



UNITED NATIONS ENVIRONMENT PROGRAMME

Programme des Nations Unies pour l'environnement Programa de las Naciones Unidas para el Medio Ambiente

Программа Организации Объединенных Наций по окружающей среде برنامج الأمم المتحدة للبيئة

联合国环境规划署



United Nations Environment Programme

**UNEP's Environmental, Social and Economic Sustainability:
Stakeholder Response Mechanism**

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**Approved by UNEP Executive Director
Achim Steiner**

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UNEP's Environmental, Social and Economic Sustainability: Stakeholder Response Mechanism

1. Background and Introduction

These operating procedures establish the process and guidelines for the operation of the United Nations Environment Programme's (UNEP's) stakeholder response mechanism through an Independent Office for Stakeholder Safeguard-related Response (the IOSSR). The procedures inform and guide UNEP staff, UNEP implementing and executing partners, and people affected by UNEP projects in bringing and responding to safeguard-related stakeholder responses concerning compliance review and dispute resolution in the context of the UNEP's Environmental, Social and Economic Sustainability Framework (ESES).

UNEP has developed an ESES Framework that provides opportunity for affected people to seek either compliance review or dispute resolution in regard to activities that UNEP implements or executes as part of its projects and programmes. UNEP's Environment, Social and Economic Sustainability Framework will be implemented by steps, including a first stage, starting in 2015, which fulfills internationally recognised basic safeguards requirements. Its scope and level of ambition will progressively increase as UNEP learns lessons and seeks improvements at each successive stage. UNEP ESES includes safeguard policies, principles and procedures for implementing them. As part of the ESES Framework and to meet the growing expectations of member states as well as other stakeholders and donors, UNEP established within the first stage of implementation, an independent office to accept and review safeguard-related stakeholder responses and have responsibility for dispute resolution and compliance review, on a pilot basis.

2. Purpose of the Independent Office for Stakeholder Safeguard-related Response (IOSSR)

The IOSSR will fulfill two primary functions:

- a **compliance review** process to respond to claims by stakeholders alleging that UNEP activities implemented or executed as part of its projects and programmes are not in compliance with UNEP's own ESES Framework; and

- a **grievance redress** process that provides people allegedly affected by UNEP activities implemented or executed as part of its projects and programmes, access to appropriate dispute resolution mechanisms for hearing and addressing project-related disputes.

3. The IOSSR Staffing and Responsibilities

The IOSSR is housed in the UNEP's Office of Operations on a pilot basis. The Director of the Office for Operation (OfO) is the interim Head of the IOSSR and reports directly to the UNEP Executive Director. The Office for Operations is not responsible for the implementation or execution of any activities within UNEP's projects or programmes; all divisions delivering projects and programmes directly report to the UNEP Deputy Executive Director.

The IOSSR is responsible for the operation of the ESES Stakeholder Response Mechanism, and carries out the following activities:

- Receives all complaints and initially screens them for eligibility against the criteria set forth below;
- Maintains a roster of accredited independent experts that can be called upon for compliance review and dispute resolution;
- Develops in light of the issues raised appropriate terms of reference for evaluating, investigating and/or facilitating resolution of complaints;
- Manages and oversees all consultants engaged in compliance review and dispute resolution;
- Maintains a publicly accessible website for the IOSSR that includes among other things a Public Registry of all complaints received, their progress, and any reports or other documents that should be disclosed to the public as described in these procedures;
- Issues reports to the UNEP Executive Director with findings and recommendations for compliance reviews, and outcomes for dispute resolution processes;
- Monitors the implementation of decisions taken by the UNEP Executive Director on compliance reviews and outcomes on the dispute resolutions;
- Reports at least annually to the UNEP Executive Director, and to member states as appropriate, on the operations of the IOSSR and makes these reports available to the public and stakeholders;
- Issues to the UNEP Executive Director reports that provide systemic advice based on lessons learned from past cases; and
- Conducts outreach to potentially-affected persons explaining the operations of the IOSSR.

4. Filing a Complaint to the IOSSR

Any person or group of persons who believe that they are or may be adversely affected by a UNEP activity implemented or executed as part of its projects and programmes can file a complaint. Anonymous complaints will not be accepted but the complainants'

names will be kept confidential if they so request. Complaints can be received by mail or email to the following address:

Independent Office for Stakeholder Safeguard-related Response (IOSSR) &
Director of Office for Operations and Corporate Services
United Nations Environment Programme
Nairobi, Kenya
Tel: 254-20-7623880
Email: IOSSR@unep.org

The complaint should include at least the following information:

- The complainant's name, address and other contact information;
- If the person lodging the complaint is representing an affected person or community, the identity of those on whose behalf the complaint is made and the affiliation, if applicable, of the person lodging the complaint;
- Whether the complainant wishes to maintain the confidentiality of their identity or any specific information in the complaint;
- The identity and name of the UNEP activity;
- A statement of how the complainant has allegedly been or is likely to be adversely affected by socio-economic or environmental impacts of the UNEP activity;
- A description of any steps taken to address the issues raised in the complaint;
- A statement of whether the complainant is seeking a review of compliance or a process of dispute resolution, and why;
- Where a review of compliance is sought, a description of how the complainant believes UNEP's ESES Framework has been violated; and
- A statement of what favorable outcome the complainant would like to see from filing the complaint.

5. Acknowledging and Registering Complaints to the IOSSR

Within five business days of receiving a complaint, the IOSSR will acknowledge receipt of the complaint to the complainant and register the complaint in the IOSSR's Public Registry (described below).

6. Determining Eligibility of Complaints to the IOSSR

Within twenty business days of receiving a complaint, the IOSSR shall determine whether the complaint is eligible and inform the complainant, relevant UNEP staff and the public through the IOSSR Public Registry of the determination. To be eligible, the complaint must meet the following criteria:

- The complaint must relate to an activity currently implemented or executed in whole or in part within a UNEP project or programme;
- The complaint must be submitted by or on behalf of one or more persons allegedly affected by the implementation or execution of the relevant UNEP activity;

- The complaint must be directly and exclusively related to the ESES Framework of UNEP;
- For compliance review, the complaint must raise actual or potential issues relating to compliance with UNEP's ESES Framework; and
- The complaint cannot be from the same claimant raising the same issue with respect to the same activity as an earlier complaint, unless significant new information is available or the circumstances have changed significantly.

If the complaint is deemed eligible, the IOSSR will also determine after considering its nature and the request by the complainant whether the complaint will proceed through compliance review, dispute resolution, or both.

If the complaint is related to allegations that are not directly and exclusively related to the UNEP ESES Framework but may merit review by another oversight, inspection or investigation body (for example in the case of accusations of mismanagement or inappropriate administrative procedures), the IOSSR will direct the complaint to the appropriate UNEP/ United Nations body.

7. The Compliance Review Pathway

(a) **Terms of Reference.** Within twenty business days of determining that a complaint is eligible for compliance review, the IOSSR will develop and publicly release a draft terms of reference, including a proposed time frame for its investigation. UNEP staff, the complainant(s), and other interested persons will be given ten business days to comment on the draft terms of reference. After considering all comments, IOSSR will issue final terms of reference, which can be further amended during the process after allowing a similar opportunity for complainant(s) and the public to comment.

(b) **Investigations.** IOSSR will either conduct the compliance review itself or employ accredited experts/consultants to conduct the compliance review according to the terms of reference. To carry out its compliance review, IOSSR and its accredited experts/consultants will have the authority and responsibility to:

- Interview those people with relevant information including both the complainants and UNEP staff familiar with the project;
- Obtain and review any documents and other related evidence;
- Conduct on-site visits.

(c) **Draft Compliance Report.** After completing its investigation, the IOSSR will prepare and publicly release a draft compliance report, including any proposed findings and recommendations. UNEP staff, the complainants and any other interested person or entity may provide comment on the draft report within a period of twenty business days. Compliance review reports will include:

- A discussion of the procedural steps taken to review the issues raised by the complaint;
- Any factual findings, including any findings of non-compliance;
- Recommendations to bring UNEP into compliance with its ESES Framework or to otherwise mitigate harm to the complainant(s); and

- A proposed plan for monitoring implementation of any recommended actions that UNEP may decide to take in response to the complaint.

(d) Final Compliance Report. Within twenty-five business days after the end of the twenty-day period for receiving comments on the draft report, the IOSSR will issue to the UNEP Executive Director a final compliance report, including findings and recommendations, with a copy sent to the complainant(s) and released to the public through the IOSSR Public Registry.

(e) Decision by Executive Director. Within twenty-five business days from receipt of the final full compliance review report, the UNEP Executive Director will make a final decision regarding what steps, if any, UNEP will take to bring the relevant activities into compliance with the UNEP ESES Framework and/or mitigate any harm to the complainant(s). The decision will be sent to the complainant(s) and publicly released through the IOSSR website.

(f) Monitoring. The IOSSR will include as part of any full compliance review report a plan for monitoring and reporting on the final decision. The monitoring plan may be adjusted as necessary. The IOSSR will issue a monitoring report through the IOSSR website on the status of implementation at least annually until such time as the decision has been fully implemented.

8. The Dispute Resolution Pathway

(a) Proposing a Dispute Resolution Response. Within thirty business days of determining that a complaint is eligible for dispute resolution, the IOSSR will develop and propose to the complainant(s) a response to the request for dispute resolution. This proposed response will reflect consultations with the complainant(s) and will identify a resolution process, i.e., what steps would be taken to resolve the dispute, who would be responsible for taking those steps, and a possible timeline for the proposed dispute resolution process. The proposed response should also be made available to UNEP staff and to the public through the IOSSR Public Registry. The IOSSR may itself or through accredited experts/consultants develop or carry out any proposed dispute resolution process.

(b) Securing Participation in Dispute Resolution. Because participation in dispute resolution procedures is voluntary on the part of the complainant(s), the IOSSR shall ensure that the complainant(s) fully understand their options regarding the proposed dispute resolution process. The IOSSR shall also ensure that any necessary UNEP staff or other interested parties are invited to participate in the dispute resolution process as appropriate.

(c) Implementing the Proposed Response. If the complainants and IOSSR agree to the proposed process for dispute resolution, the response should be implemented according to the terms of such agreement.

(d) Reaching Conclusion. The dispute resolution process will continue until the dispute has been adequately resolved to the satisfaction of all the parties, or one or more of the parties decide that further participation is not likely to result in further progress. If a full or partial agreement has been reached to give an end to the process,

the agreement should be documented and, if the parties so agree, made public through the IOSSR Public Registry. If no agreement has been reached, a summary of the steps taken to resolve the dispute shall be made public through the IOSSR Public Registry. The process is ended and a closing memo shall be written and posted on the public registry. A complainant may decide to ask again for a compliance review at a later stage.

(e) **Final Report on the Dispute Resolution Process.** Within twenty-five business days after full or partial agreement has been reached to give an end to the process, the IOSSR will issue to the UNEP Executive Director a final Report on the Dispute Resolution Process, which will include reference to such agreement. A copy will be sent to the complainant(s) and released to the public through the IOSSR Public Registry.

(f) **Monitoring Agreed Outcomes.** Unless otherwise agreed by the parties in the final agreement, the IOSSR shall annually monitor implementation of the agreement and release on the IOSSR Public Registry a summary of progress on implementation. Such annual reports shall continue until the agreement is fully implemented.

9. Maintaining the IOSSR website including the Public Registry

As mentioned in 3 above, the IOSSR will be responsible for maintaining a publicly accessible website that will include general information about the IOSSR and UNEP ESES Framework and Stakeholder Response Mechanism, as well as a Public Registry of all complaints received, their progress, and any reports or other documents that should be disclosed to the public as described in these procedures. In addition to the specific information noted in the procedures above, the IOSSR shall also routinely disclose the following information:

- Basic information about the compliance review and dispute resolution processes;
- Instructions on how to file a complaint;
- UNEP's ESES Framework and other relevant policies;
- A case registry, including information about each complaint from when it is received to how it is processed to its resolution, and including all the information noted in the above procedures such as the complaint, eligibility findings, terms of reference, draft and final compliance reports, proposed responses to dispute resolution, and draft and final monitoring reports; and
- Annual reports describing the IOSSR's activities.

10. Temporary and Pre-emptive Measures

Notwithstanding the procedures set forth above, if at any time after receiving a complaint the IOSSR believes significant, irreversible harm to the complainant(s) or other affected people may be imminent, the IOSSR Head may recommend to the UNEP Executive Director that UNEP takes interim measures pending completion of compliance review or dispute resolution processes to address the imminent harm.

11. Annual Report

UNEP will report at least annually to its governing body on the functions, operations, outcomes and lessons learned of Stakeholder Response Mechanism. Such annual reports will also be made available to the public and to other stakeholders through the IOSSR website as mentioned in 9 above.