN 2004, which means that EAD ensures that development projects comply with the EIA Act⁴⁸. The administrative EAD structure is as follows:

- ✓ *Environmental Impact Assessment Division*⁴⁹: The EIA Division is responsible for implementing the EIA Act E12 LFN 2004. This division oversees the entire EIA process: project registration, screening, scoping, public display and review of EIA, approval and EIA certification, and maintenance/management of EIA Public Registry and data bank. The Environmental Assessment Department has a web portal to aid the implementation of the EIA process. The EAD also has a website for announcements and public display of ESIA, ESMPs and related environmental reports for public review⁵⁰;
- ✓ *Mining Environmental Assessment Division*: This division is specifically charged with handling EIAs of mining projects, monitoring mine closure and rehabilitation to ensure that all mining projects comply with E&S safeguards;
- ✓ *Environmental Standards & Monitoring Division*: This division is mandated to oversee the environmental audit (EAu)/environmental management system (EMS). This division also handles decommissioning, post impact assessment (PIA), environmental compliance monitoring (ECM), ecolabelling, regulation of laboratory services, and review of guidelines; and
- ✓ *Oil and Gas Division*: This division is responsible for environmental compliance monitoring of operational phase of Upstream and Downstream Oil & Gas Facilities and Activities, and issuance of operational permits; and Certification of Environmental Audit of Oil and Gas Facilities, including post impact assessment (PIA), environmental evaluation studies (EES) and operations, monitoring of implementation of gas flare down policy, addressing social health, safety and environment (HSE) issues, and supervision of NOSDRA.

• **National Environmental Standards & Regulations Enforcement Agency (NESREA)**

The NESREA is a regulatory agency of the Federal Ministry of Environment. The basic responsibilities of NESREA are to enforce compliance with environmental laws, standards and regulations including the EIA Act E12 LFN 2004. Among the responsibilities of NESREA is also to protect human beings, the environment and conserve biodiversity by preventing pollution from industries and facilities generating waste. To discharge its duties, NESREA coordinates and liaises with relevant stakeholders within and outside Nigeria on matters of enforcement of environmental laws, standards, regulations, policies and guidelines. NESREA also enforces compliance with international environmental agreements, protocols, conventions, and treaties to which Nigeria is a signatory.

- ***Nigerian Maritime Administration and Safety Agency (NIMASA)***

The Nigerian Maritime Administration and Safety Agency (NIMASA) was set up by the NIMASA Act of 2007 and within its mandate are several environmental aspects related to maritime safety, security, and marine pollution. The mandate of NIMASA with environmental dimensions include:

- ✓ *Marine Pollution Prevention:* NIMASA is responsible for the enforcement of international conventions and regulations for preventing pollution from ships. NIMASA also implements the Merchant Shipping Act (MSA), 2007 that espouses measures for safeguarding Nigeria's marine environment. NIMASA also enforces the Merchant Shipping (Marine Environment) Regulations, 2012 provide guidelines for pollution prevention;
- ✓ *Implementation of International Conventions and Protocols:* NIMASA is Nigeria's institution for implementing international conventions and protocols related to marine pollution prevention that Nigeria has signed;
- ✓ *Removal of Shipwrecks and enforcing use of antifouling system:* In line with the Nairobi International Convention on the Removal of Wrecks 2007, NIMASA is responsible for removal of shipwrecks and prevention of environmental damage from shipwrecks within Nigeria's maritime domain. NIMASA enforces the use of antifouling systems to prevent harmful substances from ship coatings. Thus, ensuring compliance with the International Convention on the Control of Harmful Anti-fouling Systems on Ships (AFS), 2001; and
- ✓ *Air/Coastal Surveillance and marine accident investigation:* NIMASA monitors air and coastal activities to prevent pollution incidents and respond promptly, when necessary, as well as investigates marine accidents to identify environmental implications and safety measures.

- ***National Park Service of Nigeria (NPSN)***

A total of five national parks became established as the National Park Service in 1991 by National Park Service Act 46 (Cap 65 LFN 2004). In 1992, Yankari Game Reserve was listed as a national park and became part of the NPSN, and in 1999, two additional parks were listed, but Yankari was delisted in 2006, thus making a total of seven national parks constituting the NPSN. These national parks cover about 3%⁵¹ of Nigeria's land area and are managed by the Federal Ministry of Environment. The functions of the NPSN include preserving, enhancing, protecting, and managing national parks and advising the government on policies and financial needs. The objectives are to conserve wildlife communities, protect endangered species and their habitats, maintain biodiversity, preserve natural values, and ensure sustainable utilization for public benefit.

- ***National Agency for the Great Wall (NAGGW)***

In other to combat the ravaging degradation occasioned by desertification due to the encroachment of the Sahara, the EU instituted the Great Green Wall of the Sahara and the Sahel (GGWSS) project, in 2007, to combat degradation and deforestation by establishing a swath of three across the breath of

Africa (from Dakar to Djibouti) on the fringes of the Sahara Desert. Consequently, the EU mobilized resources to support the actualization of the initiative, with each country contributing its quota. Thus, the NAGGW, an agency of the Federal Ministry of Environment (FMEnv), was established by NAGGW (Establishment) Act 2015 to actualize the GGWSS project of the African Union.

The aim of NAGGW is to halt/reverse land degradation, prevent depletion of biological diversity, ensure resilient ecosystems and provide essential services that contribute to human welfare, eradication of poverty, and enhance food security. The NAGGW agency is also meant to support communities to adapt to climate change in frontline Nigerian states found at the extreme northern end of Nigeria (Sokoto, Kebbi, Zamfara, Katsina, Kano, Jigawa, Bauchi, Gombe, Yobe, Borno, and Adamawa states).

- ***Federal Ministry of Housing and Urban Development (FMH&UD)***

The Ministry has the mandate to formulate and implement policies, programs and projects of the Federal Government of Nigeria (FGN) with respect to habitat and affordable housing for Nigerians. The Ministry pursues diversity and growth through continuous provision of affordable housing across the country. The Ministry superintends on matters of land and housing development, among several functions. The Department of Land and Housing under the Ministry has the following specific functions, amongst others.⁵²

- ✓ Administration and management of all real estate assets belonging to the Federal Government of Nigeria (FGN) and valuation of landed property for all FGN MDAs.
- ✓ Land acquisition and compensation of lands on behalf of FGN MDAs and registration of titles created for all Federal Government grants and leases.
- ✓ Formulation and implementation of policies on land including the National Land Policy and Land Reform Program of the Federal Government;
- ✓ The FMH&UD houses the Secretariat for the Land Use and Allocation Committee (LUAC), maintains a register of Federal Government Lands and properties, and grants temporary occupation licenses on surplus Government lands and assesses, and collects ground rent, rack rents and license fees on such occupation licenses;
- ✓ The FMH&UD provides the leadership direction for implementation of the policy, administration and management of land for the State and Local Governments; and
- ✓ The FMH&UD is the focal point for collaboration with bilateral and multilateral development partners and agencies on matters relating to land for agriculture, housing development, housing finance/mortgage and land administration reforms.

- ***Nigerian Upstream Petroleum Regulatory Commission (NUPRC)***

The Nigerian Upstream Petroleum Regulatory Commission (NUPRC), previously known as Department of Petroleum Resources (DPR) is a regulatory agency of the Federal Ministry of Petroleum Resources (FMPR), that enforces compliance with regulations and laws within the Nigerian oil and gas sector. The NUPRC is responsible for monitoring and regulating the oil and gas industry in Nigeria, including the health, safety and environmental aspects of the petroleum industry operations.

The functions of the NUPRC include overseeing and regulating oil and gas activities in Nigeria, conserving Nigeria's hydrocarbon resources, administration of concessions, supervision of operations and processing, and issuance of oil industry permits. NUPRC enforces its established guidelines and regulations to ensure health, safety, and environmental protection in the oil and gas sector. The upstream petroleum safety regulations and guidelines are to ensure sufficient safety provisions to meet international standards.

The environmental risk register requires, in part, environmental impact assessment (EIA) to identify, evaluate and manage risks a proponent's projects pose to people and the environment. NUPRC enforces the provisions of the Petroleum Industry Act 2021, that require operators to conduct EIAs before commencing any projects. The EIA must identify, assess, evaluate and quantify all potential impact and proffer and implement appropriate mitigation measures to prevent resource depletion and/or ecological pollution. There shall also be an environmental management and monitoring plan, and post-impact assessment, which are also enforced by NUPRC.

• ***The Nigerian Midstream and Downstream Petroleum Regulatory Authority (NMDPRA)***

The NMDPRA was established in compliance with the Petroleum Industry Act (PIA) 2021. The NMDPRA is a merger of three defunct regulatory agencies: the Petroleum Products Pricing Regulatory Agency (PPPRA), the Petroleum Equalization Fund {Management} Board (PEFMB), and the Midstream and Downstream Divisions of the Department of Petroleum Resources (DPR), as the Agency in charge of technical and commercial regulation of the midstream and downstream operations in the Nigerian petroleum industry. The key objectives of NMDPRA include:

- ✓ regulate and monitor midstream and downstream operations in Nigeria;
- ✓ determine appropriate tariff methodology for the industry;
- ✓ set cost benchmarks for midstream and downstream operations;
- ✓ encourage sustainable growth across Nigeria's midstream and downstream value chain; and
- ✓ promote adequate product pricing, supply, and distribution.

The role of NMDPRA also includes regulating and monitoring health, safety and environmental issues, setting environmental standards, licensing regarding environmental protection, and imposition of sanctions and penalties for non-compliance with environmental regulations.

The NMDPRA engages local communities directly impacted by operations to ensure inclusive transition to net-zero carbon emissions and encourages stakeholders to confront emerging challenges related to carbon emissions. NMDPRA also performs regulatory oversight to drive sustainable development across Nigeria's midstream and downstream.

• ***Federal Ministry of Women Affairs and Social Development (FMWA&SD)***

The Federal Ministry of Women Affairs and Social Development (FMWA&SD) plays a critical role in advocating for women's rights, empowerment, and social well-being in Nigeria. The Ministry focuses on promoting the development of women and children. mandate and purpose of the FMWA&SD are to realize the government's actions on issues around gender, children and matters affecting the aged persons and those with disabilities. The ministry is instrumental in initiating policy guidelines and leading efforts toward gender equality and mainstreaming at both the national and international levels.

The vision and focus of the FMWA&SD are to ensure equal access to social, economic, and wealth creation opportunities for all, regardless of gender, in Nigeria. To this end, FMWA&SD focuses on the protection of children, the aged, and people with disabilities, by engaging critical stakeholders in both the private and public sectors to prioritize the concerns of these groups in national development processes.

The ministry collaborates with various organizations including UN-Women, to advance gender equality and social Development. The goals of the ministry are achieved through its flagship agency, the National Centre for Women Development (NCWD). The NCWD was established in 1992, and it is modelled after the International Research and Training Institute for the Advancement of Women (INSTRAW). The NCWD plays a crucial role in advancing women's rights, empowerment, and well-being in Nigeria.

The focus of NCWD is on training and economic empowerment of, especially rural women, women to better their lives. In addition to training and research, NCWD also engages in advocacy against

gender-based violence and it launched the gender-based violence (GBV) Dashboard to capture reported cases of violence against women. In November 2023, the National Resource Centre for Women in Politics (NRCWP) commissioned to support women's active participation in politics, in collaboration with UN Women, a collaborative UN-sponsored program promoting women's participation in politics and decision-making in Nigeria.

- **National Centre for Women Development**

The NCWD is an important agency under the Federal Ministry of Women Affairs and Social Development, established by Decree No. 11 Section 1 (5) of 1995. The NCWD was commissioned on October 17, 1997, and modelled after the United Nations International Research and Training Institute for the Advancement of Women (INSTRAW). NCWD is charged with the responsibility of stimulating and promoting the development of Nigerian Women. The NCWD facilitates the formulation of policies, skills development and income generating activities for the Nigerian women in both urban and rural centres. The NCWD is the databank on women and development in Nigeria and offers guidance and counselling to Nigerian women⁵³, and engages in promoting gender equality and women's empowerment in Nigeria.

- **The Central Bank of Nigeria (CBN)**

The Central Bank of Nigeria (CBN) is the primary monetary authority in Nigeria and it is backed by the Central Bank of Nigeria (CBN) Act of 2007. The CBN supports the economic development initiatives of Nigeria and collaborates with international financial institutions to this effect. The important functions of CBN include:

- ✓ Formulation and implementation of Nigeria's monetary policy to ensure price stability and support the economic policy of the Federal Government;
- ✓ Fostering financial stability and acting as a lender of last resort to financial institutions, basically the financial intermediaries in development financing;
- ✓ Manage Nigeria's currency, issuing the nation's legal tender currency and managing her foreign reserves;
- ✓ Regulating and supervising financial institutions operating in the country to ensure a sound financial system; and
- ✓ Overseeing the payment system, including promoting cashless transactions and ensuring continuous improvement in providing such service.

The Central Bank of Nigeria has in place a Financial System Strategy (FSS)⁵⁴ to, among others, “*accelerate the development of the Nigerian financial system through a collaborative stakeholders' approach*” and to drive initiatives that will expand Nigerian Capital Market. The FSS was initiated by the CBN in 2006, followed by an international stakeholder sensitization workshop held in 2007, and by 2020, the FSS was relaunched as Financial System Strategy Secretariat 2020 (FSS2020), with a dedicated Secretariat within the CBN. Among other mandates FSS2020 is meant to attract diaspora investments and other investment flow, while ensuring securitization of investments.

Under the purview of the CBN, the Bankers' Committee of Nigeria have issued an advisory document on E&S called “*The Nigerian Sustainable Banking Principles*” (NSBP). The NSBP are a set of nine principles that aim to ensure that bankers mainstream ESG issues in their operations. However, the NSBPs are not mandatory, and its enforcement presently does not extend to borrowers, even though NSBP mandates the banks to ensure E&S assessment of their operations including those of their portfolios.

- **Securities and Exchange Commission (SEC)**

The Investments and Securities Act (ISA) 2007 established the Securities and Exchange Commission (SEC) and repealed ISA of 1999. The ISA 2007 also enlarged the powers and functions of SEC and mandates more comprehensive regulation of investment and securities business in Nigeria. The duties

of the Securities and Exchange Commission (SEC) include regulation of the market through registration of securities and market intermediaries that only qualified entities are allowed to operate in the financial market. The SEC also regulates onsite or off-site inspection at determine intervals, seeking information from operators, and through inquiries and audits of players in the market. The SEC also conducts oversights into exchanges and trading systems to forestall breaches of market rules as well as deter manipulations and trading practices which can cause market disruption. Also, SEC investigates alleged breaches of the statutes governing the capital market and enforces sanctions appropriately.

Where market operators are duly proven to have breached relevant statutes, SEC is mandated to enforce sanctions, and where necessary, SEC plays a mediatory role between parties involved in a dispute. If the mediation fails, the disputing parties are then free to proceed to higher level arbitration that ends at the Investment and Securities Tribunal (IST). Breach of SEC statutes may lead to fines, bans, suspension or criminal prosecution, in cases involving fraud. To develop the capital market, SEC collaborates with its stakeholders to formulate new products or processes that stimulate investor participation in the market by raising awareness, training, publications and through participatory activities.

- ***Financial Reporting Council (FRC) of Nigeria Act, No. 6, 2011***

The FRC of Nigeria Act 2011 is the Act that established the Financial Reporting Council of Nigeria (FRCN), which is responsible for developing and publishing standards for accounting and financial reporting in Nigeria. The FRC replaces the now defunct Nigerian Accounting Standards Board (NASB), with additional responsibilities for corporate governance and regulation of the audit profession. The powers of FRC include the “*enforce and approve enforcement of compliance with accounting, auditing, corporate governance and financial reporting standards in Nigeria*”, while its functions include to “*review, promote and enforce compliance with the accounting and financial reporting standards adopted by the Council.*”

In exercise of its powers and functions, the FRC has adopted the International Financial Reporting Standards (IFRS) sustainability disclosure standards developed by the International Sustainability Standards Board (ISSB) in Nigeria. The standards provide a framework for disclosure of sustainability-related information. Consequently, the FRC has released a documented Roadmap Report for Adoption of IFRS Sustainability Disclosure Standards in Nigeria to guide financial institutions, and mandated them, to mainstream IFRS in their reporting framework.

- ***State Ministries of Environment***

In each of the 36 states of the federation, there is either a Ministry of Environment and/or an Environmental Protection Agency that is charged with the responsibility of providing a decent, orderly and reasonable conducive environment for habitable society, as contained in the assignments of Ministerial responsibilities. *Inter alia*, the State Ministries of Environment are empowered to give direction to all issues concerning the environment within its state, to monitor and to control pollution and disposal of solid, gaseous and liquid wastes generated by various facilities in their states. Some of the functions of the State Ministries of Environment include:

- ✓ Liaising with the Federal Ministry of Environment to achieve healthy or better management of the environment via development of National Policy on Environment;
- ✓ Co-operating with FMEnv and other National Departments/Agencies in the performance of environmental functions including environmental education/awareness to the citizenry;
- ✓ Responsibility for monitoring waste management standards;
- ✓ Responsibility for general environmental matters in the State; and

- ✓ Monitoring the implementation of EIA studies and other environmental studies for all development projects in the State, even though the federal legislation serves as the benchmark in the execution of standards in the states.

2.3.4 E&S Governance (institutional capacity and coordination, implementation and enforcement of E&S policies, public participation, and transparency)

Institutional capacity and coordination are foundational to the E&S governance system, which provides the platform for implementing and enforcing E&S policies. A well-functioning governance system promotes transparency and public participation. Its effectiveness can be assessed through empirical indicators that track progress towards environmental and social sustainability. Stakeholder engagement, a key component of a robust ESIA process, is anchored on key indicators such as institutional capacity, inclusion, and transparency, which enhance the outcomes of participation and collaboration⁵⁵. These elements are essential for effective policy implementation and enforcement in Nigeria. In Nigeria, the key features of Nigeria's Environmental and Social Impact Assessment (ESIA)⁵⁶ include the following:

- ✓ The Environmental Assessment Department (EAD) of the Federal Ministry of Environment (FMEEnv) oversees the ESIA process, which is managed through a dedicated web portal;⁵⁷
- ✓ The ESIA process involves a description of proposed activities and the recipient environment, including specific information necessary to identify and assess environmental impacts;
- ✓ The ESIA procedural guideline provides detailed steps, responsibilities, and documentation required for the assessment; and
- ✓ Public participation is an integral part of the ESIA process, ensuring transparency and community involvement.

The Environmental and Social Impact Assessments (ESIAs) process in Nigeria involves important sequential steps shown in the flowchart in Fig. 2 and summarized below.

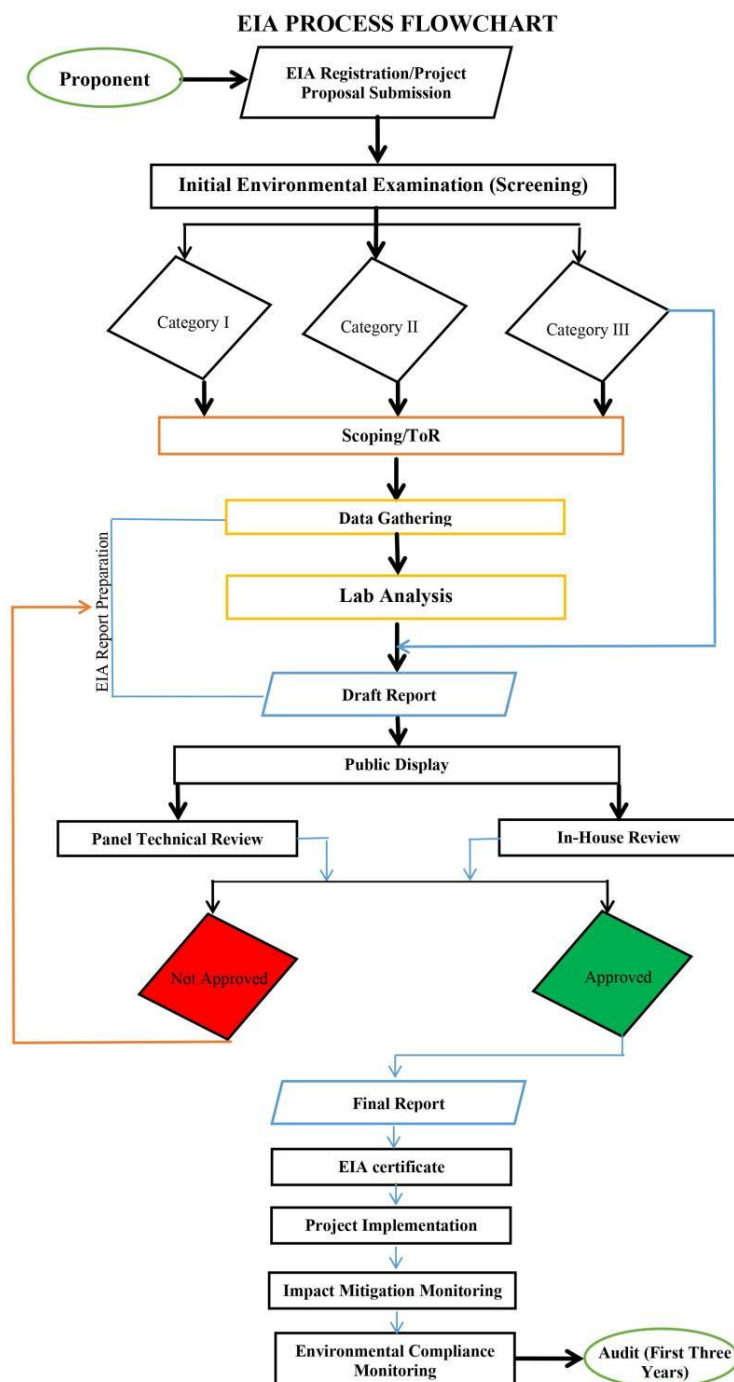


Figure 2.2. The EIA process in Nigeria

• *Initiation and Preparation of ESIA*

The E&S assessment process starts with the preparation and registration of terms-of-reference (TOR) with the Environmental Impact Assessment Department (EAD) of the Federal Ministry of Environment. If the process proceeds to site verification and initial environmental evaluation of the registered TOR. Thereafter, the proposal is subjected to screening and categorization of the project

into either A, B or C categories depending on project type, scope and/or nature of the environmental and social setting of the project.

After screening and categorization, the scoping exercise is then carried out. Scoping entails the description of project and project activities, definition of baseline environmental and social conditions, evaluation of project alternatives/options and selection of preferred project option to determine the scope of the assessment that would be required. Subsequently, the environmental and social impacts are identified, assessed, and evaluated. This entails the impact prediction, evaluation and analysis (including residuals), preparation of a draft ESIA report including ESMP.

- **Regulatory decision phase**

Upon preparation and submission of the EIA report, it is subjected to the review process, public disclosure, public hearing (Category A and some B) panel review (Category B) or mediation (Category C). Public disclosure and review (including at community levels) for Categories A & B, entails publication in both national and local dailies, announcement on radio/television stations and, a 21-day display of the ESIA report at strategic locations (EAD, FMEnv zonal offices, State Ministries of Environment, Local Government Area headquarters, and community centers, among others) to enable stakeholders gain access to review the report and make, *inter alia*, their contributions, observations, grievances and opinions. Upon successful review, interim approval is granted along with conditions for the approval. The proponent then prepares a final ESIA report/ESMP incorporating comments received, the final approval granted and ESIA certificate/statement issued.

- **Project implementation/operation phase**

After interim EIA approval, and depending on the conditions of approval, project implementation can commence in accordance with the provisions of the EIA Act. The EIA Act specifies the need to undertake Impact Mitigation Monitoring as outlined in the approved ESMP/EIA. This is accomplished by the FMEnv in collaboration with state ministries of environment and LGAs to ensure the implementation of conditions of approval, implementation of mitigation measures, and ESMP. Upon the commissioning of project, Impacts Mitigation Monitoring (IMM) is closed out and environmental compliance monitoring commences. By now, the Environmental Impact Statement of the project has been published, and Environmental Audit is conducted and reviewed every three years during the operational life of the project.

- **Decommissioning and abandonment phase**

After the operational life of the project, the project is decommissioned and eventually abandoned. Prior to this, relevant data are collated on the project for preparation of the decommissioning plan. A decommissioning and abandonment plan is then prepared detailing estimates of costs, provision of financial resources for the decommissioning, and the plan is submitted to the EAD for review and approval. The approved decommissioning and abandonment plan is implemented in line with national requirements, including stakeholder consultation, consideration of clean up, removal and disposal of materials.

- **Stakeholder consultation in the EIA process**

By nature, the EIA process envisioned to be a transparent process, hence stakeholder consultation and public disclosure are integrated into the entire process. Consultation is done from the start to the end of the EIA process: from project initiation to project implementation/construction, operations and decommissioning/abandonment phases. The consultation process in the EIA involves public display, mediation and review panels. Public display entails making the report available to the public to make their inputs. Mediation involves engaging stakeholders including the local communities to assess and resolve concerns around projects amicably. Review panels entail engaging a representation of a

spectrum of stakeholders, including expert panel review to ensure that all relevant issues are considered in the ESIA process.

The screening of project proposals is the duty of the EAD, and it is done internally without any external input other than TOR prepared by a proponent. In contrast, the proponents are responsible for preparing EIA reports and facilitating public participation. This includes holding public consultations and hearings to engage affected communities and other stakeholders, which is meant to foster trust and better project outcomes. However, the outcome of screening could benefit from public disclosure, while stakeholder engagement and public disclosure could be improved if it were driven by the EAD.

Also, Nigeria has published the National Action Plan for the Promotion and Protection of Human Rights (NAPPPHR)⁵⁸, and has a framework for engaging various stakeholders irrespective of economic sector. Since the enactment of the EIA Act in 1992, several legislations with bearing on E&S assessment have been passed (see Annex 5.3), but the EIA Act itself remains same because the 2010 review of the Act has not yet been inaugurated into law.

- ***Challenges of the EIA process***

In a review of “contemporary environmental impact assessment issues in Nigeria”, the authors⁵⁹ outlined the challenges of the EIA process in Nigeria to include, among others, weak enforcement, low public participation, abuse of exclusion clause, lack of transparency and ineffective sanctions⁶⁰.

Similarly, the Centre for Environment, Human Rights and Development (CEHRD) outlined the challenges to include poor public displays of EIA reports, inefficient (manually operated) registry, weak penalties, limited technical capacity, and low funding⁶¹. In a report of a recent survey (published in October 2024), the respondents, comprising mostly of Nigerian EIA practitioners and regulators, the authors doubted the credibility of data utilized in EIAs in Nigeria and recommended the adoption of artificial intelligence in preparation of EIAs⁶².

Nigeria’s E&S process is lengthy and complex, which coupled with the bureaucracy involved, slows project implementation thereby putting pressure on the proponents. The E&S system suffers limited stakeholder engagement and public disclosure, leading to the glossing-over of potential impacts on local communities. There are also shortages of trained professionals, coupled with a paucity of funds, which affects the quality of ESIA documents. Similarly, there is dearth of reliable data to cover the diverse ecosystems of Nigeria⁶³.

A typical ESIA document⁶⁴ prepared using Nigeria E&S country assessment system was analyzed to identify the weakness as compared to AfDB ISS requirements and identify opportunities for improvement. The ESIA reviewed was for the construction of a 62Km 132kV power transmission line and two 60mVA substations, while the proponent was the Hydrocarbon Remediation Project (HYPREP), an agency of the Federal Ministry of Environment.

The outcomes of analysis of the ESIA of a 62Km 132kV power transmission line and two 60mVA substations, which was prepared and approved following the national E&S assessment system¹⁹ can be summarized as follows:

- ✓ Although the EIA listed project alternatives, none of them was subjected to further evaluation in terms of their potential E&S impacts to properly inform the decision-making process in the choice of the preferred option. Also, the scope of assessment appears inadequate, and the EIA team lacked critical technical expertise as it did not include an electrical engineer (for EIA of a power transmission and substation project). The incomplete scope, absence of critical expertise,

- and failure to assess the potential impacts of project alternatives suggest the EIA report did not comply with OS1;
- ✓ The nationally prepared EIA report analyzed did not explicitly elaborate on the issue of resource use efficiency and pollution prevention for the proposed power transmission and substations project as required to comply with OS3;
 - ✓ The description of the baseline social and environmental settings, which form the bases for impact identification, evaluation and ranking was inadequate as no serious efforts were made to cover the entire project area of influence in terms of biophysical or social environment. This limited scope of baseline social and environment study limited the quality of information available for the assessment and evaluation of social attributes that could guide the formulation of impacts on health and safety (OS4), land take and related matters (OS5), biodiversity and living resources (OS6), vulnerable groups (OS7) cultural heritage (OS8) and stakeholder engagement (OS10). Therefore, the report that was analyzed could not have complied with OS4, OS5, OS6, OS7, OS8 and OS10 in the form EAD approved it;
 - ✓ The report did not mention the total land area to be utilized for the 62km transmission line and two power substations. Although the land area requirement was not mentioned, it is known that a 62 km powerline will entail appropriation of vast land traversing several communities, which should trigger resettlement issues (OS5). However, this was not captured in the EIA report, thus the process is not in compliance with OS5; and
 - ✓ The report did not demonstrate accountability in terms of social engagement as there was no evidence to show that the communities were properly consulted in a culturally appropriate manner based on prior-informed consent. According to the proponent, *“...consultation strategy has been to identify and incorporate a range of community values to ensure that the project was appropriately adapted to the local context. The steps in the local consultation program were to identify and address stakeholders’ concerns (sic) about the project and to build positive, long-term relationships with the project communities neighbours. Different methods were employed during the stakeholder’s (sic) consultation process. These include consultative and public participatory meetings and focus group discussion. The consultations were done with Government Ministries, Departments and Agencies.”* Given the statement by the proponent, there is evidence that the report did not comply with the requirements of OS10.

In summary, Nigeria’s EIA process has evolved, but the EIA Act remained unchanged for more than three decades. In addition to being outdated, the EIA Act is also deficient in terms of requirements for social assessment. The deficiencies are related to bureaucratic delays and disconnect (between the various environmental MDAs involved in the EIA process), leading to procedural inefficiencies, contextual challenges, delays, and inefficiencies in decision-making.

2.3.5 Performance of the national ESA agency in monitoring compliance with rules and procedures

The agency in charge of Environmental and Social Assessment in Nigeria is the EAD of the Federal Ministry of Environment. The EAD is a technical department established at the inception of the Ministry in 1999 and charged with the responsibility of implementing the EIA Act E12 LFN 2004, which means that EAD ensures that development projects comply with the EIA Act⁶⁵. The enforcement of laws, standards and regulations is mandated to the National Environmental Standards and Regulations Enforcement Agency (NESREA) and NOSDRA.

The EIA Act empowers the EAD to sanction proponents that fail to comply with the EIA Act. However, in practice, some government projects proceed without adherence to the provisions of the EIA Act and are implemented without an EIA (by invoking the exclusion clause in the EIA Act). In some instances where EIA approvals were obtained, some proponents violated the provisions of the approval because of lack of sufficient legal enforcement⁶⁶.

The EIA Act is a federal law that empowers only the EAD to superintend on matters of E&S assessment and to issue EIA permits. However, some state governments, and the FCT, also issue EIA Certificates for urban and regional development projects as mandated in Section 33 of National Urban and Regional Planning Decree 88 of 1992, as amended by National Urban and Regional Planning Act 10 of 2010. Although the NURPA mandates state governments to formulate policies, and synergize with the Federal Government, some state governments issue EIA permits for urban and regional developments, thus conflicting with the EIA Act.

There are further challenges of implementation emanating from the fact that different agencies are empowered to enforce the Acts, Policies and Regulations that could satisfy E&S requirements, and these Agencies in charge of enforcing these statutes operate independently and seldom collaborate. Also, there is paucity of manpower to cover the entire country and economic sectors in Nigeria. For instance, NESREA enforces environmental standards and regulations for all sectors, except the oil and gas and the maritime sectors, which are the mandates of NUPRC/NMDPRA and NIMASA respectively. When it comes to oil spill response, NOSDRA is the sole agency responsible, while NEMA is the leading agency in responding to other emergencies including environmental emergencies other than those in the maritime and petroleum sectors.

In terms of capacity and staffing, the EAD for example is staffed by more than two hundred (200) technically qualified personnel trained in several technical disciplines, assigned to different work schedules domiciled in the various divisions of the EAD (including administrative and other support staff), and the mix ranges from very experienced to early intake. Nevertheless, EAD's workforce is overstretched but delivering on their mandate.

To address some of these constraints, Nigeria is actively implementing a Sustainable Procurement, Environmental and Social Standards Enhancement (SPESSE) project with assistance from the World Bank⁶⁷. The SPESSE project aims at building national professional capacity in the management and practice of Procurement, Environmental and Social (PES) Standards within the country.

The SPESSE is meant to bridge the gap between paucity of quality procurement, environmental, social and professionals and lack of requisite academic programs/curricula in the Nigerian education system. The SPESSE focused on the establishment of six Centres of Excellence in six Nigerian Universities across the six geopolitical zones to deliver capacity building training in procurement, environmental and social standards. In addition to establishing the centres of excellence in six universities, SPESSE also provides technical assistance and support to national implementing agencies namely:

- National Universities Commission;
- Federal Ministry of Finance;
- Federal Ministry of Environment;
- Federal Ministry of Women Affairs and Social Affairs; and
- Bureau of Public Procurement.

Although there are thousands of technically qualified environmental practitioners in Nigeria, there is need for professional certification and capacity realignment between regulators, practitioners, and proponents, especially in conducting complex and multistakeholder projects requiring compliance with international standards⁶⁸. In addition, political interferences, corrupt practices, weak civil society participation, lack of awareness and/or nonchalant attitude to EIA by ordinary Nigerians have led to the preparation of low quality ESIA reports⁶⁹. For over a decade, stakeholders have pushed for the inauguration of the revised EIA Act into law that even the revised Act now needs a review.

2.4 Country system assessment and comparative analysis by OS

2.4.1 Environmental and social assessments (OS1) under country environmental and social safeguards system

In a strategic initiative to ensure environmental sustainability and social inclusiveness, the AfDB has put in place the Integrated Safeguards System (ISS) to serve as a tool for identifying risks, reducing costs, and improving project sustainability. The ISS comprises ten (10) Operational Safeguards (OSs). The first operational safeguard (OS1), that is, Environmental and Social Assessment, requires Borrowers to consider the risks of their project for which they are borrowing money from the AfDB Group. OS1 requires assessment of project-specific risks and impacts that include direct, indirect, contextual, and/or cumulative, as well as the vulnerability to climate change, evaluated during project planning and implementation.

Nigeria has enshrined in Chapter II, 20(a) of the constitution that *“The State shall protect and improve the environment and safeguard the water, air and land, forest and wildlife of Nigeria.”* Consequently, there is a National Policy on Environment (NPE) with the strategic objective of coordinating *“environmental protection and natural resources conservation for sustainable development”*. The NPE emphasizes the linkages between environment, social and economic development, stimulates public awareness, community participation and promotion of wellbeing of the society. In addition, there are statutes that mandate the proponent to undertake an assessment of their proposals (EIA Act E12 LFN 2004, PIA Act 2021). Also, the NESREA Act compels the proponent to comply with all the extant environmental standards and regulations relevant to the proponents’ operations in Nigeria. The Environmental Assessment Department (EAD) of the FMEnv oversee implementing the EIA Act Cap E12 LFN 2004, the NUPRC and NMDPRA implements the PIA Act 2021, while NESREA⁷⁰ and NOSDRA enforce compliance with the EIA Act Cap E12 LFN 2004 (among others) by demanding EAD approval from proponents under their regulatory purview.

Nigeria’s ESIA process has evolved significantly with the integration of climate risk screening, particularly through the inclusion of greenhouse gas (GHG) accounting and adaptation measures in ESIA reports. Presently, every project undergoes an evaluation for its vulnerability to climate extremes and alignment with the country’s Nationally Determined Contribution (NDC) and Long-Term Low-Emission Development Strategy (LT-LEDS). This advancement ensures that projects are designed not only to mitigate immediate environmental impacts but also to enhance long-term resilience, meeting the comprehensive risk assessment requirements of the AfDB’s Operational Safeguards. These improvements reflect a marked shift from prior practices where ESIA reports lacked a systematic approach to climate risks, thereby underestimating future challenges.

However, it is essential to develop practical guidelines and checklists that integrate additional dimension—such as natural capital, blue economy, and trade considerations—into the ESIA process. Proposed solutions include creating standardized templates and tools to assess the impacts of development projects on ecosystem services, climate resilience, and trade flows, along with providing specialized training on advanced ESIA methodologies (including climate modelling, spatial analysis, and ecosystem services valuation). Furthermore, expert technical assistance should be made available for analyzing complex ESIA cases related to climate change and sustainable blue economy development, as well as for developing robust data collection and management systems for environmental, social, and trade information. These measures will enhance the capacity of the

Environmental Assessment Department to address intricate resilience issues and ensure that Nigeria's ESIA reports become a powerful instrument for sustainable, climate-informed development.

In principle, the EIA Act demands compliance with all extant laws to cover all risks associated with development projects. However, although there are laws that cover the project risks and the EIA Act Cap E12 LFN 2004 has been in force since 1992, EIA preparation in Nigeria is marred by several challenges that hinders the effectiveness of the Country E&S Assessment system relative to the requirements of AfDB OS1. These challenges include:

- ✓ The EIA Act E12 LFN 2004 focuses more on environmental than social aspects and this contributes to weakening the social aspects of EIA reports. Although the requirement for stakeholder engagement is indicated, the Act is not elaborate in terms of depth and context of social assessment. The EIA process requires a 21-day public display of EIA reports to enable stakeholders and interested people to contribute to the E&S assessment. Nevertheless, public participation still needs improvement because majority of the project-affected people do not have access to display venues, are unaware, or lack the capacity to effectively engage⁷¹;
- ✓ The enforcement of E&S statutes covers wide areas of knowledge, requiring technical and scientific know-how and professionalism, which constitute a challenge to the MDAs that are themselves burdened with shortages of personnel (in terms of number and expertise)⁷²;
- ✓ Relative to the AfDB integrated safeguard system, the E&S safeguards in Nigeria lack sufficient legislations for some critical risks or impacts of project-related activities such as involuntary resettlement. The Nigerian E&S assessment system does not have the equivalent of OS9, i.e., there is no definitive role for financial intermediaries in E&S assessments of projects;
- ✓ The quality of ESIA reports prepared under the Nigerian system leaves room for improvement, resulting from the expertise deployed for the assessment, and low allocation of resources for qualitative EIA reports on the part of the proponents⁷³;
- ✓ Bureaucratic regulatory processes, often involving multiple MDAs, unclear regulatory regime, paucity of quality data, lack of awareness amongst the populace and dearth of information on project activities limit public participation⁷⁴;
- ✓ Lack of impetus to engage in strict enforcement of environmental standards, and implementation of provisions in ESIA reports, has confined the ESIA documents to the shelves⁷⁵. Due to lack of strict enforcement, coupled with low level of public participation in E&S decision-making processes, the ESIA documents are hardly considered beyond the need to comply with regulations; and
- ✓ There seems to be a weak alignment between development priorities, environmental factors, and the wellbeing of society, which inadvertently leads to environmental degradation. As a result of this weak alignment, MDAs at the Federal and State levels sometimes commence projects without environmental and social assessment that, in some cases, are acquiesced by the wordings of Section 14 of the EIA Act⁷⁶. For example, the coastal highway project of the Federal Government, is said to have received preliminary EIA approval⁷⁷, for construction work for the first phase to commence, after conducting a scoping workshop and meetings with stakeholders, while the ESIA statement is being concluded in phases⁷⁸⁷⁹. The conversations around the ESIA of the Coastal Highway project revealed the challenges of aligning the EIA Act with government's desire for rapid infrastructure development⁸⁰.

To address the limited integration of social issues in Nigeria's EIA system, the framework should be strengthened to give equal weight to social and environmental impacts. In doing so, the Federal Ministry of Environment should lead this reform by developing dedicated Social Impact Assessment (SIA) guidelines, building institutional capacity, and ensuring inclusive stakeholder engagement. Additionally, monitoring frameworks must incorporate social indicators, and the EIA process should

be aligned with related legal and policy frameworks. These actions will support more equitable, accountable, and sustainable development outcomes.

In the short term, opportunities for enhancement include: (i) desk officers in all agencies that have the responsibility of enforcing aspects of E&S safeguards; (ii) provide legal services within the EAD to proffer legal guidance to the E&S technocrats in the Department; and (iii) review and update the E&S processes and procedures to upgrade the scope and quality of Nigeria's E&S assessment system to comply with international E&S safeguard best practices (e.g., AfDB ISS). In the medium term, (i) develop and periodically update robust baseline data (state of the environment report) of the country to facilitate the ESIA process and support decision-making; and (ii) employ more personnel to cope with the significant volume of work in the EAD and other relevant agencies and provide the requisite material resources and up-skilling training for the E&S personnel. In the long-term, (i) revision and adoption of the EIA Act and other E&S-relevant statutes; and (ii) ensure coherence and complementarity of mandates and responsibilities of key E&S-relevant departments and agencies such as EAD, NESREA, NOSDRA, and National Park Service.

2.4.2 Labor and working conditions (OS2)

The aims of AfDB OS2 is to foster labour and employment conditions to protect workers' rights and promote sustainable development. The focus of OS2 is to ensure fair and safe working conditions for all employees and workers engaged in AfDB-financed projects or those mediated by AfDB, and address issues around health and safety of workers. The key elements of OS2 cover occupational health and safety and the internationally accepted labour standards -- fair treatment, just wages, reasonable working hours, non-discrimination, freedom of association, no child labour, inclusivity and equal opportunity, social dialogue and grievance redress mechanisms.

The importance of Labour and Working Conditions is emphasized in the constitution of Nigeria where it is stated, in Chapter II, 17(3)(a) that *"all citizens, without discrimination on any group whatsoever, have the opportunity for securing adequate means of livelihood as well as adequate opportunity to secure suitable employment"*, and (b) *"conditions for work are just and humane, and that there are adequate facilities for leisure and for social, religious and cultural life"*, and (c) *"the health, safety and welfare of all persons in employment are safeguarded and not endangered or abused."* In addition, there are labour and labour-related statutes that satisfy the provision of OS2, including the Child Rights Act, 2003, Labour Act, 2004, Criminal Code 223 and National Policy on Child Labour. The provisions of these statutes prohibit (i) employment of children under 15 years; (ii) exploitation of children; and (iii) guarantee the rights of the child⁸¹. The Trafficking in Persons (Prohibition) Enforcement and Administration Act of 2015 (Section 13) is against forced labour and human exploitation. Also, Section 34(1), of the Labour Act 2004 and Child Rights Act, 2003 (Section 2) prohibits forced labour. Nigeria has in place laws that prevents violence against persons, ensure occupational health and safety in various workplaces and situations and provision for medical care to all workers. On the welfare and discrimination of workers, Chapter II, 17(d) of the Constitution tasked that *"there are adequate medical and health facilities for all persons"*, while Chapter II, 17 (e) said *"there is equal pay for equal work without discrimination on account of sex or on any other ground whatsoever"*.

Except for sexual harassment in some sub-national jurisdictions, there are sufficient laws in Nigeria to achieve most of the provisions of AfDB OS2. There are laws and a national policy on employment in Nigeria that are comparable to global labour standards, but the implementation of the labour statutes is faced with numerous challenges that include⁸²:

- o Many employers in Nigeria do not comply with the provisions of labour related laws and they do so without consequences because of ineffective enforcement mechanisms;
- o Undue politicization and marginalization of Labor Unions by their leaders that abandon their roles of advocating for the rights of Nigerian workers;

- Poor governance and corrupt practices in Nigeria are acknowledged to hinder meaningful actions in all facets of life in Nigeria, such as enforcing Nigerian statutes, including the labour laws, in addition to weak penalties for violations⁸³;
- Insufficient resources for effective implementation of the provision of Nigerian labour laws. For instance, inadequate manpower and poor infrastructure hampers effective monitoring and compliance enforcement of labour laws in workplaces; and
- Some of the laws are outdated and somehow complex and not compliant with the current realities. In some instances, laws were amended to weaken the labour laws instead of strengthening them. For instance, the Trade Union (Amendment) Act, 2005, which amended the Trade Union Act 1974 was aimed at curtailing industrial actions by weakening Trade Unions instead of addressing core labour issues.

To overcome these challenges governments, at all levels, should respect labour laws and agreements, adopt labor-friendly policies, safeguard against abuses and excesses employers of labour, and streamline the numerous labour legislations in Nigeria for improved effectiveness⁶⁵.

2.4.3 Resources efficiency and pollution prevention and management (OS3)

It is important to note that the focus of OS3, i.e., resource efficiency and pollution prevention and management, is critical in ensuring environmental and social sustainability. The principle behind OS3 is that economic activities may lead to environmental pollution and unsustainable consumption of resources, especially those that may not easily be renewed. Therefore, AfDB emphasizes that projects associated with it must address these issues in a manner consistent with “Good International Industry Practice (GIIP)”, and requires that throughout project life, the Borrower must devise an effective resource-efficiency and pollution-prevention techniques and implement the best available technology not entailing excessive cost. The focus of OS3 is on minimizing waste and maximizing benefits, preventing unnecessary discharges in the air, land and water, addressing the issue of greenhouse gas emissions and continuous alignment with GIIP.

Furthermore, project assessments must quantify GHG emissions and consider alternatives that reduce carbon footprints. Aligning with the National Climate Change Policy and the AfDB Climate Change and Green Growth Framework, every project should detail how it will achieve resource efficiency while contributing to emission reduction targets.

In alignment with Operational Safeguard 3, Nigeria’s E&S framework mandates that all projects adopt resource-efficient practices and pollution prevention measures that directly support climate mitigation. Regulatory instruments—such as enhanced anti-gas flaring laws and incentives for renewable energy—ensure that projects minimize GHG emissions and maximize resource efficiency. This approach underpins the country’s commitment to a low-carbon economy and is fully consistent with both the updated national climate targets and the AfDB’s green growth objectives (Federal Government of Nigeria 2021c; African Development Bank 2021b).

Nigeria has legal statutes (EIA Act Cap E12 LFN 2004, NOSDRA 2006, NESREA Act 2007, NIMASA Act 2007, Climate Change Act 2021 and PIA Act 2021) that safeguards against inefficient use of resources and control environmental pollution (compliant with OS3). Other statutes that align with OS3 include the National Environmental (Sanitation and Wastes Control) Regulations, 2009, Harmful Waste (Special Criminal Provisions) Act, 1988 and National Policy on Solid Waste Management. There are policies and regulations published by NESREA, NOSDRA, NIMASA and NCCC to ensure efficient use of resources and pollution control. However, there are challenges of implementation emanating from the fact that different agencies are empowered to enforce the Acts, Policies and Regulations that could satisfy OS3 requirements, and these Agencies in charge of enforcing these statutes operate independently and seldom collaborate. Also, there is paucity of manpower to cover the entire country and economic sectors in Nigeria. For instance, NESREA enforces environmental standards and regulations for all sectors, except the oil and gas and the

maritime sectors, which are the mandates of NUPRC/NMDPRA and NIMASA respectively. When it comes to oil spill response, NOSDRA is the sole agency responsible, while NEMA is the leading agency in responding to other emergencies including environmental emergencies other than those in the maritime and petroleum sectors.

This suggests that there is the need to streamline the various environmental legislations on resource efficiency and pollution control. Also, there is a need for re-training of regulators and sector operators on the requirements of OS3. Generally, the gaps in the national system with respect to OS3 can be summarized as follows:

- Multiple agencies are empowered to enforce the statutes on the provisions of OS3, making the operations of the responsible agencies to appear conflicting; and
- The regulatory agencies responsible to enforcing resource-use efficiency operate independently and coupled with manpower shortages they seldom collaborate.

To strengthen enforcement, there is need for inter-agency collaboration and capacity-building to ensure immediate improvements. In the long-term, the operations of the MDAs involved should be centralized and more personnel should be recruited for effective enforcement.

2.4.4 Community health and safety (OS4)

AfDB OS4 focuses on the nexus between development projects and exposure of communities to impacts and risk to health, safety and security of the project-affected communities, which is accentuated by impacts of climate change. AfDB compels Borrowers to minimize these risks, especially for vulnerable individuals while executing their projects; by identifying, evaluating, and addressing community health, safety, and security risks of their projects, natural hazards, and climate change and addressing them in their management plans. The objectives of OS4 are to predict and prevent adverse impacts on health and safety of project-affected communities and implement management measures in compliance with national and international standards.

In Nigeria, there are legal statutes that consider community health, safety and security, including Acts and Regulations on waste generation and management. These include the PIA Act 2021, NOSDRA Act 2006, NESREA Act 2007, NIMASA Act 2007, Harmful wastes Act, NIWA Act 2004, NACA Act 2006, and NCDCP Act 2018, AGRIA 1979, and FRA 2018 among others, but the EIA Act E12 LFN 2004 does not require assessment of community health, risk and safety. Also, EIA practice in Nigeria does not, in general, include the assessment of community health, safety and security.

The National Environmental Health Practice Regulations (NEHPR) Act 2016 sets guidelines for maintaining environmental health and claims to enforce the environmental health regulations that are also being enforced by NESREA⁸⁴. The NEHPR advocates environmental justice, which balances the disparities in environmental risks and benefits to ensure equitable access to clean air, water, and safe environments. Although the EIA Act does not clearly have requirements like OS4, there are laws that nuance the need to comply with OS4, therefore, Nigeria's E&S assessment environmental standards have sufficient statutes that, if diligently followed can satisfy the requirements of OS4.

The statutes that help to safeguard community health, safety and security include the Quarantine Act, 1954, National Centre for Disease Control and Prevention Establishment Act 2018 is concerned with the surveillance, control and management of communicable diseases of public health importance. Also, the NEHPR Act 2016 regulates the sanitation of public and private premises, collection and disposal of solid waste, food sanitation and hygiene, liquid waste management, and control of pests within the context of public health. In addition, the NESREA Act 2006 has led to the inauguration of regulations on the protection of the natural environment against waste effluent discharge, air quality control, and health waste generation, handling, and responsible disposal. The Road Safety Commission

(Establishment) Act 2007 and its regulations deals with vehicular safety on Nigerian roads, and enforces road safety rules and regulations, registration and licensing of motor vehicles and licensing of drivers.

The enforcement of national safeguards that satisfy OS4 are marred by multiple challenges that include political interference, absence of reliable national database on environmental quality, technical capacity, macro-economic considerations, insufficient funding, multiplicity of agencies with similar roles, and lack of national spread, therefore, achieving compliance is difficult⁸⁵. To overcome the challenges, there is a need to streamline the mandates of the agencies involved, provide sufficient funding, improve the technical competence and capacity of the entities involved and ensure wider coverage by the agencies involved by deploying remote monitoring technologies. The challenges include the following:

- There is no specific provision in the EIA Act that demands the assessment of community health and safety, although the PIA mandates a project proponent to consider community security in its operations; and
- absence of reliable national data on environmental quality, scarce technical resources, insufficient funding, multiplicity of agencies with similar roles, and lack of national spread of the agencies.

Although not explicitly mandated by the EIA Act, it is pertinent to consider community health, safety and security while assessing the impacts of a project and the same to be considered in the EIA Act revision. AfDB should compel the Borrower to comply with the provisions of OS4, including extant national laws that safeguard community health, safety and security.

2.4.5 Land acquisition, restrictions on access to land and land use, and involuntary resettlement (OS5)

The AfDB Operational Safeguard 5 (OS5) focuses on involuntary resettlement, land acquisition, and restrictions on land use. OS5 anticipates that projects may result in land acquisition, causing restrictions on access to land or use of land. Noted by OS5 also is the potential for project-related losses of property or assets, and negatively impacts project communities/persons. OS5 also considers both involuntary physical and economic resettlement caused by project-related losses of land, or access to (or use of) land, as well as losses of assets or property. Also considered involuntary resettlement is when affected communities/people lack genuine opportunities to refuse land acquisition or restrictions.

The need for compliance with OS5 emanates from the fact that unmitigated displacement can result in psychological, economic, social and undesirable environmental consequences. The aim of OS5 is to avoid involuntary resettlement as much as possible, but when it becomes impossible to avoid, land issues must be addressed as a mandatory condition for any investment by the AfDB. Mitigation measures for impacts associated with involuntary resettlement must be carefully planned and a resettlement action plan (RAP) specifying the procedures for handling resettlement issues must be formulated.

The Nigerian EIA Act E12 LFN 2004 mandates the adherence to all extant laws including those deal with resettlement issues. In Nigeria, issues of land tenure are covered by the Land-Use Act E15 LFN 2004, however, whereas the LUA is a federal legislation, it vests the control of land and land matters with the state governor. The legally recognized land title in Nigeria is the “Certificate of Occupancy”, which is issued by the State Government. Nonetheless, the LUA does not fully satisfy OS5 requirements, because it does not situate landowners in a fair position to decline a governor’s request on land-take, other than resorting to litigation, which often proves cumbersome and time-consuming.

Thus, land-take involving government is inadvertently involuntary by default because it does not present a willing-buyer-willing-seller scenario. Besides, the land-use act only allows the Government to appropriate land for public good, but there have been incidents where government took land from the

locals and redistributed the same to private interests, without due consideration of the adverse effects on the original owners of the land. Also, Nigeria's EIA Act does not address issues around resettlement and the Environmental Assessment Department of FMEnv does not have a process for reviewing and approving RAP as it does for ESIA. It is pertinent that the Federal Ministry of Housing and Urban Development and the Federal Ministry of Environment devise a review and approval process for RAP that would comply with the requirements of OS5.

Operational Safeguard 5 (OS5) demands transparency, accountability, and participation of all stakeholders. OS5 also requires that mechanisms are put in place to address project-level grievances, and the resettlement of all involuntarily displaced and project-affected people. The GRM must allow the voices of project-affected communities to be heard, and addressed, all through the planning and execution phases.

An example of land tenure issues⁸⁶ that could arise from the application of Land Use Act is the case between Lagos State Government and Shangisha Landlords Association (SLA) concerning a parcel of land in Lagos State. In 1984, using the powers conferred by the Land Use Decree of 1978 (now Land Use Act E15 LFN 2004), Lagos State Government took parcels of land from the locals in Shangisha community. The government of Lagos state told the affected entities that it intended to establish an "international standard hospital" on the land. However, the government eventually converted the land to a residential area it termed "Magodo Scheme 2". Meanwhile, the Shangisha locals who originally owned the land claimed that they were displaced, their structures removed from the land prior to allocation to private individuals, without proper compensation. Aggrieved by the loss of their land, the locals organized as the Shangisha Landlord Association (SLA) approached the courts against the Lagos State government for taking their land and allocating the same to influential individuals. The court gave orders against the State Government, but the orders were flaunted and eventually, the case ended at the Supreme Court in favour of the SLA in 2012

However, despite the supreme court judgement that ordered the Lagos State Government to allocate 549 plots to SLA, LSG still approached the supreme court to reconsider its judgement. After 12 years, the Supreme Court refused to reconsider 2012 and ordered LSG to abide by its original judgement⁸⁷. This case (between LSG and SLA) highlights the challenges of resettlement in Nigeria, suggests that the Land Use Act could result in involuntary land take, and proves that the national system does not meet the requirements of OS5. It also reveals the inefficiency and ineffectiveness of Nigeria's legal system in resolving matters related to involuntary resettlement. The gaps preventing the national system from complying with OS5 are as follows:

- The provisions of LUA and other Nigerian statutes do not satisfy the requirements of OS5 as LUA inadvertently results in involuntary resettlement;
- Also, when the government revokes land from a rightful owner(s), the LUA only allows for compensation for the value at the date of revocation, limited to unexhausted portions of the land and not at replacement cost; and
- Nigeria's involuntary resettlement system is not sufficient in resolving involuntary economic resettlement, as it focuses only on physical resettlement and does not cover other categories of displaced persons other than landowners.

As a rule-of-thumb, the safest land tenure is the one obtained through a willing-buyer-willing-seller arrangement, whereas government allocation inadvertently results in involuntary resettlement. Therefore, Borrowers allocated land for their project by Government should be made to undertake a comprehensive resettlement action plan to cover all project-affected people irrespective of their situation, focusing on economically displaced persons, including non-title holders, vulnerable groups and all minority interests. Compensation must be given at replacement cost or value and not a one-off arbitrary settlement. For instance, compensation for economic trees must consider the current and

projected value of the trees, the age of the tree and their potential economic lifespan. It is also essential that resettlement plans consider climate risks – ensuring that communities displaced by both development and climate impacts receive adequate compensation and support for transitioning to safer, more sustainable livelihoods.

Chapter III 44(a) of the Nigerian constitution forbids compulsory acquisition of property (moveable or non-moveable) of any Nigerian, except it is for lawful purposes and based on: *“(a) requires the prompt payment of compensation therefor; and (b) gives to any person claiming such compensation a right of access for the determination of his interest in the property and the amount of compensation to a court of law or tribunal or body having jurisdiction in that part of Nigeria.”*

2.4.6 Habitat and biodiversity conservation, and sustainable management of living natural resources (OS6)

The AfDB OS6 follows global best-practices on biodiversity and natural ecosystems, as espoused by global agreements, such as, Convention on Biological Diversity, Ramsar Convention on Wetlands, Millennium Ecosystem Assessment, and UN Convention to Combat Desertification. The AfDB OS6 provides essential guidance on protecting and conserving biodiversity and managing natural resources in a manner that engenders sustainable development.

To satisfy OS6, AfDB expects Borrowers to consider the conservation and responsible use of biodiversity and natural habitats. All risks or impacts that may jeopardize compliance with OS6 must be systematically identified, assessed and ranked, and their mitigation measures determined. Also, OS6 expects a Borrower to develop an effective plan for mitigating, ameliorating and managing the anticipated project impacts. The plan should provide clear mitigation strategies and the approach that would guide the design and implementation of the Borrowers project design and implementation to minimize impacts on biodiversity.

Nigeria has laws, standards, regulations and policies that can ensure sustainable utilization of resources at both national and subnational levels that safeguard biodiversity and natural resources. These include, but not limited to, the Forest Act 1956, EIA Act EIA Act Cap E12 LFN 2004, NESREA Act 2007, NOSDRA Act, 2006, Petroleum Industry Act 2021, and NPS Act, Cap N65 LFN 2004, among others. The Forest Act 1956 is the prime statute governing the forest systems of Nigeria, which outlines the basic rules and principles of forest governance and management, establishes reserved forests or protected areas, and outlines the roles of subnational authorities, and defines licensing and sets regulations for Nigerian forests-related activities, including penalties. In addition to the Forest Act, there is a National Forest Policy (2019) that protects forests and promotes sustainable forest management in collaboration with forest communities.

Nigeria is a signatory to the Convention on Biodiversity (CBD), an international treaty that emphasizes the conservation of biodiversity, and Nigeria also has a National Biodiversity Strategy and Action Plan, NBSAP (2016-2020) to protect biodiversity. Nigeria is also a signatory to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), aimed at saving wildlife species by regulating international trade in such species. As of February 2024, the national assembly is processing “The Endangered Species Conservation and Protection Bill”⁸⁸ to pass into law, if successful, the bill will ensure protection of Nigeria’s wildlife and provide stringent deterrent for offenders. To ensure that the national system complies with OS6, AfDB should ensure a comprehensive review of ESIs prepared using the national system to ensure that the resultant ESMP meets the requirements of AfDB ISS. Also, AfDB should ensure close monitoring of Borrowers to ensure the strict implementation of provisions of the ESMP and compliance with the AfDB’s Operational Safeguards and international best-practices. The enforcement of these regulations is challenged by gaps that bother on:

- paucity of fund, lack of sufficient manpower and skills (within the regulatory agencies) in the facilitation of ESIA's that would meet the requirements of AfDB ISS; and
- slow bureaucracy in the public service, and outdated forest law with ineffective penalties to forestall noncompliance.

Projects should actively include nature-based solutions that both conserve biodiversity and sequester carbon. This dual approach supports green growth and ensures that mitigation measures contribute to the national carbon reduction targets.

2.4.7 Vulnerable groups (OS7)

The AfDB Operational Safeguard 7 (OS7) specifically aims to ensure that people considered vulnerable are not adversely and disproportionately affected by projects funded or facilitated by the AfDB. The importance of OS7 is that the negative impacts of projects on people depend on the social, economic, or cultural circumstances of the people, being worse on vulnerable people. The vulnerable groups are those considered in the AfDB ISS 2023 as *“those who may be more likely to be adversely affected by the project impacts and/or more limited than others in their ability to take advantage of a project's benefits. Such an individual/group is also more likely to be excluded from or unable to participate fully in the mainstream consultation process and as such may require specific measures and/or assistance to do so. Depending on the specific context of the project, vulnerable groups may include, among others, female-headed households, the landless, the elderly, youth and children, persons with disabilities, groups who are marginalized on the basis of ethnicity, religion, language, as well as sexual orientation and gender identity, and highly vulnerable rural minorities including groups referred to as indigenous peoples in some contexts. Vulnerability is not an inherent characteristic of people and does not occur in a vacuum. Women, for instance, are not inherently more vulnerable than men; but discrimination, entrenched social roles and attitudes, poverty, and lack of access to decision-making can weaken their resilience and render them vulnerable to project risk and adverse impacts. Vulnerability is thus context-specific and is to be understood through the interplay of three factors: (i) exposure to risk and adverse impacts; (ii) sensitivity to those risks and impacts; and (iii) adaptive capacity.”*

Also considered vulnerable people include those displaced by involuntary resettlement, and minorities (ethnic, religious or linguistic minorities) and members of low-income communities. Adherence to OS7 requires the identification of vulnerable groups, engaging them, assessing and addressing their concerns, without any form of discrimination; but this must be done on “case-by-case” and consideration the peculiarity of each case.

Climate change disproportionately affects vulnerable groups. Therefore, ESIA must include an analysis of how climate risks impact these populations, with special attention to gender, indigenous communities, and the rural poor, ensuring that project benefits and safeguards are equitably distributed.

The constitution of the Federal Republic of Nigeria in Chapter II, 17(1) affirms that *“the State social order is founded on ideas of Freedom, Equality and Justice”*, 17(2)(a) *“every citizen shall have equality of rights, obligations and opportunities before the law”*, 17(2)(b) *“the sanctity of human person shall be recognised, and human dignity shall be maintained and enhanced”*, and Chapter II, 17(3)(f) *“children, young persons and the aged are protected against any exploitation whatsoever, and against moral and material neglect”*. Also, the Discrimination Against People with Disabilities (Prohibition) Act 2018 forbids any form of discrimination against people based on their disability. Any individual or corporate body that discriminates against people with disabilities is deemed to have violated the Act and may be liable, upon prosecution and conviction, to a fine (hundred thousand naira for individuals, one million for corporate entities) or imprisonment for up to six months period.

The Act declares a mandatory modification to infrastructure to remove any physical barrier to facilitate access for people living with disabilities. Also, the Act makes it mandatory for automobiles

to be modified to ensure usability for people living with disabilities. The Act, through the instrumentality of the National Commission of People Living with Disabilities, ensures that people with disabilities have access to housing, education, healthcare and other services, while the Commission attends to grievances and provides legal support to victims seeking redress.

Although there are laws that help to protect against discrimination, e.g., Labor Act 2004, Discrimination Against People with Disabilities (Prohibition) Act 2018, Child Rights Act 2003, HIV/AIDS Anti-Discrimination Act 2014, and the National Gender Policy, they are either not robust, not extensive or are generic, with no specifics about discrimination related to development projects, and this may affect the management of nuanced discrimination. Also, Nigerian has laws on discrimination of minorities (religious, ethnic or orientation) who are not living with disabilities; in fact, complaints of discrimination due to tribe, religion, politics or ethnicity is rampant in Nigeria⁸⁹⁹⁰. Also, certain sexual orientation is considered criminal in Nigeria by virtue of Same Sex Marriage Prohibition Act 2023⁹¹. Therefore, AfDB may consider ESIA documents prepared using the Nigerian E&S system to fall short of certain provisions of OS7 bothering on diversity and inclusivity. Challenges facing compliance with OS7 include:

- Nigeria's discrimination laws do not cover some minorities (religious, ethnic or orientation) who may not be living with disabilities;
- There is no concise policy or guideline for workplace grievance redress mechanisms; and
- No deliberate statutes to encourage whistleblowing and protection for the whistleblower in the workplace, except when it involves financial fraud.

To close the gaps in compliance with AfDB OS7, it is pertinent to ensure that Borrowers comply with international standards, foster equity and inclusion, and mitigate their projects' legal, reputational, and operational risks. Specifically, AfDB should ensure:

- the enumeration of project-affected people should take into cognizance, the under-represented and other minority groups;
- Borrowers prepare policies that ensure non-discrimination and equal opportunity to accommodate of under-represented or minority groups; and
- Deployment of robust project-specific grievance redresses mechanisms that provides access to all and sundry.

2.4.8 Cultural heritage (OS8)

AfDB Operational Safeguard 8 (OS8) aims to protect Cultural Heritage or cultural assets throughout the life cycle of a project, and AfDB defines CH as *"resources with which people identify as a reflection and expression of their constantly evolving values, beliefs, knowledge, and traditions."* These tangible (such as monuments, and artifacts) and intangible (e.g., traditions, customs, and knowledge) resources are considered cultural heritage because people identify them as being reflective of their evolving values and beliefs. The importance of CH arises from the fact that it is an integral part of the cultural identity and expression of the people, providing valuable information that may add social or economic value to development.

AfDB OS8 sets out the principles and measures needed to protect cultural heritage from the adverse impacts of projects. OS8 provides the mechanism for tackling the risks and impacts in relation to cultural heritage and highlights the need for a thorough assessment of cultural heritage during both the design and implementation phases of a project. It is pertinent that OS8 emphasizes a strong interplay between cultural and environmental factors that must be taken into consideration when conducting the ESIA of a project.

In addition to physical cultural heritage, intangible heritage should be considered, particularly as climate change may erode cultural practices linked to the environment. Projects must include protocols for safeguarding both tangible and intangible cultural assets.

The constitution of Nigeria explicitly elaborated in Chapter II, 21(a) thus: *“protect, preserve and promote the Nigerian cultures which enhance human dignity and are consistent with the fundamental objects...”* and (b) *“encourage the development of technological and scientific studies which enhance cultural values”*. However, Chapter I Part II 6(6)(c) of the same constitution states that the judiciary *“shall not except as otherwise provided by this Constitution, extend to any issue or question as to whether any act of omission by any authority or person or as to whether any law or any judicial decision is in conformity with the Fundamental Objectives and Directive Principles of State Policy set out in Chapter II, of this Constitution”*; which means that the provisions of Chapter II, 12(a) is not justiciable in Nigeria, implying that non-adherence to this section cannot be legally penalized.

For the intangible cultural heritage, Nigeria is still emerging as an assessment by UNESCO in 2011 showed that Nigeria’s national capacities are not yet adapted to satisfy the requirements of the 2003 Convention for Safeguarding Intangible Cultural Heritage. However, UNESCO has continued to provide the needed support to strengthen Nigeria’s capacity to safeguard its intangible heritages. The UNESCO Periodic Report on the Convention (cycle 2020-2024) highlighted 5 elements have been inscribed in UNESCO’s “Representative List of Intangible Cultural Heritage of Humanity”, two of which were added to list in 2018 and 2019 (after UNESCO’s 2011 assessment of Nigeria’s national capacity). On 15th May 2025, the Minister heading the Federal Ministry of Art, Culture and Creative Economy, which oversees intangible cultural heritage hinted, that Nigeria is *“carrying out a review, formulation and implementation of relevant policies that guide Nigerian culture and creative sector for enhanced contribution to national economy.”*⁹² A comprehensive cultural heritage has undergone a virtual review by December 2024 and is to undergo physical drafting in 2025, which is the first since 1988⁹³. Therefore, even though Nigeria is a signatory to the 2003 Convention on Intangible Cultural Heritage, it needs to build its capacity to effectively domicile the Convention, which is being undertaken with assistance from UNESCO. So far, Nigeria five Intangible Cultural Heritages have been registered with UNESCO and these include Ifa divination system (2008), Oral heritage of Gelede (2008), Ijele masquerade (2009), Argungu international fishing and cultural festival (2016) and Kwagh-Hir theatrical performance (2019).

Even with its rich tangible cultural heritage, only two (Sukur Cultural Landscape, Adamawa State and Osun-Osogbo Sacred Grove, Osun State) are listed by UNESCO cultural heritage sites, with eight (8) others on the ‘tentative list’ of UNESCO.

The prime safeguard for cultural heritage in Nigeria is the National Commission on Museums and Monuments (NCMM) Act Cap N19 LFN 2004. However, The NCMM Act focuses on tangible cultural heritage, but even at that, its implementation has largely been limited due to several factors, principal amongst which is its conflict with the Land Use Act E15 LFN 2004. Therefore, the national provision for safeguarding cultural heritage is short of the robust requirements defined by OS8. Hence, AfDB needs to demand for further assessment to upgrade ESAs prepared using the Nigerian E&S system to comply with OS8.

To close the gap between Nigeria’s system and OS8, Nigeria fully domicile the 2003 Convention for Safeguarding Intangible Cultural Heritage and resolve the afore-mentioned challenges hindering the implementation of NCMM Act. In addition, it would be to the mutual benefit of all stakeholders, if Development Partners can provide technical assistance in building Nigeria’s capacity to domicile the said 2003 Convention, which will provide safeguard for intangible cultural heritage. The gaps identified include the following:

- o Nigeria’s statutes on cultural heritage focuses on tangible cultural heritage only; and

- Nigeria is yet to fully build capacity to effectively domicile the 2003 Convention for safeguarding intangible cultural heritage.

2.4.9 Financial intermediaries (OS9)

Financial Intermediaries (FIs) are crucial for economic development, growth, and poverty reduction. AfDB OS 9 aims at fostering sustainable development by supporting the domestic financial sector to adequately perform its role in sustainable project financing. The AfDB OS9 requires that any FI benefiting from AfDB financing must ensure it subjects all projects (and subprojects) in their portfolio to environmental and social impact assessments to cover all the associated risks. Also, OS9 requires that a comprehensive and functional Environmental and Social Management System (ESMS) must be developed and diligently implemented.

The focus of OS9 is to clarify how the FIs can assess and manage environmental and social risks associated with their portfolios, and to promote good environmental and social management practices, and ensure the E&S competence of human resources within the FIs. This entails that the FIs adopt best-practice standards for environmental, social and governance in their operations. AfDB OS9 concerns all financial institutions and other entities financially supported by AfDB, including banks, leasing and factoring entities, and bridge finance firms that channel and invest financial resources in different activities across the economy. The requirements of OS9 apply to all FIs that receive support from the Bank, either directly from the Bank or through the Borrower to other FIs.

The Bankers' Committee of Nigeria have issued an advisory document on E&S called "*The Nigerian Sustainable Banking Principles*" (NSBP) in 2012, which the CBN in a memo directed at banks, discount houses, and development financial institutions to adopt. The NSBP is a set of nine principles pledges that the bankers would 1) incorporate E&S in their business decisions, 2) be mindful of their environment footprint, 3) uphold human rights, 4) economically empower women, 5) ensure financial inclusion, 6) environmental, social and governance, 7) build capacity, 8) ensure collaborative partnerships and 9) ensure credible reporting. However, the nine NSBPs are not mandatory (not legally enforced) and are, presently, implemented on the operations of financial institutions and not projects under their portfolio or on their clients. The NSBP expects financial institutions to adopt global-best E&S practices and safeguards in managing their portfolio.

Five years after the NSBP were announced, a study⁹⁴ showed that most major banks in Nigeria have adopted the NSPB and are striving to mainstream E&S in their operations. However, there are challenges of dearth of resources, non-enthusiasm and weak commitment by the financial institutions' top hierarchy (especially management and shareholders), limited appreciation of E&S concepts in banking operations, unclear reporting template combines to weaken the mainstreaming of E&S by the financial institutions in Nigeria. In addition, mainstreaming of E&S by financial institutions is also weakened by insufficiency of E&S expertise (for gathering, verification and reporting of E&S footprints), low awareness among clientele and funding constraints.

The Securities and Exchange Commission (SEC) adopted the Nigeria Sustainable Finance Principles (NSFP)⁹⁵ in cognizance of the need for economic prosperity, environmental protection and social development. The first principle deals with Environmental, Social and Governance (ESG) requiring regulated entities have effective ESG structures to ensure efficient use of resources, management of waste, and compliance with labour and social standards, to promote sustainable economic and social development. Principle number two talks about collaboration with stakeholders to raise awareness on ESG issues, build capacity, manage risks, innovate, and promote action in the financial system. The third principle deals with financing of priority sectors of the economy without compromising ESG considerations, while the fourth principle espouses human rights, gender, and inclusion in financing. The fifth principle mandates SEC-regulated financial institutions to report and disclose information

on their activities, and to demand entities they supervise/finance to comply with ESG disclosure requirements to facilitate informed decisions by stakeholders. The SEC does not enforce any specific requirements for adopting the NSFP other than expecting each regulated entity to implement the principles to fit their mandates, core values, and risk profiles.

The Banks and Other Financial Institutions Act (BOFIA) Act 2020 and CBN Act 2007, the prime acts regulating the financial institutions in Nigeria, did not explicitly mandate banks and other financial institutions to enforce E&S safeguard issues on projects within their portfolio. To further harmonize the national E&S requirements applicable to FIs with the AfDB's OS9, recommendations for consideration include: (i) elevate voluntary principles such as the NSBP and NSFP to regulatory status with enforceable regulations mandating NSBP/NSFP compliance for all licensed FIs; (ii) formalize monitoring and supervision by establishing -or reinforcing- formal oversight mechanisms within CBN and SEC to assess and report on NSBP and NSFP compliance; and (iii) strengthen the capacity of FIs through CBN and SEC-led training, technical assistance, and knowledge sharing on international E&S standards.

Financial institutions are further encouraged to integrate climate risk management into their lending practices. This includes requiring that projects seeking finance demonstrate compliance with both traditional E&S safeguards and climate change mitigation/adaptation standards.

2.4.10 Stakeholder engagement and information disclosure (OS10)

The AfDB OS10 focuses on stakeholder engagement and information disclosure, with strict emphasis on openness and transparency in communication between the project proponent (Borrower) and project stakeholders. The purpose of OS10 is to facilitate the inclusive and just societies by ensuring effective participation of all stakeholders in decision-making, which requires effective stakeholder engagement throughout the project life cycle. OS10 specifies the need to properly identify stakeholders, develop plans for engaging them and engender robust relationships with them, and that engaging stakeholders should be culturally appropriate and based on prior informed consent.

In Nigeria, there are individuals with multiple marginalization identities whose voices are often overlooked due to factors such as gender, ethnicity, and socioeconomic status. Also, stakeholder engagement may involve the use of language unfamiliar to the marginalized groups who often lack resources to engage effectively. Stakeholder engagement should be culturally appropriate, based on prior information, which means that cultural sensitivity must be paramount when engaging with stakeholders or disclosing information.

The Nigerian statutes espousing stakeholder consultation include: (i) the Constitution of the Federal Republic of Nigeria (1999), which guarantees participatory democracy; (ii) the Freedom of Information Act (2011) that promotes transparency and accountability; (iii) EIA Act Cap E12, LFN 2004, which mandates public consultations and stakeholder engagement, and a 21-day public disclosure for Category A projects; and (iv) the Nigerian Urban and Regional Planning Act, Cap N138, 2004, requiring the involvement of stakeholders in the planning process. Screening is done inhouse by the EAD based on the ToR submitted by project proponents, while stakeholder engagement and public review for the rest of the EIA process is facilitated by the proponent.

When properly considered, stakeholder engagement and public disclosure ensure environmental and social sustainability of projects, promote its acceptance and contribute to the success of the design and implementation of a Borrowers project. To be effective, OS10 needs to start early in the life of the project to effectively contribute to the assessment, management and monitoring of social impacts of the project. The development of a clear and appropriate grievance resolution mechanism is a critical requirement for effective stakeholder engagement and information disclosure. The strategy for stakeholder engagement and public disclosure of information requires inclusivity, gender sensitivity,

and accessibility of information to the marginalized groups. Women and other marginalized groups face barriers in accessing information about stakeholder engagement processes and their rights.

The limitations of Nigeria's system in terms of compliance to OS10, stakeholder engagement and public disclosure, in the Nigeria's E&S assessment system are as follows:

- The EIA Act is not detailed and explicit on social aspects, even though the EIA Act is being reviewed to espouse greater emphasis on stakeholder engagement and public disclosure. Nevertheless, the EAD ensures that the EIA scope includes social assessment and stakeholder consultation all through the process;
- Low funding, insufficient institutional capacity and low level of awareness of the EIA process among members of the public; and
- Non availability of guidelines for stakeholder engagement and public disclosure through the different stages in the EIA process.

For the petroleum industry, however, the Nigerian Upstream Petroleum Host Communities Development (NUPHCD) Regulations 2022, promulgated from powers derived from the PIA, requires operators of oilfields to incorporate a Host Community Development Trust for the host communities, into which contributions and mandated for the purpose of community development. The Regulation requires a bottom-top needs assessment to identify and prioritize the development needs of host communities, prepare development plans and to be submitted to the NUPRC, the agency that is responsible for monitoring the implementation of the host community development plan. Therefore, the PIA, through the NUPHCD, aligns with requirements of OS10 (as well as OS7).

To close the gap in OS10, AfDB needs to ensure that stakeholders are properly consulted, and the entire process involved effective public disclosure. Where stakeholder engagement and public disclosure is assessed to be deficient, the Borrowers may be required to engage and disclose relevant information on the social and environmental effects of their projects. Stakeholder engagement should now include climate data and risk assessments, ensuring that affected communities understand how projects address climate change. Information should be disclosed in accessible formats and local languages, and feedback on climate-related impacts should be incorporated into ongoing project monitoring.

3 CONCLUSIONS (BASED ON THE COUNTRY SYSTEM ASSESSMENT AND THE OVERALL COMPARATIVE ANALYSIS BY OS)

This analysis has enabled an in-depth evaluation of Nigeria's E&S assessment system in comparison to the Integrated Safeguards System (ISS) and Operational Safeguards (OSs) of the AfDB. The findings revealed that there is an overarching EIA Act that mandates the E&S assessment of all development projects. In addition to the EIA Act, there are other Acts, regulations, standards, policies and plans that are supportive of the EIA Act. However, Nigeria's E&S safeguards practice needs enhancement to comply with the operational standards set out in the AfDB's ISS.

The gaps identified in Nigeria's E&S assessment system, relative to AfDB's ISS and OSs, are discussed in Annexes 5.1 and 5.2. Opportunities identified include revision of the EIA Act, enhancing enforcement capacity, clarifying competing and overlapping mandates, enhancing public disclosure and stakeholder engagement, bolstering training and resourcing of E&S practitioners, elevating voluntary principles applicable to FIs to enforceable regulations, and digitizing E&S data and systems.

Following the analysis of gaps, recommendations were made to strengthen Nigeria's E&S policy/administrative framework, improve institutional/human capacity, enhance coordination, and ensure accountability in all aspects of the E&S assessment, indicating the roles and responsibilities of relevant entities. The recommendations encompass the review of statutes, budgetary provisions, capacity improvement, and service delivery (including coordination, synergy and robust stakeholder engagement/public participation). The recommendations in this assessment, when implemented will ensure robust E&S safeguards system in Nigeria that will align with the ISS and OSs of the AfDB.

4 RECOMMENDATIONS

4.1 *Policy recommendations (incl. strategic policy reforms, priority areas for government action)*

Nigeria has laws, policies, standards and regulations that, if diligently implemented, can safeguard against possible environmental and social risks associated with development projects. It is recommended that some of the relevant E&S statutes be enhanced to align them with global best practices, for institutional arrangements to be streamlined with mutually reinforcing mandates and functions; and to strengthen institutional capacity with the human, technical and financial resources required to deliver on respective mandates. The following recommendations provide a roadmap to transform the E&S system into one that supports sustainable and inclusive development:

- Update the EIA Act to reflect the latest environmental and social standards;
- Harmonize the regulatory mandates to clearly delineate the roles and responsibilities across EAD, NESREA, NOSDRA, and other MDAs to eliminate conflicts and redundancies and to maximize efficiency in meeting respective mandates and improve coordination and accountability; of
- Elevate voluntary principles such as the NSBP and NSFP to regulatory status with enforceable regulations mandating NSBP and NSFP compliance for all licensed FIs and regulated entities;
- Review the Land-use Act to include provisions for equitable resettlement planning for all project affected people (PAPs), replacement-cost compensation in line with global best practice, protection of all PAPs regardless of land tenure status, and individual consent forms with all PAPs.
- Establish a digital E&S database framework –in line with Federal Government of Nigeria’s digital economy objectives– to digitize E&S data and records at the local, state and federal levels for enhanced assessment, monitoring and E&S compliance.

4.2 *Institutional strengthening (incl. capacity building initiatives, improving coordination and accountability, enhancing stakeholder engagement, monitoring systems and assessment/feedback mechanisms)*

To strengthen institutions, build capacity and improve coordination and accountability in all aspects of the E&S assessment, the following actions recommended:

- Human resources and budgetary support: Increase funding, manpower and logistics support for the Federal Ministry of Environment (FMEnv) and relevant bodies (EAD, NESREA, NOSDRA, etc.) to improve E&S compliance assessment, monitoring and enforcement
- Capacity building: Place emphasis on capacity building and regular training for the E&S regulatory personnel on international E&S standards and best practices;
- Harmonization of mandates: Harmonize regulatory mandates to clearly delineate roles and responsibilities across key departments and agencies such as EAD, NESREA, NOSDRA, and other MDAs to eliminate conflicts and redundancies, maximize efficiency in meeting respective mandates, and improve coordination and accountability; .
- Digitize E&S data: FMEnv to establish a robust digital database for all E&S safeguard data and activities from cradle to grave; and
- Social impact, stakeholder engagement and grievance redress mechanisms: Consider bolstering and renaming the Environmental Impact Assessment (EIA) the Environmental and Social Impact Assessment (ESIA) to emphasize the social dimension. Further consideration to be given

to developing Social Impact Assessment guidelines and monitoring frameworks, as well as bolstering stakeholder engagement and grievance redress mechanisms.

4.3 Other recommendations for the country

- Professional standards: Partner with the existing chartered body of environmental practitioners (Institute of Environmental Practitioners of Nigeria) to help upgrade the quality of Environmental and Social Assessment documents prepared under Nigeria's E&S assessment system and in alignment with global E&S standards (e.g., AfDB ISS); and
- Manpower deployment: In addition to increasing human resources within the relevant MDAs, consideration to be given to decentralization and representation, e.g. establishing zonal offices under EAD to expedite assessment and reduce centralization delays and appointing E&S officers in all MDA that implement physical projects.

4.4 Recommendations for the Bank

In its efforts to continuously support its Regional Member Countries and with the objective of increasing the use of country systems over the project cycle, the following recommendations are proffered for the AfDB:

- Support the strengthening of Nigeria E&S safeguards system, including through (i) promoting centers of excellence in training on E&S assessment, including Environment-Health-Safety (EHS) skills and practices; (ii) strengthening the capacity of national agencies responsible for E&S assessment procedures, especially with training and specialized equipment; (iii) promoting independent chartered E&S professional bodies; (iv) filling the gaps between national and MDB requirements, especially in involuntary resettlement and governance; (v) supporting the awareness of national CSPs on MDBs E&S requirements and approach. The Bank to contribute to the implementation of agreed actions using an innovative approach through supported investment projects.
- Provision of financial and advisory support to enhance high-quality E&S risks and impacts assessment and management throughout the project cycle. While the availability of technical expertise is part of the country system strengthening, financial constraints are to be addressed using innovative approach such as Project Preparation Advance (PPA), which the AfDB is currently discussing for adoption similar to what is being practiced at other peer institutions.
- Promote stakeholder engagement and knowledge sharing by capitalizing on ongoing workstreams, including (i) hosting the inaugural Africa ESG Forum to enhance ESG disclosure frameworks and sustainable finance flows; (ii) strengthening public consultation, information disclosure, and grievance redress mechanisms as part of project financing requirements; and (iii) promoting ESG transparency, deepening community engagement, and scaling up knowledge-sharing platforms.

4.5 Action Plan

Challenges	Recommended Solution	Action Party
12. Outdated EIA Act	<ul style="list-style-type: none"> • Update the EIA Act in line with global best practices and standards; Finalize approval and adoption of the revised EIA Act 	<ul style="list-style-type: none"> • Nigerian Government
13. Weak enforcement capacity	<ul style="list-style-type: none"> • Increase funding; enhance and modernize workforce; enhance inter-agency coordination 	<ul style="list-style-type: none"> • Nigerian Government
14. No enforceable financial intermediary safeguards (OS9)	<ul style="list-style-type: none"> • Elevate voluntary principles such as the NSBP and NSFP to 	<ul style="list-style-type: none"> • Nigeria Government/ CBN/SEC

Challenges	Recommended Solution	Action Party
	regulatory status with enforceable regulations mandating NSBP and NSFP compliance for all licensed FIs and regulated entities	• Development partners, including MFIs
15. Inadequate protection of intangible heritage (OS8)	• Domesticate UNESCO Convention on Intangible Cultural Heritage (2003); Revise NCMM Act.	• Nigerian Government
16. Overlapping agency roles	• Clarify mandates and roles; eliminate duplication; enhance cooperation through MoUs	• Nigerian Government/FMEnv
17. Involuntary resettlement practices misaligned with OS5	• Reform Land Use Act; adopt inclusive and fair compensation mechanisms	• Nigerian Government/FMEnv/MHUD • Development partners, including MFIs
18. Centralized ESIA process causes delays	• Decentralize the EAD departments with zonal offices to enhance accessibility and ease the administrative process; streamline the ESIA process where appropriate; adopt digital platforms	• FMEnv
19. Weak public disclosure and stakeholder engagement	• Review the EIA process to espouse robust stakeholder engagement and public participation; institutionalize free, prior and informed consent (FPIC); intensify awareness and information campaigns; use digital tools and platforms for broader outreach	• FMEnv • Development partners, including MFIs
20. Shortage of high quality ESIA professionals (despite the presence of numerous ESIA practitioners), coupled with shortage of funds, which affects the quality of ESIA documents.	Leverage centers of excellence ((e.g. World Bank SPESSE) in Nigeria to train environmental practitioners who would then undergo professional certification by chartered professional bodies such as Institute of Environmental Practitioners of Nigeria (IEPN); partner with chartered environmental professional groups such IEPN and non-chartered groups (Nigerian Environmental Society, Waste Management Society of Nigeria, and Association for Environmental Impact Assessment of Nigeria); to achieve a robust certification process to improve the quality of ESIA documents; invest in training programs and increase financial and technical support for EIA initiatives which will strengthen capacity to improve the quality of E&S	• Nigerian Government • Development partners, including MFIs

Challenges	Recommended Solution	Action Party
	documents.	
21. Limited data and system digitization, including dearth of reliable data and lack of synergy between proponents, practitioners and regulatory bodies resulting in delays in securing project approvals.	<ul style="list-style-type: none"> Establish a national E&S database, digital archive, and E&S information system 	<ul style="list-style-type: none"> FMEEnv Development partners, including MFIs
22. Low budgetary allocations and staffing resulting in weak enforcement of statutes by regulatory agencies	<ul style="list-style-type: none"> Increase funding allowing enforcement agencies to deliver on their mandates and modernize workforce strategy (recruitment, training) 	<ul style="list-style-type: none"> Nigerian Government

5 ANNEXES

5.1 Detailed equivalence analysis tables (country system-ISS Comparison Matrix)

AfDB Operational Safeguards	Nigeria's Safeguard System	Gap Analysis
<p>1. <i>Assessment and management of environmental risks and impacts (OS1):</i> Assessment, management and monitoring of the environmental and social risks and impacts of projects throughout its life cycle and mainstreaming of climate change issues to ensure sustainable development. Consider all environmental and social impacts (direct, indirect, cumulative, and transboundary) of projects and deploy the principle of mitigation hierarchy in the mitigation, management and monitoring of projects. Borrowers demonstrate human, technological and institutional capacity to anticipate and manage social and environmental risks of their projects in compliance with Bank policies. Utilization of deliberate and differentiated measures to protect the weak and vulnerable and mainstream gender issues to avoid disproportionate impacts on the vulnerable groups. Engage the stakeholders and ensure public disclosure of the entire process.</p>	<ul style="list-style-type: none"> • There is the EIA Act that mandatorily requires the conduct of ESIA, and these requirements also involve screening and categorization, scoping and stakeholder consultation. It starts with screening/categorization, and scoping, impact assessment, impact mitigations and monitoring, routine audit. Stakeholder engagement and public disclosure. • In general, the Nigerian process is robust and comparable to the AfDB OS 1. However, the major impediment hindering the review of the EIA act is legislative delays and bottlenecks. The Bill has been waiting in Parliament for over ten years. 	<ul style="list-style-type: none"> • Multiple policies and regulatory frameworks that can hinder effective environmental and social assessments • The quality of EIA reports varies significantly. Some assessments lack depth, fail to consider all relevant factors, or provide inadequate mitigation measures. • Poor quality EIAs undermining the decision-making process • EIA Act was not reviewed for more than three decades due to legislative delays and bottlenecks. The Bill review the EIA Act has been waiting in Parliament for over ten years! • Multiplicity and overlapping mandate of agencies in E&S regulatory enforcement, institutional overreach, etc. it can only be avoided by clear delineation of roles by government
<p>2. <i>Conditions of employment and working (OS2)</i> OS2 stipulates safe and decent working conditions for all categories of (full-time, part-time, temporary, seasonal, and migrant) workers (direct, contract, vendors, or community workers); and emphasizes no discrimination, equal opportunities, and equitable treatment for all categories of workers, and forbids child labor and forced labor. OS2 espouses documentation of management procedures covering, but not limited to, employment conditions, work hours and working conditions. The Borrower must allow collective bargain, allowing workers to unionize and instate a complaint management mechanism that's accessible to all workers without discrimination. Ensure comprehensive occupational health and safety measures to cover all workers, employees of contractors, vendors and other third-party workers engaged by the Borrower.</p>	<ul style="list-style-type: none"> • There are legal statutes that define conditions of employment and working. The Labor Act and the Factories Act, and related statutes requirements are comparable to AfDB OS 2 • The Nigerian labor safeguards clearly forbid employment for children less than 15 years, the use of forced labor and discrimination in whatever form. It allows for collective bargaining, freedom of association, gender rights, and determination of work hours and provision of decent working conditions. • Provide necessary resources to safeguard the health and safety of all workers 	<ul style="list-style-type: none"> • Weak enforcement of labor related laws • Poor governance • Insufficient resources for effective implementation of the provision of Nigerian labor laws. • Stakeholders believe some of the laws are outdated and somehow complex and not compliant with the current realities.
<p>3. <i>Resource efficiency and pollution prevention and management (OS3)</i> OS3 encourages energy optimization, efficient use of resources, reduced emissions, effective pollution control and comprehensive waste management measures. It is imperative that release of</p>	<ul style="list-style-type: none"> • There are statutory provisions, including regulations and standards that are comparable to AfDB OS 3. They include, among others, (EIA Act Cap E12 LFN 2004, NOSDRA 2006, NESREA Act 2007, NIMASA 	<ul style="list-style-type: none"> • Different agencies are empowered to enforce the Acts, Policies and Regulations that could satisfy OS3 • The Agencies operate independently and seldom collaborate

<i>AfDB Operational Safeguards</i>	<i>Nigeria's Safeguard System</i>	<i>Gap Analysis</i>
<p>pollutants into the air, water, and soils are avoided, minimized, and control the to comply with national standards and global best practices. Borrowers to ensure that their projects take into cognizance, the baseline environmental conditions, its carrying capacity, biological diversity, cumulative impacts, and the potential climate change effects. Borrower to mainstream climate change effects by estimating greenhouse gas emissions and net carbon balance. Borrower to avoid or minimize the generation of hazardous and non-hazardous wastes and ensure efficient deploy best waste management practices based on the principle of reduction, reuse, recycling, and recovery, and responsible disposal. Borrower to prepare a pest/vector control plan using combined integrated pest/vector management strategies.</p>	<p>Act 2007, Climate Change Act 2021 and PIA Act 2021) that safeguards against inefficient use of resources and control environmental pollution . Other statutes that align with OS3 include the National Environmental (Sanitation and Wastes Control) Regulations, 2009, Harmful Waste (Special Criminal Provisions) Act, 1988 and National Policy on Solid Waste Management. There are policies and regulations published by NESREA, NOSDRA, NIMASA and NCCC to ensure efficient use of resources and pollution control.</p> <ul style="list-style-type: none"> • Nigeria's E&S framework mandates that all projects adopt resource-efficient practices and pollution prevention measures that directly support climate mitigation. Regulatory instruments—such as enhanced anti-gas flaring laws and incentives for renewable energy—ensure that projects minimize GHG emissions and maximize resource efficiency. • However, their implementation is ineffective due to several factors including turf wars, over regulation, unclear govt mandates, and institutional overreach 	<ul style="list-style-type: none"> • There is paucity of manpower to cover the entire country and economic sectors in Nigeria.
<p>4. <i>Community Health, Safety and Security (OS4)</i> Identify and assess the adverse impacts of projects on health, safety and security of community members including the vulnerable groups. Ensure that project planning, implementation and operation comply with national regulations and involve competent experts. Identify, evaluate, and monitor project-related traffic risks and road safety, enhance the safety of project drivers and vehicles, and prevent accidents involving third parties. Prevent the spread of communicable infections related with the project and exposure to hazardous materials and substances that may result from activities related to the project. Undertake risk/hazard assessment and prepare emergency response procedures in accordance with regulatory requirements. Assess the security situation in relation to the project and prepare a security response plan to safeguard security of project-affected community.</p>	<ul style="list-style-type: none"> • There are laws that deal with community health, but this has not been included as part of the E&S assessment systems in Nigeria. These include the NOSDRA Act 2006, NESREA Act 2007, NIMASA Act 2007, Harmful wastes Act, NIWA Act 2004, NACA Act 2006, and NCDCP Act 2018, AGRIA 1979, and FRA 2018 among others, but the EIA Act E12 LFN 2004 does not require assessment of community health, risk and safety. • The National Environmental Health Practice Regulations (NEHPR) Act 2016 sets guidelines for maintaining environmental health. The Quarantine Act, 1954, and National Centre for Disease Control and Prevention Establishment Act 2018 enable the surveillance, control and management of communicable diseases of public health importance. The Road Safety Commission (Establishment) Act 2007 and its regulations deals with vehicular safety on 	<ul style="list-style-type: none"> • Enforcement of these regulations is weak, due to factors that includes paucity of fund, inadequate manpower, skills and slow bureaucracy. • The national E&S system is inadequate with respect to AfDB OS4

AfDB Operational Safeguards	Nigeria's Safeguard System	Gap Analysis
	<p>Nigerian roads, and enforces road safety rules and regulations, registration and licensing of motor vehicles and licensing of drivers.</p> <ul style="list-style-type: none"> • However, There is no specific provision in the EIA Act that demands the assessment of community health and safety, except for the oil industry as PIA mandates a project proponent to consider community security in its operations. Also, there is the absence of reliable national data on environmental quality, scare technical resources, insufficient funding, multiplicity of agencies with similar roles, and lack of national spread of the agencies. 	
<p>5. <i>Land acquisition, restrictions on access and use of land, and involuntary resettlement (OS5)</i></p> <p>OS5 requires resettlement (physical and economic) to be avoided or minimized to the extent possible. When expropriation or restrictions on access to, and use of, land is unavoidably, there should be timely compensation for the loss of assets at full replacement cost and requires plans for resettlement and livelihood improvement plans.</p> <p>The Borrower should, where possible, prioritize land-based resettlement, offer land-for-land compensation, i.e., compensation in-kind instead of cash. OS5 demands that project-affected persons (PAPs) are informed in advance of the options available to them and associated with their implementation. Also, all tenants and squatters on the land being acquired are entitled to resettlement assistance. The Borrower can only take possession of the land and related assets acquired after due compensation has been paid and, if applicable, when the displaced persons have been resettled or, in addition to compensation, received resettlement assistance or relocation allowances. Where the acquisition of land or restrictions on the use or access to land or natural resources cause major economic displacement, PAPs should be presented with opportunities to improve or at least restore their livelihoods. OS5 favors amicable settlements of conflicts, however, it also requires that there should be a grievance redress system (GRM) that is close to the people concerned, simple and easily accessible to affected individuals. There should be a framework to integrate monitoring and evaluation activities in the resettlement process.</p>	<ul style="list-style-type: none"> • The prime legislation that deals with land matters is the Land Use Act, a federal legislation that vests the control of land and land matters with the state governor who issues land title. However, the LUA does not fully satisfy OS5 requirements, because it does not situate landowners in a fair position to decline a governor's request on land-take, other than resorting to litigation, which often proves cumbersome and time-consuming. • Also, when the government revokes land from a rightful owner(s), the LUA only allows for compensation for the value at the date of revocation, limited to unexhausted portions of the land and not at replacement cost; and • Nigeria's resettlement system is not sufficient in resolving involuntary economic resettlement, as it focuses only on physical resettlement and does not cover other categories of displaced persons other than landowners. 	<ul style="list-style-type: none"> • The LUA does not meet OS5 because it results in involuntary resettlement as landowners are not in a fair position to oppose a governor's decision on land • The land-use act is also being abused by people in power, leading to land grabbing. • The National Environmental Authority has not designed a clear path for review and approval of the Resettlement Action Plan as it has for ESIA.

<i>AfDB Operational Safeguards</i>	<i>Nigeria's Safeguard System</i>	<i>Gap Analysis</i>
<p>6. <i>Conservation of habitats and biodiversity and sustainable management of living natural resources (OS6)</i></p> <p>Determine the potential risks and effects of the project on habitats and biodiversity, assess the risks, and manage them using a hierarchy of mitigation measures. Where possible, projects should avoid natural habitats unless there is no other options, in which case OS5 requires assessment of impacts of the project and implementation of mitigation measures on the habitat and biodiversity.</p> <p>Projects/activities that are likely to have negative impacts on critical habitats shall not be permitted, unless the conditions stipulated in SO6 have been satisfied. In the case of activities involving primary production and harvesting of living natural resources, Borrowers must assess the potential impacts of their projects on habitats, biodiversity and local or ecologically related communities, including highly vulnerable rural minorities. The project must avoid the introduction of alien species with due recourse to regulatory framework and such species shall not be from spreading to other areas. Exploitation of biological natural resources must be managed in a sustainable manner and may be subjected to an independent forest certification scheme, and management agreements.</p>	<ul style="list-style-type: none"> • Nigeria has laws, standards, regulations and policies that can ensure sustainable utilization of resources at both national and subnational levels that safeguard biodiversity and natural resources that can satisfy OS6. • These include the Forest Act 1956, EIA Act NESREA Act, NOSDRA Act, NIMASA Act, PIA Act and resultant regulations • The enforcement of these regulations is challenged by gaps that bother on: <ul style="list-style-type: none"> ○ paucity of fund, lack of sufficient manpower and skills (within the regulatory agencies) in the facilitation of ESIA's that would meet the requirements of AfDB ISS; and ○ slow bureaucracy in the public service, and outdated forest law with ineffective penalties to forestall noncompliance. 	<ul style="list-style-type: none"> • Outdated forest laws • the enforcement of these statutes is weak, due factors which includes paucity of fund, inadequate manpower and skills and slow bureaucracy. • To close the gaps between the national system and OS6, AfDB should ensure a comprehensive review of ESIA's prepared using the national system to ensure that the resultant ESMP meets the requirements of AfDB ISS
<p>7. <i>Vulnerable groups (OS 7)</i></p> <p>Borrowers should respect and protect the rights and interests of vulnerable individuals and groups that may potentially be affected by their projects. OS7 requires the assessment of risks and impacts of a borrower's project, and mitigation measures should be identified based on the principle of mitigation hierarchy. The borrower should trigger OS7 when the screening process determines that potential negative impacts on vulnerable groups are present. The borrower needs to obtain free, prior, and informed consent for projects impacting the lands, resources, or cultural heritage of vulnerable or indigenous groups. Borrowers should apply culturally appropriate complaint management mechanisms and consider the availability of judicial remedies and customary conflict resolution mechanisms.</p>	<ul style="list-style-type: none"> • There are laws that laws that protect the fundamental rights of Nigerians that complies with OS7. These include but are not limited to: <ul style="list-style-type: none"> ○ The constitution of the Federal Republic of Nigeria in Chapter II 17(1), 17(2)(a) &(b) "and 17(3)(f) dwell on protection of the freedoms and rights of every Nigeria ○ Discrimination Against People with Disabilities (Prohibition) Act 2018 forbids any form of discrimination against people based on their disability. ○ Labor Act 2004, Child Rights Act 2003, HIV/AIDS Anti-Discrimination Act 2014, and National Gender Policy prohibits discrimination against people. • However, Nigeria's discrimination laws do not cover some minorities (religious, ethnic or orientation) who may not be living with disabilities; there is no specific policy or guideline for workplace grievance redress 	<ul style="list-style-type: none"> • There is lack of awareness and weak enforcement of the few non-discrimination safeguards. Nigerian E&S system to be deficient in terms of compliance with OS7

AfDB Operational Safeguards	Nigeria's Safeguard System	Gap Analysis
<p>8. <i>Cultural Heritage (OS8)</i> OS5 requires inclusion of cultural heritage in E&S assessments. The preference is to avoid adverse impacts on cultural heritage, otherwise Borrowers need to implement measures for the management of impacts on cultural heritage and a Cultural Heritage Management Plan. Borrower to protect cultural heritage items that may be endangered throughout the project lifecycle. Engage relevant stakeholders to identify existing cultural heritage or those likely to be encountered during the project lifecycle. Borrowers should ensure alternative access to cultural sites, when the borrower's project obstructs access to such cultural heritage sites.</p> <p>In areas with potential for archaeological finds, the borrower should conduct literature research for archaeological remains, field surveys and ensure proper documentation of records of finds. Potential effects of project on cultural heritage, mitigation measures for adverse impacts need to be documented. Both the tangible and intangible heritages are to be identified, documented and preserved. Cultural heritage shall not be commercially exploited the obtaining the consent of the stakeholders following a thorough consultation. The locals shall share in any commercial benefit derivable from cultural heritage in a fair and equitable manner.</p>	<p>mechanisms; and no deliberate statutes that protects the whistleblower in the workplace, except when it involves financial fraud.</p> <ul style="list-style-type: none"> • The constitution of Nigeria explicitly elaborated in Chapter II 21(a) to “<i>protect, preserve and promote the Nigerian cultures which enhance human dignity and are consistent with the fundamental objects...</i>” and (b) “<i>encourage the development of technological and scientific studies which enhance cultural values</i>”. • The National Commission on Museums and Monuments Act safeguards Nigeria's cultural heritage, although it is silent on the intangible ones, but hardly considered when assessing the impacts of projects. • Nigeria has ratified the 2003 Convention for Safeguarding Intangible Cultural Heritage, and making efforts and domestication, but it still not fully domesticated the convention, which means that the intangible cultural heritages are still not fully safeguarded as compared to the tangible heritages. 	<ul style="list-style-type: none"> • The Nigerian Safeguard has fallen short of the requirements of OS 8. The only Act that deals with Cultural Heritage only safeguards the tangible cultural heritage. • There are no statutes protecting the non-tangible heritages, even though it is mentioned in the constitution of Nigeria that all the cultural heritages of Nigeria will be protected. • The section of the constitution where cultural heritage protection is mentioned in not justiciable, meaning the provisions of the said section can be litigated in any court of law in Nigeria.
<p>9. <i>Financial Intermediaries (OS9)</i> OS9 addresses the E&S requirements associated with financial intermediaries (Fis), public or private, and aims at defining how the role of FIs in assessing and managing E&S risks associated with the sub-projects they finance; and promoting good E&S practices by their sub-projects. OS5 also promotes environmental, social and governance (ESG) within the FIs; and espouses ESG adoption by enterprises supported by the Bank, and in the capital market institutions.</p>	<ul style="list-style-type: none"> • The law that governs the financial intermediaries in Nigeria include the CBN Act, BOFIA Act, SEC Act and Pension Act. However, none of them confers any mandatory requirement on FIs to compel the borrowers to conform with any E&S Safeguard system. • Nigeria has no legal provisions that mandates the holistic enforcement of E&S assessment into financial operations to satisfy the requirements of OS9; and • Although there are E&S principles (NSBP and NSFP) adopted by Nigerian financial regulators (CBN and SEC), they are not statutorily binding and not fully enforced across board, thus Nigeria's banking sector 	<ul style="list-style-type: none"> • There is no act specifically mandating the financial intermediaries to play any role in enforcing E&S safeguards on their borrowers. • However, there are NSBP and SFP that encourage mainstreaming E&S sustainability issues into the financial system, which can be strengthen upgrading them to the level of regulations for FIs in Nigeria

<i>AfDB Operational Safeguards</i>	<i>Nigeria's Safeguard System</i>	<i>Gap Analysis</i>
<p>10. <i>Stakeholder Engagement and Disclosure (OS10)</i></p> <p>The essence of OS10 is to integrate the concerns of all stakeholders and public concerns in the environmental and social assessment of project to achieve sustainable development. Stakeholders should be engaged throughout the project lifecycle and should start at the early stages of project development. Stakeholder engagement and disclosure plans should allow for extensive consultations with stakeholders regarding project design, adjusting the nature, scope, and frequency of this engagement to match the scale and level of risks associated with the project. Conduct thorough consultations with all stakeholders, provide them with timely and relevant information, and consult with them in a culturally appropriate manner. Consultation process should be free from manipulation, interference, coercion, discrimination, and intimidation. Maintain and publish records of stakeholder engagement during E&S assessment, including details stakeholders' concerns, responses by proponent, and decisions reached. Stakeholders (including vulnerable individuals or groups) should be identified and profiled according to their relevance and importance to the project. The consultation process should allow stakeholders to provide their feedback on the risks, impacts, and mitigation measures continuously, as issues, impacts, and opportunities evolve. There should be a complaints process covering risks and potential adverse effects of the project, that should be accessible and open to all in a timely, free and respectful of local culture.</p>	<p>are unable to satisfy the requirements of OS9.</p> <ul style="list-style-type: none"> • EAD engages in Stakeholder Engaged and Public disclosure as mandated by the Act. However, the stakeholder engagements are conducted often without prior informed consent • The statutes that mandate stakeholder consultation is Nigerian include the: <ul style="list-style-type: none"> ◦ Constitution of the Federal Republic of Nigeria (1999), which guarantees participatory democracy; ◦ Freedom of Information Act (2011) that promotes transparency and accountability; ◦ EIA Act Cap E12, LFN 2004, which mandates public consultations and stakeholder engagement, and a 21-day public disclosure for Category A projects; ◦ Nigerian Urban and Regional Planning Act, Cap N138, 2004 (requiring the involvement of stakeholders in the planning process). 	<ul style="list-style-type: none"> • In practice, stakeholders are often poorly engaged, especially at the initial phases of the EIA processes. • Where stakeholders are engaged, it is often without prior information, sometimes in a manner that undermines transparency. • Meaningful public participation is essential in the EIA process, but in Nigeria, citizens awareness of the EIA. • Public participation is limited, and they lack effective channels to seek redress. There is a general lack of awareness about EIA process among ordinary Nigerians. • Despite having the legal right to freedom of information, the Nigerian bureaucracy does not yield to citizen's right to information, participation, and justice; hence there are grumblings that decisions are not transparently reached.

5.2 Summary of the assessment of the Country System in E&S (SPES) in relation to the requirements of the MDBs

NB. This table is based on a relevant analysis of documents but above all on practice on national projects (public and private) which have not benefited from the support of any financial partner (bilateral or multilateral) with E&S requirements in projects.

Please note: the cells in columns (a), (b) and (c) must be colored according to the legend. Columns (e) and (f) must be filled in with text.

Obligations of the Borrower (Analysis reference)	National Legal Framework (a)	National policies & strategies (b)	Proven national practices. (c)	Critical Weaknesses (e)	Specific aspects to strengthen. (f)
OS1. Assessment and Management of Environmental and Social Risks and Impacts				<p>The ESIA process and procedure in Nigeria include screening and scoping. The ESIA proposals are screened and properly assigned the appropriate categorization, but this screening was carried out in-house by staff of EAD using sectoral guidelines, without much input from the public. The scoping of ESIA in Nigeria is often weak and lacks extensive and rigorous consultations in a culturally appropriate manner, with a prior-informed consent. There is also weak public disclosure, stakeholder identification is skewed and not comprehensive enough, prioritizing economic benefits over environmental and social concerns. Scoping workshops are hardly held and where they are held, they are often not publicized and properly conducted. The scoping process is often done in haste, without engaging the stakeholders properly and appropriately.</p> <p>The ESIA documents prepared following the national system are sometimes explicit in terms of project description and project activities, but the potential impacts and mitigation measures are often written in generic terms, with no clear specifics, which renders it difficult to implement. The baseline environmental and social characterization of the project environment are</p>	<p>Review and update the EIA Act and E& S processes and procedures to upgrade the scope and quality of Nigeria's E&S assessment system to comply with global E&S safeguard systems (e.g., AfDB ISS). Also, there is a need to employ more personnel in the Environmental Assessment Division to cope with the enormous volume of work in the division, provide enough materials resources and continuously provide up-skilling training for the E&S personnel.</p> <p>Integrate key departments and agencies such as EAD, NESREA, NOSDRA, National Park Service to become an independent commission to oversee E&S Assessment.</p> <p>Ensure there are dedicated desk officers in all agencies that have the responsibility of enforcing aspects of E&S safeguards.</p> <p>Provide legal services within the EA department to provide legal guidance to the E&S technocrats in the department.</p> <p>Develop baseline data (state of the environment) of the country. This data will be periodically updated and will serve as reference for baseline data in conducting ESA studies in the country.</p> <p>An up-to-date state-of-the-environment data in Nigeria</p>

Obligations of the Borrower (Analysis reference)	National Legal Framework (a)	National policies & strategies (b)	Proven national practices. (c)	Critical Weaknesses (e)	Specific aspects to strengthen. (f)
				<p>not properly assessed, and this does not enable proper prediction/assessment of potential impacts of projects.</p> <p>The E&S process is marred by low public participation due to slow bureaucracy, lack of awareness of the EIA process and dearth of information on the proposed project. There seems to be no concurrence between the need to ensure environmental and social sustainability with development priorities, with more attention paid to the latter by project developers.</p> <p>The quality of ESIA reports prepared using the Nigerian system needs improvement, largely due to the expertise involved, coupled with low allocation of resources for qualitative EIA reports on the part of the proponents. There is a minimal political commitment to support the enforcement of environmental standards and implement ESIA reports, which has confined the ESIA documents to the shelves and with low level of public participation in E&S decision-making processes, the ESIA documents are hardly considered beyond the need to comply with regulations.</p>	<p>will reduce the length of time required to complete the ESIA process and enable quick decision-making process to support projects.</p> <p>To strengthen Nigeria's E&S system, the federal government needs to finalize the review of the EIA Act 2004 and review other E&S-relevant statutes or enact new ones to comply with the 10 OS of AfDB</p> <p>On its part, AfDB should engage with the Federal Government to provide possible assistance in reviewing the E&S assessment system to conform with global best-practices.</p>
OS2. Labor and Working conditions				<p>There are laws and a national policy on employment in Nigeria that are comparable to global labor standards, however, the implementation of the labor statutes is poor.</p> <p>Many employers in Nigeria breach labor laws with ease because of ineffective enforcement mechanisms, enabled by poor governance and</p>	<p>To prevent violations of Labor laws by employers, such as non-payment of wages, poor working conditions, and lack of job security, there is need to enhance the capacity of Labor inspection services and ensure strict enforcement of Labor laws to protect workers' rights . To stave off political interference and marginalization that weakens collective bargaining by workers, policies that strengthen labor unions should be encouraged to</p>

Obligations of the Borrower (Analysis reference)	National Legal Framework (a)	National policies & strategies (b)	Proven national practices. (c)	Critical Weaknesses (e)	Specific aspects to strengthen. (f)
				<p>corrupt practices</p> <p>Undue politicization and marginalization of Labor Unions which worsens welfare of Nigerian workers.</p> <p>Insufficient resources for effective implementation of the provision of Nigerian labor laws, some of which are outdated and somehow complex and not compliant with the current realities. In some instances, laws were amended to weaken the labor laws instead of strengthening them. For instance, the Trade Union (Amendment) Act, 2005, which amended the Trade Union Act 1974 was aimed at curtailing industrial actions by weakening Trade Unions instead of addressing core labor issues.</p>	<p>enhance their effectiveness in advocating for workers. Ensure due diligence to improve the effectiveness of Labour laws. Employers, especially the government and the organized private sector, should invest in infrastructure and human resource development to render businesses thrive and provide better working conditions. Employers must respect labor agreements and ensure that workers are treated fairly.</p>
OS3. Resources Efficiency and Pollution Prevention and Management				<p>There are statutes that, if well enforced, can ensure resource use efficiency, pollution prevention and management. However, there are challenges of implementation emanating from the fact that different agencies are empowered to enforce the statutes (Acts, Policies and Regulations) that could satisfy OS3 requirements, and the entities in charge of enforcing these statutes operate independently and seldom collaborate, which coupled with paucity of manpower to cover all the economic sectors in Nigeria.</p>	<p>To comply with OS3, the Borrower needs to comply with extant Nigerian statutes on pollution prevention and resource management. In this regard, there is a need for a comprehensive review of the EIA Act, LFN 2004, to make it more robust to mandate every proponent to comply with all extant laws the ne in preparing their ESIA's. Also, there is a need for training and retraining of staff in the Environmental Assessment Department regarding the requirements of AfDB ISS. This will improve the quality of ESIA's prepared using the national system, which will also improve efficiency.</p>
OS4. Community health, safety, and security				<p>There is no specific provision in the EIA Act that demands the assessment of community health and safety, but the PIA mandates a project proponent to consider community security in its operations. There are statutes that aim to protect the public</p>	<p>The AfDB should compel the Borrower to comply with the provisions of OS4, including extant national laws that safeguard community health, safety and security. Such laws include Quarantine Act, 1954, National Centre for Disease Control and Prevention</p>

Obligations of the Borrower (Analysis reference)	National Legal Framework (a)	National policies & strategies (b)	Proven national practices. (c)	Critical Weaknesses (e)	Specific aspects to strengthen. (f)
				<p>against health hazards that, if the Borrower complies, will foster compliance with OS4.</p> <p>In practice, however, the national E&S assessment system hardly considers issues around community health, safety and security, except in situations where the EIA preparers chose to include them in their assessment.</p>	<p>Establishment Act 2018 National Environmental Health Practitioners Regulation Act 2016. regulations/provisions of NESREA Act 2006 and Road Safety Commission (Establishment) Act 2007 and regulations therefrom. In addition to complying with these national statutes, gaps should be covered by adoption of global best practices for community health, safety and security management.</p>
OS5. Land acquisition, restrictions on access to land and land, and involuntary resettlement				<p>There is the Land Use Act, the prime law that governs land tenure in Nigeria, but it is weak in addressing resettlement issues. The LUA is a federal legislation that vests the control of land with the state government. However, OS5 considers both involuntary physical and economic resettlement caused by project-related losses of land, or access to (or use of) land, as well as losses of assets or property. Also, a proponent is to consider resettlement as involuntary when the resettled people lack the opportunities to refuse land acquisition or restrictions. The land-use act allows Governors to appropriate land for public good, but, in practice, government also redistributes to private interest, without due regards to the plight of the original landowners.</p> <p>The Nigerian resettlement system focuses on physical resettlement and not economic resettlement. Also, the LUA considers only tangible developments on land such as structures, crops and economic trees/plantations. Nonphysical developments such as soil quality/aesthetics are not counted as developments on land. More so, LUA deals with</p>	<p>Ensure strict compliance with requirements of OS5 even when the Borrower has been complied with the LUA. The need for compliance with OS5 emanates from the fact that unmitigated displacement can result in psychological, economic, social and environmental repercussions. The preference of OS5 is to avoid involuntary resettlement, but when it becomes impossible to avoid, land issues must be addressed as a mandatory condition for any investment by AfDB. Mitigation measures for impacts associated with involuntary resettlement must be carefully planned and a resettlement action plan (RAP) specifying the procedure and action for mitigating resettlement issues.</p>

Obligations of the Borrower (Analysis reference)	National Legal Framework (a)	National policies & strategies (b)	Proven national practices. (c)	Critical Weaknesses (e)	Specific aspects to strengthen. (f)
				landowners and often ignores the actual users of the land being resettled.	
OS6. Habitats and biodiversity conservation and sustainable management of living natural resources				<p>Nigeria has laws, standards, regulations and policies that can ensure sustainable utilization of resources at both national and subnational levels. These include but are not limited to the EIA Act EIA Act Cap E12 LFN 2004, NESREA Act 2007, NOSDRA Act, 2006, Petroleum Industry Act 2021, and NPS Act, Cap N65 LFN 2004, all of which provide safeguards for biodiversity and natural resources. Nigeria is a signatory to international conventions and agreements on biodiversity and natural resource conservation.</p> <p>However, enforcement of these regulations is weak, due to factors that bother on paucity of fund, insufficient manpower and skills (within the regulatory agencies). These challenges affect the quality of ESIA's in terms of compliance with OS6.</p>	To close the gaps between the national system and OS6, there is need to ensure consideration and compliance with all extant statutes on biodiversity and sustainable management of living resources. ESIA's prepared using the national system need to be updated to ensure that the resultant ESMP meets the requirements of AfDB OS6.
OS7. Vulnerable groups				<p>There are laws that help to protect against discrimination, which even though they may not be robust they can be effective enough to satisfy OS7 if properly enforced. However, Nigerian laws about discrimination do not include other minorities (religious, ethnic or orientation) who are not living with disabilities. In fact, nepotism is common complaint in Nigeria, while sexual certain sexual orientations are considered as taboos and even criminal in Nigeria (Same Sex Marriage Prohibition Act 2023).</p>	<p>Creation of awareness and training for employees, employers, and stakeholders on non-discrimination laws and the need to comply with them in projects and strengthen the enforcement of existing laws and ensure compliance. AfDB and Borrowers engage civil society organizations, NGOs, and advocacy groups to promote non-discrimination and support affected individuals.</p> <p>Borrowers should be compelled to develop and implement clear, comprehensive non-discrimination policies within their organizations, and the policies should define acceptable behaviors, reporting mechanisms, and consequences for violations of the</p>

Obligations of the Borrower (Analysis reference)	National Legal Framework (a)	National policies & strategies (b)	Proven national practices. (c)	Critical Weaknesses (e)	Specific aspects to strengthen. (f)
					<p>policies; and align with national laws such as the Discrimination Against Persons with Disabilities (Prohibition) Act, 2018.</p> <p>AfDB and Borrowers should plan to conduct audits and inspections to ensure compliance with non-discrimination policies and laws. There should be periodic review and update of the non-discrimination policies to reflect changes in laws and societal norms, and there should be feedback mechanisms to gather input incorporate observations by employees and the public on the effectiveness of non-discrimination measures put in place.</p> <p>There should be mechanisms for resolving grievances and there should be a clear channel of reporting (including anonymously) for employees and the public without fear of retaliation. There should be a provision for whistleblowing and a mechanism for protecting whistleblowers against discriminatory practices. The victims of discrimination should be availed of legal support and resources to seek redress, especially for victims of sexual exploitation/abuse.</p>
OS8. Cultural Heritage				<p>The constitution of Nigeria avows to “<i>protect, preserve and promote the Nigerian cultures which enhance human dignity and are consistent with the fundamental objects...</i>” and “<i>encourage the development of technological and scientific studies which enhance cultural values</i>”.</p> <p>Nigeria has statutes for protecting its rich tangible cultural heritage, but it has only two (Sukur Cultural Landscape, Adamawa State and Osun-Osogbo Sacred Grove, Osun State) sites listed by UNESCO cultural heritage sites, although 8 others</p>	<p>To strengthen the national safeguard system for cultural heritage, the National Commission for Museums and Monuments Act needs to be updated to include non-tangible heritage and to incorporate international best practices. There should be strict enforcement of cultural heritage laws, and continuous monitoring and application of penalties for violations. National policies on urban planning, environmental conservation, and economic development should be broadened to integrate cultural heritage preservation,</p>

Obligations of the Borrower (Analysis reference)	National Legal Framework (a)	National policies & strategies (b)	Proven national practices. (c)	Critical Weaknesses (e)	Specific aspects to strengthen. (f)
				<p>on tentative list of UNESCO sites. The prime safeguard for cultural heritage in Nigeria is the National Commission on Museums and Monuments (NCMM) Act Cap N19 LFN 2004, but this act focuses on tangible cultural heritage and even at that, its implementation often conflicts with the Land Use Act E15 LFN 2004.</p> <p>For the intangible cultural heritage, Nigeria's national capacities are not yet adapted to meet the requirements of the 2003 Convention for the Safeguarding of the Intangible Cultural Heritage. Nigeria is yet to build its capacity to effectively domicile the 2003 Convention for safeguarding intangible cultural heritage</p>	<p>and sustainable protection of cultural heritage should be encouraged across sectors.</p> <p>Public and private sector entities should be made to be aware of the importance of cultural heritage and the need for preservation. Local communities need to be engaged to play their role as the custodians of cultural heritage, and they should be availed training and resources to empower them to contribute to the protection and management of cultural heritage.</p> <p>Digital tools should be deployed in the documentation and archiving of cultural heritage items for easy retrieval, referencing and monitoring of the conditions of heritage sites.</p> <p>Include economic incentives in the form of ecotourism to generate revenues to be reinvested in heritage preservation. Private and public entities can also provide financial incentives, grants, and subsidies to support heritage conservation.</p>
OS9. Financial intermediaries				<p>There is no legal provision in Nigeria that can lead to compliance with OS9. Nevertheless, there is the Central Bank of Nigeria document on E&S called "<i>The Nigerian Sustainable Banking Principles</i>" (NSBP) that aims towards sustainable development. Also, there is the Security and Exchange Commission's Sustainable Financial Policies (SFP), similar to the NSBP, but applicable to financial institutions other than banks, discount houses and project finance institutions.</p> <p>However, both the NSBP and SFP are rather advisory provisions. with no statutory backing to</p>	<p>The Banks and Other Financial Institutions Act (BOFIA) Act 2020 and CBN Act 2007 are the prime statutes regulating the operations of financial institutions in Nigeria. These statutes could be amended to mandate banks and other financial institutions to enforce OS9 on AfDB Borrower within their portfolio.</p> <p>In the meantime, AfDB should ensure that any Nigerian FIs they engage must undertake to comply with OS9. The FIs should be compelled to enforce OS9 for all projects financed by AfDB, as a condition for the FIs participation</p>

Obligations of the Borrower (Analysis reference)	National Legal Framework (a)	National policies & strategies (b)	Proven national practices. (c)	Critical Weaknesses (e)	Specific aspects to strengthen. (f)
				mandate the FI to enforce same on their clients or Borrowers, therefore, they may not satisfy the requirements of OS9.	
OS10. Stakeholder engagement and disclosure of information				<p>There is a legal framework that espouses public participation in Nigeria, which is in concurrence with OS10. Firstly, the constitution guarantees public participation by emphasizing the rights of citizens to participate in governance and decision-making processes. The EIA Act Cap E12, LFN 2004 requires that all major development projects undergo an environmental impact assessment, which includes public consultations and stakeholder engagement, while the Freedom of Information Act (2011) mandates public institutions to provide information to citizens in a transparent and accountable. Also, the Nigerian Urban and Regional Planning Act, Cap N138, 2004 mandates stakeholder engagement in urban and regional planning, while National Orientation Agency (NOA) Act, 1993 ensures that the public is kept informed and participate effectively in governance.</p>	<p>The legal framework for stakeholder consultation should be harmonized and strengthened to mandate stakeholder consultation in clear and unambiguous terms. There should also be clear and comprehensive guidelines for the implementation of the legal requirements for stakeholder engagement.</p> <p>Training, certification and upskilling of EIA practitioners and other EIA stakeholders to understand the EIA process and the imperative of properly conducted stakeholder consultation in the EIA process. Assistance in terms of resources should be advanced to enable effective participation, especially for the marginalized groups. There should be a clear communication strategy with concise and timely information on projects and their potential impacts. Stakeholder consultation should target a wide audience and include multiple communication channels including digital platforms. The use of digital tools in facilitating stakeholder engagements, tracking progress and identifying areas for improvement, should be intensified.</p> <p>Stakeholder consultation should be started early in the EIA process to generate as much input as possible. The consultation should include all relevant stakeholders (communities, public and private agencies, project-affected people, and civil society organizations.</p> <p>The feedback mechanism of the EIA process should be strengthened to keep the stakeholders informed</p>

Obligations of the Borrower (Analysis reference)	National Legal Framework (a)	National policies & strategies (b)	Proven national practices. (c)	Critical Weaknesses (e)	Specific aspects to strengthen. (f)
					about the contributions of their inputs to the EIA process, and there should be effective systems for receiving and responding to stakeholder concerns. The EIA process should leverage local knowledge, involve local leaders and community representatives, and respect cultural norms in the project area.
Strict compliance with the Environmental and Social Assessment (ESA) procedure				The Environmental and Social (E&S) assessment process in Nigeria is well-defined procedurally, but it is hindered by bureaucratic inefficiencies, resource constraints, and poor coordination between federal and state environmental authorities. These challenges, often times coupled with weak collaboration between EAD and states ministries of environment, affect the timeliness, efficiency, and effectiveness of the EIA process.	<p>The Environmental Assessment Department of the Federal Ministry of Environment needs to be empowered through deployment of more personnel, training and upskilling and provision of technical assistance. This will enhance their capacity, improve the morale of the staff and generally increase efficiency.</p> <p>There should be a better synergy between the state ministries of environment and the EAD in terms of execution of the EIA process.</p>
Quality of ESA study approval system/mechanism (expertise, independence, and credibility of the system)				In Nigeria, E&S assessment is centrally managed and involves independent reviews and public disclosures. However, the stakeholder consultation and public disclosure processes are constrained by logistical challenges and insufficient funding, resulting in situations where the regulators rely on proponents to facilitate the disclosure aspects of the E&S assessment process.	<p>Improve the composition of the independent review panels to include more experts than the usual three to cover various fields covered by the ESIA under review. Ensure there is no conflict of interest to ensure that the decision reached by the reviewers is not influenced by external biases. Reviewers' decisions should be based on the quality and effectiveness of the ESIA being reviewed. The regulators should ensure that the approval process is transparent, and publicly accessible criteria are employed for the approval of the ESIA documents. Involve stakeholders at an earlier stage of the EIA process to include communities in a timely and culturally appropriate manner based on prior information, to foster trust and to address their concerns.</p> <p>Conduct periodic audits of the ESA approval process</p>

Obligations of the Borrower (Analysis reference)	National Legal Framework (a)	National policies & strategies (b)	Proven national practices. (c)	Critical Weaknesses (e)	Specific aspects to strengthen. (f)
					to identify, review and rectify any shortcomings. There should be published annual reports on the status and performance of the ESA approval process. The report should include clear information on the number of approvals, rejections, and improvements made during the period being reviewed. The regulatory entities should be provided with sufficient funding, and the staff should be given continuous professional training to enhance their operational capacity.
Monitoring and evaluation of Certificates/Permits (ESMP)				<p>Paucity of reliable data on social and environmental indicators as publicly available data from different public sources is often inconsistent. Also, most agencies deploy manual data collection and storage occasioned by poor funding, which results in data losses and inefficiencies in data handling.</p> <p>Non-deployment of digital resources hampers monitoring and evaluation, hampers the ability to conduct thorough assessments, in addition to scarcity of resources like monitoring equipment and trained personnel for monitoring and evaluation of ESMP. The policies, roles and responsibilities for E&S related monitoring and evaluation are often spread across different agencies namely EAD, NESREA, NOSDRA, NMDPRA, NIMASA and NUPRC at the federal government level. This creates duplication of efforts resulting in confusion and lack of synergy in ESMP monitoring efforts. Also, the role of political pressure/compromise cannot be discounted among the challenges of facing the</p>	<p>There is a need to strengthen coordination among agencies and establish clear roles and responsibilities to foster constructive collaboration in ESMP monitoring and evaluation. Deploy digital resources to create and maintain a robust database with backup systems for reliable and retrievable data. Regularly train personnel in the use of modern resources for monitoring and evaluation to build capacity, enhance professionalism and encourage transparency in the monitoring and evaluation process. Engage all relevant stakeholders, especially the local community, in monitoring and evaluation process to address the concerns of the locals and gain their trust.</p>

Obligations of the Borrower (Analysis reference)	National Legal Framework (a)	National policies & strategies (b)	Proven national practices. (c)	Critical Weaknesses (e)	Specific aspects to strengthen. (f)
				ESMP monitoring and evaluation.	
Effectiveness and efficiency of monitoring-correction of the livelihood restoration and physical resettlement of displaced people				The monitoring and correction of the livelihood restoration and physical resettlement is largely ineffective because the EIA Act does not have strong enforcement clauses. Also, there is a multiplicity of agencies with monitoring and enforcement powers operating in silos and limited to their sphere of operations. In addition, the statutory instructions (SI), are not sufficient to address the ever-evolving emerging environmental challenges as a result the dynamism of evolving issues.	<p>There should be clear policies on resettlement and livelihood restoration and, to properly gauge the impact of resettlement and restoration efforts, it is necessary to strengthen the robustness of pre-project socioeconomic conditions and livelihoods of affected people. The pre-resettlement baseline will help to define the objectives and measurable indicators for livelihood restoration and resettlement activities. Institute independent monitoring to track progress and implement improvement measures and provide training to build capacity. Engage knowledgeable members of the project-affected local communities in the monitoring process to identify solutions that are culturally appropriate and effective and include feedback mechanisms for continuous improvement. Provide training and support for displaced people to enable them to adapt to their new situation and help them restore their livelihood and other needs.</p> <p>Ensure proper funding and training of agencies/officers engaged in monitoring and corrective planning of resettlement and livelihood restoration efforts. Institute a robust monitoring and evaluation program to improve the resettlement and livelihood restoration processes.</p>
Resolution of E&S Complaints (effectiveness and fairness of remedies availed to people affected by an				In general, E&S complaints are hardly addressed in Nigeria, so the question of effectiveness does not even arise. Most people are not aware of the EIA process after more than three decades of EIA in Nigeria. Most proponents conduct EIA to satisfy statutory requirements, while project-	There is the need to create specialized units within regulatory agencies to manage E&S complaints to be manned with trained personnel with requisite expertise, to act as E&S ombudsman. This may be created as a unit under SERVICOM (a unit all federal MDAs to ensure service delivery and foster public trust).

Obligations of the Borrower (Analysis reference)	National Legal Framework (a)	National policies & strategies (b)	Proven national practices. (c)	Critical Weaknesses (e)	Specific aspects to strengthen. (f)
activity)				<p>affected persons, because of ignorance/poverty, are more interested in pecuniary benefits than environmental and social sustainability.</p> <p>Factors that contribute to the poor resolution of E&S complaints arise from lack of awareness among complainants, inconsistent policies and overlapping mandates of different agencies, which confuses the complainants and results in inefficient handling of complaints. Also, there is insufficiency of resources and a shortage of competent personnel to manage complex E&S complaints, leading to delays and inadequate resolutions. Poorly managed stakeholder engagement, unclear processes/procedures, political interference, and lack of public reporting on complaint outcomes have resulted in the local community losing trust in regulatory agencies and in the system.</p>	<p>Enhance transparency by deploying clear mechanism(s) for resolving complaints, which should have documented procedures for receiving, processing, resolving and provision of feedback for complaints.</p> <p>Deploy awareness campaigns to enlighten the local stakeholders with their rights and the mechanisms available for them to lodge their complaints. This can be achieved using multiple channels such as online platforms, hotlines, physical offices, and anonymous drop boxes, among other channels.</p> <p>Establish independent review bodies to assess and resolve complaints without partiality or conflict of interest to prevent undue influence in resolving complaints, and there should channels for receiving feedback on outcomes of the resolution process to identify areas for improvement.</p> <p>There should be continuous training for staff involved in complaint resolution to enhance their skills and knowledge in handling E&S issues. Also, there should be collaboration between regulators and environmental and social experts in providing guidance in complex cases. This could be a dedicated desk will suffice, or included in the unit proposed above.</p> <p>Community Involvement: Involving affected communities in the resolution process to ensure their concerns are adequately addressed and to build trust. The complaint resolution process should be periodically audited to ensure compliance and identify any gaps and tracking of performance to determine the effectiveness and fairness of the complaint resolution</p>

Obligations of the Borrower (Analysis reference)	National Legal Framework (a)	National policies & strategies (b)	Proven national practices. (c)	Critical Weaknesses (e)	Specific aspects to strengthen. (f)
					system.
Effectiveness of sanctions for non-compliance with Certificates/Permits (ESMP)				<p>In Nigeria, enforcement of EIA is weak due to scarcity of resources, training, and lack of will by the leadership of the country who breach the EIA Act the most. Projects sponsored by governments (federal, state and LGAs) are often executed in breach of the EIA Act and no sanctions are extended to any government project. When EIA certificates have been issued, there is hardly any stringent follow up due to lack of resources to conduct monitoring and most of the time, many proponents who conduct monitoring do so in compliance with requirements by, say, financiers, and not because of respect for the EIA certificate requirements.</p> <p>Although NESREA has secured conviction for violation of the EIA Act, violations of EIA process continue. The main driving force for conducting EIA is usually driven by business needs (e.g., to secure financing, or industry/corporate policies and standards).</p> <p>The E&S assessment process does not clearly outline the process for handling conflicts of interest in the EIA process. When the regulatory bodies are conflicted, there will also be a lack of accountability. The conduct of regulators can be influenced by lack of clarity or a legal framework for the administration and enforcement of sanctions. As a result of low stakeholder engagement and poor public participation in the EIA process, the pressure expected to be exerted</p>	<p>The capacity of regulatory entities should be enhanced through training, funding, and provision of resources, to encourage regulators to be consistent in applying effective sanctions for violations. There should be enhanced transparency and accountability within the regulatory agencies for the application of sanctions to be effective.</p> <p>The EIA Act should be reviewed to enhance clarity in the EIA compliance requirements and sanctions. Public participation in the EIA process should be enhanced through awareness campaign and stakeholder engagements, beginning in the early stages of the project to foster the oversight role of the public and project-affected entities.</p> <p>To enhance transparency, there is need for more aggressive public disclosures of the EIA process and engage professional bodies, civil society and community-based organizations.</p>

Obligations of the Borrower (Analysis reference)	National Legal Framework (a)	National policies & strategies (b)	Proven national practices. (c)	Critical Weaknesses (e)	Specific aspects to strengthen. (f)
				by the public on the regulators to effectively enforce sanctions will be lacking.	
CSO capacity to influence positively public decision making				Nigeria has a kaleidoscope of civil society organizations (CSOs), and some of them have positively influenced public decisions involving complex environmental issues. The CSOs have intervened in key areas such as promotion of good governance, human rights, social justice, environmental protection, public participation and policy formulation. The CSOs have been informed of positive reforms, delivered community development projects that complement government initiatives in service delivery. The CSOs also participate in conflict resolution and peacebuilding in places affected by violence and insurgency, and have advocated for environmental protection. However, CSOs in Nigeria face challenges that include funding constraints, undue (political) interference, and regulatory constraints.	To enhance the CSOs role in promoting sustainable development in Nigeria, corrective measures are suggested. There is a need to strengthen the legal frameworks to provide adequate protection to the CSOs, provide more opportunities for the CSOs to attract funds for their operations, foster collaboration between development partners (CSOs, public/private entities, international partners), and allow free access to information without discrimination as prescribed by Nigerian statutes.
Effectiveness of public accessibility of E&S measures implementation reports during the life of project/activity				Public access to E&S reports means that project developers comply with E&S regulations to mitigate and manage the negative impacts of their projects. Public accessibility of E&S documents also facilitates better stakeholder engagements and more informed feedback for better project outcome. In Nigeria, however, the public availability of E&S is hindered by limited access to majority of the populace who do not have to access to internet or are unable to reach regulatory entities. Another	There is a need for enhanced public disclosure of the entire EIA process, therefore, clear guidelines for public disclosure of information need to be established and this should include disclosure of the screening process. There is need to deploy technology and engage CSOs beyond public review of E&S reports. Also, reports should be written in clear and simple terms devoid of unnecessary jargons.

Obligations of the Borrower (Analysis reference)	National Legal Framework (a)	National policies & strategies (b)	Proven national practices. (c)	Critical Weaknesses (e)	Specific aspects to strengthen. (f)
				factor hampering the accessibility of E&S reports is the use of jargons and lack of clarity which may not be appealing to, especially the local stakeholders, who may lack the capacity to effectively peruse E&S documents.	
Existence of up to standard E&S training centers				<p>There are hundreds of training institutions in Nigeria where disciplines related to E&S are being trained. Nigeria presently has more than 100 universities and several polytechnics issuing E&S related diplomas. However, the curricula being taught does not seem to align with the skills required in the field/industry, although the national curricula at all levels are being reviewed.</p> <p>There is a World Bank project called “Sustainable Procurement, Environmental, and Social Standards Enhancement (SPESSE) Project” meant to improve sustainable capacity in managing procurement, environment, and social standards in the public and private sectors in Nigeria. The SPESS provides technical assistance to the implementing agencies and helped Nigeria to establishment six SPESSE centers of excellence (SPESSE-CEs) in six universities spread across Nigeria. The SPESSE- CEs are meant to train E&S professionals to certificate, post Graduate Diplomas, and degree levels.</p>	<p>Undertake continuous training for ESA professionals to upskill them with the latest methodologies and technologies in E&S assessment. In addition to certificating consultancies, include the certification program for E&S practitioners to ensure their competence.</p> <p>Collaborate with universities and other higher institutions to develop specialized courses for improved environmental and social assessment.</p> <p>Encourage collaboration and synergy amongst the various professional environmental bodies towards improving the quality of expertise in Nigeria. The E&S professionals s(proponents, regulators, and practitioners) should espouse mentoring programs to facilitate skills acquisition/transfer and promote succession planning.</p>
Existence of reference laboratories for environmental analysis				There is a National Reference Laboratory in Lagos, which is a key facility for environmental analysis in Nigeria. There are other public and private laboratories that are accredited by regulatory agencies operating across the country.	As a first step, there is a need for a needs assessment to define the environmental parameters to be monitored and the specific needs of the laboratory. The needs assessment should also include the sample types, detection limits, and the regulatory standards. Relevant

Obligations of the Borrower (Analysis reference)	National Legal Framework (a)	National policies & strategies (b)	Proven national practices. (c)	Critical Weaknesses (e)	Specific aspects to strengthen. (f)
				The laboratories adopt methods approved by regulatory agencies like the Federal Ministry for Environment and Sustainable Development. However, there is a paucity of standard instruments that are crucial for accurate environmental monitoring. Although there is a reference laboratory and several other private and public laboratories, the laboratories are not as functional as they should be, hence it is doubtful that their services are comparable to international standards, which constitutes a major weakness in environmental quality monitoring.	stakeholders: scientists, technicians, and regulatory bodies, should be engaged to contribute to determining the capabilities and features of the instruments to install/upgrade. Also, the technical specifications of the instruments, such as sensitivity, accuracy, precision, and range, should align with regulatory requirements. The equipment should be energy-efficient to reduce operational costs and minimize environmental impacts. There should be in place standard methodologies, quality control/quality assurance procedures and proper training plan and standard operating procedures to guarantee quality service.
Existence of recognized Corps of ESA Professionals				<p>Although there a sizeable number of E&S practitioners in Nigeria, many lack the necessary skills and knowledge to conduct thorough and accurate assessments beyond the national ESA system. This is occasioned by limited opportunities for continuous professional development. Also, there is the challenge of the scarcity of advanced training, which hampers the development of expertise of the E&S professionals.</p> <p>There is a lack of standardized accreditation and certification processes for E&S professionals, thus casting doubts about their credibility and the quality of their work. Presently there is absence of strong professional accreditation bodies to regulate and support E&S professionals, although the Institute of Environmental Practitioners of Nigeria Act (IEPN) 2023 was enacted to fill this gap and the IEPN is working towards filling the</p>	Encourage the professional associates to standardize accreditation and certification processes to ensure the credibility and recognition of E&S professionals and implement comprehensive training and professional development programs to enhance the skills and knowledge of E&S professionals. Creation of awareness and intensify advocacy to highlight the importance of E&S assessments and the role of E&S professionals. Facilitate funding opportunities for E&S professional development programs to enhance access to necessary resources and training.

Obligations of the Borrower (Analysis reference)	National Legal Framework (a)	National policies & strategies (b)	Proven national practices. (c)	Critical Weaknesses (e)	Specific aspects to strengthen. (f)
				<p>gap.</p> <p>Many entities engaged in E&S assessments have resource constraints, such as inadequate equipment and facilities to enhance their professional pursuit and advocacy because the recognition and support for E&S professionals is weak, which limits their capacity to influence the decision-making processes.</p>	
Environmental justice				<p>The weaknesses around delivery of environmental justice in the E&S assessment system in Nigeria are due to institutional challenges occasion by lack of clearcut line of responsibility and inconsistency in the application of policies, low capacity, insufficient funding and dearth of trained personnel to attend to handle complex environmental justice issues, leading to delays and inadequate resolutions. Also, there is a lack of awareness on the part of the general populace on how to go about seeking redress, which is coupled with non-availability of timely information about project activities or about the Borrowers. Lack of transparency in handling issues of environmental justice casts doubt on accountability leading to biased outcomes or loss of trust.</p>	<p>Streamline E&S policies and regulations across sectors and strengthening of the institutional frameworks to enhance collaboration among regulatory agencies with define clear roles and responsibilities to ensure clarity in the delivery of environmental justice. Provide regular training for staff involved in environmental justice to enhance their skills and knowledge and allocate resources for the regulators to effectively conduct their functions.</p> <p>Create awareness about the environmental justice process to encourage public participation and to know their rights and how to lodge their complaints. Ensure the availability of appropriate channels for receiving complaints and these channels (from digital to analogue, from physical to virtual means) should provide access to all aggrieved people(s). Ensure public disclosure of information on the complaints around environmental justice and engage in routine audit and review of the environmental justice mechanism with the aim of improving the system.</p>

Legend:

Compliance of the national system with Bank requirements, especially in practice

Important instructions: For all the criteria that have been colored **green** or **red**, you must provide a textbox which narrates a concrete/specific example that the country has experienced.

Obligations of the Borrower (Greened and red)	Text for green-colored textbox	Text for red-colored textbox
OS1. Assessment and Management of Environmental and Social Risks and Impacts	The EIA Act makes it mandatory for Borrowers to conduct an ESIA of their projects. There is a clear-cut process for conducting an EIA and there are regulatory agencies for enforcing the EIA Act; and the Act specifies the need for public consultations and stakeholder engagement, ensuring that communities participate in decision making. Although the EIA Act is not explicit in terms of its scope of application, requirements and methodology, it is nonetheless worthy to note that the existing of the Act means the legal basis, process and procedure for conduction ESIA exist in Nigeria.	The EIA Act E12 LFN 2004 lacks depth and context with respect to stakeholder engagement. There is a lack of, or non-reference to, supporting legislation that could enable compliance with AfDB safeguards requirements such as involuntary economic resettlement, the role of financial intermediaries or safeguard for intangible cultural heritage in the lending process. The EIA Act has not been able to effectively influence the decision-making process as proponents conduct EIA merely to satisfy the law. Also, the ESIA reports are hardly functional mainly on account of quality but also lack of awareness of the ESIA process and multiplicity of regulatory agencies leading to confusion. Low level of public participation in decision-making processes and weak enforcement of environmental regulations has resulted in the ESIA not being considered in decision-making process, especially in the public sector. The nexus between development, environmental factors, and wellbeing of society is poorly incorporated in decision-making process in Nigeria. Therefore, it is the obligation of the Borrower to cover these gaps and upgrade the ESIA documents to meet AfDB standard.
OS2. Labor and Working conditions	The Borrower needs to note that there are statutory provisions (laws, regulations, policies) in Nigeria that compel them to ensure equitable labor and working conditions. There are also laws against discrimination and fosters gender equality and equal rights. The Nigerian labor statutes comply with the core labor principles of the International Labor Organization (ILO) and, if diligently implements, can meet the requirements of OS2 requirements.	The Borrower has the ultimate responsibility of not only complying with national law, but also complying with the AfDB ISS as contained in OS1-OS10. The Borrow needs to comply with all the extant laws of Nigeria as it relates to Labor and Working Conditions. Also, the Borrower should close the gap in the Nigerian statutes with respect to diversity and inclusivity, grievance mechanisms as well as gender equality and protection.
OS3. Resources Efficiency and Pollution Prevention and	Nigeria has legal safeguards (in the form of laws, regulations and policies) against resource-use inefficiency to prevent	To comply with OS4, the Borrower needs to comply with extant Nigerian statutes on community health, safety and

Management	and control environmental pollution. There are policies and regulations published by NESREA, NOSDRA, NIMASA, NUPRC, NMDPRA and NCCC to ensure efficient use of resources and pollution control.	security. In this regard, there is a need for a comprehensive review of the EIA Act, LFN 2004, to make it more robust to mandate every proponent to comply with all extant laws the ne in preparing their ESIA's. Also, there is a need for training and retraining of staff in the Environmental Assessment Department regarding the requirements of AfDB ISS. This will improve the quality of ESIA's prepared using the national system, which will also improve efficiency.
OS4. Community health, safety, and security	In addition to compliance with the EIA Act of Nigeria, the Borrower must understand that even though the EIA Act does not explicitly demand compliance with OS4, there are laws that nuance the need for compliance to provisions captured in OS4. The statutes that safeguard public health and safety include the National Centre for Disease Control and Prevention Establishment Act 2018 and the NEHPR Act 2016. These acts are concerned with the surveillance, control and management of communicable diseases of public health significance and regulation of sanitation of public and private premises, collection and disposal of solid wastes, food sanitation and hygiene, liquid waste management, and control of pests within the context of public health.	Borrowers should take the responsibility of ensuring that they engage technically qualified persons to conduct ESIA that would comply with the extant statutes of Nigeria and to AfDB OS4, including the extant national laws that safeguard community health, safety and security. Such laws include the National Centre for Disease Control and Prevention Establishment Act 2018 National Environmental Health Practitioners Regulation Act 2016 and regulations/provisions of NESREA Act 2006.
OS5. Land acquisition, restrictions on access to land and land, and involuntary resettlement	xx	The Borrower must comply with OS5 in addition to all the relevant extant statutes of the federal republic of Nigeria. Borrower should note that compliance with LUA and other Nigerian statutes do not imply compliance with OS5 because LUA inadvertently results in involuntary resettlement. In addition, Nigeria's country system around involuntary resettlement is insufficient and ineffective in resolving matters related to involuntary resettlement, hence the Borrower should be held accountable for compliance to OS5
OS6. Habitats and biodiversity conservation and sustainable management of living natural resources	The Borrower needs to comply with Nigerian laws, standards, regulations and policies that can ensure sustainable utilization of resources at both national and subnational levels. These include but are not limited to the EIA Act EIA Act Cap E12 LFN 2004, NESREA Act 2007,	The Borrower should ensure compliance with all extant statutes on biodiversity and sustainable management of living resources. It is the Borrower's responsibility that ESIA's prepared using the national system need to be updated to ensure that the resultant ESMP meets the requirements of

	NOSDRA Act, 2006, Petroleum Industry Act 2021, and NPS Act, Cap N65 LFN 2004 among others that safeguard biodiversity and natural resources. Nigeria is also, not only a signatory but have ratified several international conventions and agreements on biodiversity and natural resource conservation. Institutions have been established and charged with duties that include protection of biodiversity and natural resources.	AfDB OS6. of provisions of the ESMP and compliance with the AfDB's Operational Safeguards (OSs) and international best-practices.
OS7. Vulnerable groups	The constitution of the Federal Republic of Nigeria guarantees " <i>Freedom, Equality and Justice</i> ", that " <i>every citizen shall have equality of rights, obligations and opportunities before the law</i> ", that " <i>the sanctity of human person shall be recognized, and human dignity shall be maintained and enhanced</i> ", and that " <i>children, young persons and the aged are protected against any exploitation whatsoever, and against moral and material neglect</i> ". There are also statutes that forbid any form of discrimination of people by any individual or body corporate. That public facilities are mandated to facilitate access for people living with disabilities. Nigeria has also enacted statutes that protects children, women and vulnerable groups, including the internally displaced persons or minorities across the entire country	Borrowers should develop and implement clear, comprehensive non-discrimination policies within their organizations, and the policies should define acceptable behaviours, reporting mechanisms, and consequences for violations of the policies; and align with national laws such as the Discrimination Against Persons with Disabilities (Prohibition) Act, 2018; and ensure compliance with OS7. Borrowers should conduct audits and inspections to ensure compliance with non-discrimination policies and laws and institute mechanisms for resolving grievances with a clear channel of reporting (including anonymously) for employees and the public without fear of retaliation. The Borrower should provide whistleblowing and protection for the whistleblower. Borrowers should provide legal support and resources to seek redress, especially for victims of sexual exploitation/abuse.
OS8. Cultural Heritage	?	The Borrower should note that the national laws are below par with respect to the requirements for compliance with OS8, therefore, it behooves the Borrower to comply with the AfDB safeguard. The Borrower should adopt the best international practices in handling both tangible and non-tangible heritage concerns. Where necessary, the Borrower must preserve heritage and engage local communities as the custodians of cultural heritage. The Borrower must prepare an effective protocol for handling and documenting all heritage concerns, including chance finds.
OS9. Financial intermediaries	?	Nigeria has no legally binding provisions that can satisfy the requirements of OS9, hence the Borrower should note that it

		must comply with OS9. However, the FIs in Nigeria are sensitized and aware of the environmental and social risks. The Central Bank of Nigeria has issued an E&S protocol called “ <i>The Nigerian Sustainable Banking Principles</i> .”, while the Securities and Exchange Commission adopted the Nigerian Sustainable Finance Principles to ensure sustainable development. Thus, suggesting a willingness of the financial sector to embrace the provisions of OS9.
OS10. Stakeholder engagement and disclosure of information	There is a legal framework that espouses public participation in Nigeria, which is in concurrence with OS10. Firstly, the constitution guarantees public participation by emphasizing the rights of citizens to participate in governance and decision-making processes. The EIA Act Cap E12, LFN 2004 requires that all major development projects undergo an environmental impact assessment, which includes public consultations and stakeholder engagement, while the Freedom of Information Act (2011) mandates public institutions to provide information to citizens in a transparent and accountable. Also, the Nigerian Urban and Regional Planning Act, Cap N138, 2004 mandates stakeholder engagement in urban and regional planning, while National Orientation Agency (NOA) Act, 1993 ensures that the public is kept informed and participate effectively in governance.	In Nigeria, stakeholder consultation is a routing requirement in many sectors of governance. There are legal provisions espousing the need and requirements for stakeholder consultation including the Constitution of the Federal Republic of Nigeria (1999); the Freedom of Information Act (2011); EIA Act Cap E12, LFN 2004, and stakeholder engagement; and the Nigerian Urban and Regional Planning Act, Cap N138, 2004, and In practice, stakeholder engagement and public disclosure of information encompasses inclusivity, gender sensitivity, and ensures accessibility of information for marginalized groups such as women, internally displaced persons and people living with disabilities.
Strict compliance with the Environmental and Social Assessment (ESA) procedure	?	?
Quality of ESA study approval system/mechanism (expertise, independence, and credibility of the system)	?	?
Monitoring and evaluation of Certificates/Permits (ESMP)	?	?
Effectiveness and efficiency of monitoring-correction of the livelihood restoration and physical resettlement of displaced people	?	The Borrower should have clear policies on resettlement and livelihood restoration. The Borrower should ensure the collection and preparation of comprehensive pre-project socioeconomic conditions and livelihoods of its project-

		affected communities. The Borrower should also take responsibility for going beyond national requirement to satisfy AfDB Operational Safeguard in terms of effectiveness and efficiency of resettlement and livelihood restoration. The Borrower should budget enough funds for monitoring and implementation of corrective action.
Resolution of E&S Complaints (effectiveness and fairness of remedies availed to people affected by an activity)	?	?
Effectiveness of sanctions for non-compliance with Certificates/Permits (ESMP)	?	?
CSO capacity to influence positively public decision making	The Borrower should engage relevant CSOs to provide a partner with it in obtaining factual feedback on the E&S impacts of the Borrowers' activities. The Borrower should engage with CSOs in a transparent and professional manner devoid of any conflict of interest.	?
Effectiveness of public accessibility of E&S measures implementation reports during the life of project/activity	?	?
Existence of up to standard E&S training centers	Borrowers should note that Nigeria has tertiary institution where E&S professionals have been trained over the years. Borrowers should however consider that professional skill is beyond college certification, and they should invest in training and retraining of their E&S personnel. The Borrower should collaborate with professional associations, CSOs, and tertiary institutions Collaborate with universities and other higher institutions to enhance E&S professional environmental practice in Nigeria.	?
Existence of reference laboratories for environmental analysis	?	?
Existence of recognized Corps of ESA Professionals	Borrowers should note that E&S professional practice in Nigeria has not been standardized, and that the Borrower should ensure they recruit appropriately skilled and	?

	<p>experienced practitioners to prepare their E&S documents. When recruiting E&S staff, Borrowers should consider only accredited practitioners and should avoid engaging unqualified or inexperienced practitioners. The Borrowers should liaise with recognized bodies of practitioners and regulatory authorities when engaging E&S practitioners, to ensure that the right people are engaged. Borrowers should make adequate budgetary provisions to fund E&S costs, including engagement of skill professionals, and delivery of routine training for their E&S personnel.</p>	
Environmental justice	?	<p>The Borrower should develop policies that cover environmental justice issues. The Borrower should also ensure provision of adequate funding and resources for agencies to effectively carry out their mandates. The Borrower should also include in their communications with communities the mechanisms available for seeking environmental justice. The Borrower should embrace transparency and engage in regular disclosure of records of complaints.</p>

5.3 Bibliography, including the list of environmental and social laws, regulations, norms, and standards reviewed in the report.

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- 2) Environmental Impact Assessment Act, (EIA Act CAP E12 LFN, 2004)
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- 5) Harmful Waste (Special Criminal Provisions etc.) Act CAP HI LFN 2004
- 6) Land Use Act CAP L5 LFN, 2004
- 7) The National Park Service (NPS) Act N65 LFN 2004
- 8) Associated Gas Re-Injection Act (AGRIA) of 1979
- 9) Flare Gas (Prevention of Waste and Pollution) Regulations (FGR) of 2018
- 10) The Petroleum Industry Act 2021
- 11) Upstream Petroleum Environmental Regulations, 2022
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- 13) Midstream Gas Flare Regulations, 2023
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- 15) Midstream and Downstream Petroleum Environmental Regulations, Statutory Instrument no. 34 of 2023
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- 17) The Nigerian Urban and Regional Planning Act No. 10 of 2010
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- 19) Water Use and License Regulation 2016
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- 25) Trafficking in Persons (Prohibition) Enforcement and Administration (TPPEA) Act 2003
- 26) The Violence Against Persons (Prohibition) Act 2015 Central Bank of Nigeria Act, 2007
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- 35) Declaration of Industrial Diseases Notice. LN. 114 of 1956
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- 37) National Environmental (Wetlands, Riverbanks and Lake Shores) Regulations, S. I. No. 26, 2009.
- 38) National Environmental (Watershed, Mountainous, Hilly and Catchments Areas) Regulations, S. I. No. 27, 2009.
- 39) National Environmental (Sanitation and Wastes Control) Regulations, S. I. No. 28, 2009.
- 40) National Environmental (Permitting and Licensing System) Regulations, S. I. No. 29, 2009.
- 41) National Environmental (Access to Genetic Resources and Benefit Sharing) Regulations, S. I. No. 30, 2009
- 42) National Environmental (Mining and Processing of Coal, Ores and Industrial Minerals) Regulations, S. I. No. 31, 2009.
- 43) National Environmental (Ozone Layer Protection) Regulations, S. I. No. 65, 2022.
- 44) National Environmental (Food, Beverages and Tobacco Sector) Regulations, S. I. No. 33, 2009.
- 45) National Environmental (Textile, Wearing Apparel, Leather and Footwear Industry) Regulations, S. I. No. 34, 2009.
- 46) National Environmental (Noise Standards and Control) Regulations, S. I. No. 35, 2009.
- 47) National Environmental (Chemicals, Pharmaceuticals, Soap and Detergent Manufacturing Industries) Regulations, S. I. No. 36, 2009.
- 48) National Environmental (Standards for Telecommunications/Broadcasting Facilities) Regulations, S. I. No. 11, 2011.
- 49) National Environmental (Soil Erosion and Flood Control) Regulations, S. I. No. 12, 2011.
- 50) National Environmental (Desertification Control and Drought Mitigation) Regulations, S. I. No. 13, 2011.
- 51) National Environmental (Base Metals, Iron and Steel Manufacturing/Recycling Industries) Regulations, S. I. No. 14, 2011.
- 52) National Environmental (Control of Bush/Forest Fire and Open Burning) Regulations, S. I. No. 15, 2011.
- 53) National Environmental (Protection of Endangered Species in International Trade) Regulations, S. I. No. 16, 2011.
- 54) National Environmental (Domestic and Industrial Plastic, Rubber and Foam Sector) Regulations, S. I. No. 17, 2011.

- 55) National Environmental (Coastal and Marine Area Protection) Regulations, S. I. No 18, 2011.
- 56) National Environmental (Construction Sector) Regulations, S. I. No. 19, 2011.
- 57) National Environmental (Control of Vehicular Emissions from Petrol and Diesel Engines) Regulations, S. I. No. 20, 2011.
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- 60) National Environmental (Electrical/Electronic Sector) Regulations, S. I. No 79, 2022.
- 61) National Environmental (Quarrying and Blasting Operations) Regulations, S. I. No 33, 2013.
- 62) National Environmental (Control of Alien and Invasive Species) Regulations, S. I. No 32, 2013.
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5.4 *List of institutions, organizations and personalities met.*

See Section 2.1.2

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