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ENVIRONMENTAL AND SOCIAL MANAGEMENT FRAMEWORK E2652

Malawi Zambia Sustainable Management of Nyika Transfrontier Conservation Area Project

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Republic of Malawi and Republic of Zambia:

Ministry of Tourism, Wildlife and Culture in Malawi (MTWC)

Ministry of Tourism, Environment and Natural Resources in Zambia (MTENR)

Responsible Agencies:

Malawi Department of National Parks and Wildlife (DNPW)

Zambian Wildlife Authority (ZAWA)

Zambian Forestry Department (ZFD)

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List of Abbreviations

AMU	Area Management Unit
AWPB	Annual Work Plan and Budget
CBNRM	Community Based Natural Resource management
CCA	Community Conservation Area
CNP	Chama Nature Park
CRB	Community Resource Boards
COMACO	Community Markets for Conservation
DA	District Administration
DC	District Commissioner
DDCC	District Development Coordinating Committee
DNPW	Department of National Parks and Wildlife of Malawi
EA	Environmental Audit
EIA	Environmental Impact Assessment
EMP	Environmental Management Plans
ESA	Environmental and Social Assessment
ESMF	Environmental and Social Management Framework
FR	Forest Reserve
GEF	Global Environmental Facility
GIS	Geographic Information System
GMA	Game Management Area
GMP	General Management Plan
HA	Hectares
HQ	Headquarters
HWC	Human Wildlife Conflict
IBA	Important Bird Area
IDP	Integrated Development Planning
JMB	Joint Management Board
JMP	Joint Management Plan
JPCC	Joint Permanent Commission of Cooperation
LUP	Land Use Plans
METT	Management Effectiveness Tracking Tool
M&E	Monitoring and Evaluation
MTENR	Ministry of Tourism, Environment and Natural Resources
MZ	TFCA Malawi Zambia Transfrontier Conservation Area
NBSAP	National Biodiversity Strategy and Action Plan
NGO	Non-Governmental Organization
NIA	Nyika Implementation Agency
NRM	Natural Resource Management
OP	Operational Policy
PA	Protected Area
PAP	Project Affected Person
PDO	Project Development Objective
PF	Process Framework
PPF	Peace Parks Foundation
PRA	Participatory Rural Appraisal
RAP	Resettlement Action Plan
RPF	Resettlement Policy Framework
SIA	Social Impact Assessment
TFCA	Transfrontier Conservation Area

TLC	Total Land Care
TOR	Terms of References
WB	World Bank
WCS	Wildlife Conservation Society
WR	Wildlife Reserve
ZAWA	Zambia Wildlife Authority
ZFD	Zambian Forest Department

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Executive Summary

This Environmental and Social Management Framework (ESMF) is prepared for the five-year Sustainable Management of Nyika Transfrontier Conservation Area (TFCA) Project (the Nyika Project or the Project) which the Government of the Republic of Malawi and the Government of the Republic of Zambia intend to implement within the Nyika TFCA (see p. 7 for map) with funding from the GEF, Norway Embassy in Malawi and Peace Park Foundation as well as the Government of Zambia (GoZ) and the Government of Malawi (GoM). All above financiers have agreed to comply with World Bank safeguard as operationalized in the present Environment and Social Management Framework (ESMF), the Process Framework (PF) and the Resettlement Policy Framework (RPF) which has been prepared and adopted by both GoZ and GoM.

The Project is a biodiversity conservation project which development objective is *to establish more effective transfrontier management of biodiversity in the Nyika TFCA*. Its focus is to strengthen the institutional, financial, legal and technical capacity in both countries to deliver on the Nyika TFCA objectives as defined in the Memorandum of Understanding signed by the two Governments in 2004. The Project is comprised of the following four components: Component 1. Institutional and Planning Framework, Component 2. Sustainable Financing and Component 3. Protected Areas Management.

In view of the Project's conservation-orientated objectives, it is unlikely that the implementation of the Project will result in any significant negative environmental and social impacts. As for all World Bank financed projects an internal screening for compliance with its social and environmental safeguards during preparation classified the project as a *category B* project according to Bank standards. Impacts of category B projects are likely to be site-specific, relatively easy to mitigate and reversible within reason. The review concluded further that the following four World Bank safeguard policies have to be triggered: Environmental Assessment (OP/BP 4.01), Natural Habitats (OP/BP 4.04), Forests (OP/BP 4.36) and Involuntary Resettlement (OP/BP 4.12).

As a consequence, three safeguard documents: (1) an Environmental and Social Management Framework (ESMF) which satisfies the requirements of World Bank Safeguard Policies OP/BP 4.01, OP/BP 4.04 and OP/BP 4.36 as well as (2) a Process Framework (PF) and a Resettlement Policy Framework (RPF) which satisfy the World Bank's OP/BP 4.12, have been prepared.¹

The hereby presented ESMF indicates how social and environmental impacts will be addressed should they occur and what environmental and social assessment procedures should be followed. Its purpose is twofold:

- a/ to inform and to provide a strategic guide for the two Governments and their national implementing agencies regarding the integration of environmental and social considerations in the planning, implementation and monitoring/evaluation of the Nyika TFCA project activities over a five-year period and*
- b/ to ensure compliance with the national environmental policies of Malawi and Zambia as well as with the World Bank safeguard policies.*

At the time of project preparation, detailed on-the-ground activities under Component 3 have not yet been specified. Thus, the ESMF serves as the strategic guiding safeguard instrument prior to Project appraisal. During Project implementation, detailed Environmental

¹ The Process Framework and the Resettlement Policy Framework have been developed separately and are therefore not included in the ESMF. Some issues and concepts are repeated throughout these three safeguard related documents (ESMF, PF and RPF).

Management Plans (EMPs) will be prepared if needed following guidelines in this ESMF. Environmental audits (EA) will assure compliance with EMPs upon request by the national implementation teams. It remains the responsibility of the respective ministries of Malawi and Zambia to ensure that necessary EMPs are developed and EAs are carried out, and the Project national implementation agencies to ensure that they are adhered to, monitored, evaluated and reported. Key components of the ESMF, PF and RPF will be communicated by the respective ministries to the other Nyika stakeholders as part of the disclosure process.

The national implementing agencies (DNPW for Malawi, ZAWA and ZFD for Zambia) as well as in the future the proposed Nyika Implementation Agency will be responsible for applying the ESMF and liaising with the relevant provincial and/or national authorities through the m&e officers as designated safeguard focal points. It is expected that existing institutional capacity at national level to implement the ESMF will be generally adequate but needs to be strengthened particularly at local level (mainly for district and community representatives). Capacity building measures in year one and year two of project implementation in both countries have been embedded and budgeted for under the components 1 and 3 and will be subject to regular monitoring and evaluation.

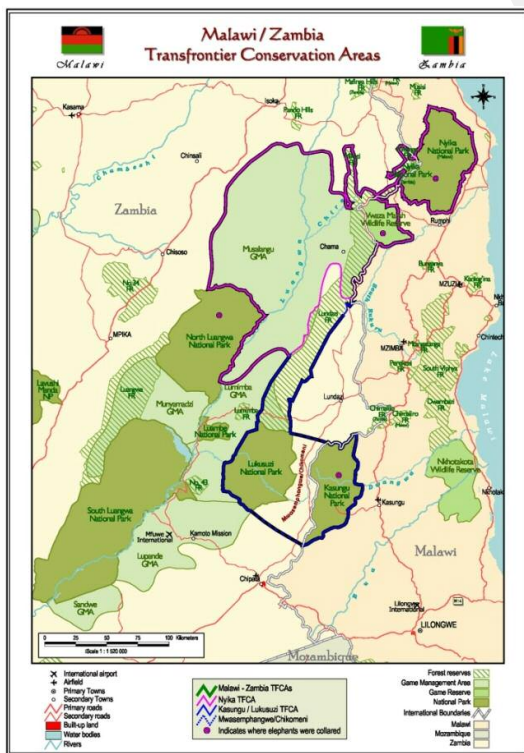
This document is structured as follows: An introductory section (2) outlines the Project and how it functions. The next section (3) explains how activities on the ground under component 3 will be screened for environmental and social impacts. The fourth (4) section presents the consultative process and consultation plan developed. The fifth (5) section describes the present legal and institutional framework in Malawi and Zambia as well as the environmental impact assessment procedures. In the sixth section (6), the national implementation agencies and their role and functions are described. Section seven (7) outlines the World Bank's safeguard procedures while section eight (8) explains the disclosure policy and process. Lastly, section nine (9) depicts the need for training and capacity building is given, including related Project budget for the first two years of implementation in Malawi and Zambia.

Project Description and Background

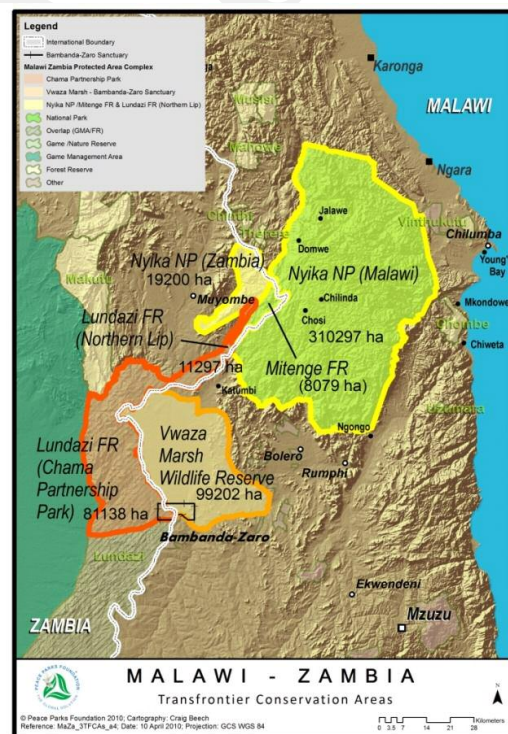
Project location and physical characteristics

On 13 August 2004, a Memorandum of Understanding was signed between the Governments of Malawi and Zambia to commence with the establishment of the Malawi-Zambia Transfrontier Conservation Area (TFCA). This agreement identifies more than 28,000 km² for inclusion under the TFCA initiative, incorporating Malawi's Nyika National Park, Vwaza Marsh Wildlife Reserve, Kasungu National Park and Zambia's Nyika National Park, Lundazi- Mitengi- and Mikuti Forest Reserves and Musalangu Game Management Area for development as a TFCA.

The Nyika TFCA spans over a total area of 19,280 km² and consists of different types of interconnected protected areas under various management and conservation regimes (see Map 1). Within the Nyika TFCA and as shown in the map 2 below, three Nyika TFCA ecosystem-management blocks have been identified for the project: (i) Nyika block comprising of Malawi Nyika National Park, Zambia Nyika National Park and Zambia Mitenge Forest Reserve (over 4,500 km²), (ii) Vwaza block comprising of Malawi Vwaza Marsh Wildlife Reserve and transboundary Bambanda-Zaro Sanctuary (part of the Lundazi Forest Reserve (over 1,500 km²), and (iii) the proposed Zambia Chama Nature Park (part of the current Lundazi Forest Reserve) (about 1,000 km²).



Map 2 – Entire Malawi-Zambia TFCAs



Map 1- Project area

Project Objective

The combined Project's Development Objective (PDO) and Global Environmental Objective (GEO) of the Project is *to establish more effective transfrontier management of biodiversity in the Nyika Transfrontier Conservation Area.*

This Project supports transboundary biodiversity conservation through planning, institution building, fundraising and capacity building for protected area management. It will assist the Malawian and Zambian governments and stakeholders in operationalizing the Nyika TFCA which links border protected areas, permanent forests and rural development areas. The Project will build national and transfrontier capacity to control and manage resources and resource uses, to monitor trends in biodiversity and ecosystem functions for adequate management decisions and to develop and maintain public-private partnerships for enhanced efficiency and cost-effectiveness. The Project will particularly focus on supporting an institutional and financial sustainable basis for the Nyika TFCA through a feasibility study to explore alternatives to set-up of a new bi-national management structure.

The Project is implemented through two national governmental management teams in Malawi and Zambia across the following 4 components:

Component 1: Institutional and Planning Framework

Component 2: Sustainable Financing

Component 3: Protected Areas Management

Noteworthy, the ESMF does apply only to the Norway-GEF-PPF funded Nyika TFCA project. However, close coordination and communication with the above listed parallel projects on all implementation aspects is embedded in the implementation arrangements.

Project Beneficiaries

The Nyika Project benefits several groups of beneficiaries: (1) some of the rural people in the protected areas fringe communities whose livelihoods depend on the natural resources within or around the Nyika TFCA and who will ultimately benefit through alternative employment in tourism and conservation management and , (2) Malawian and Zambian people and the world at large for the maintenance of a biodiversity asset of national and global value, and (3) private tourism investors who will benefit from being able to offer a better nature tourism product and thereby increase tourism related revenues.

Project components

Component 1: Institutional and Planning Framework

The objective of this component is to establish and operationalises the governance and planning functions for the Nyika TFCA by financing the design of TFCA-wide planning instruments and assisting with the establishment and capacity building of the implementation agencies.

The intermediate outcome of this component is measured by one indicator: Number of transfrontier planning instruments adopted by the Ministerial Committee.

The activities proposed under component 1 include: (1) The salary of procurement & financial management technical assistants as well as short TA on planning, monitoring and evaluation to

support teams of the implementation agencies, (2) the vehicles, office and field equipment of the implementation teams in both countries, (3) the capacity building for the implementation teams in both countries through hiring of trainers, training courses, planning and consultation workshops, (4) the transboundary integrated district planning for the Chama District in Zambia and the Rumph District in Malawi, (5) the review and up-date of the Nyika TFCA Management and Tourism Plans, (6) the diagnostic of national legal barriers for TFCA operationalization, and (7) the annual external audits of all funds.

Component 2: Sustainable Financing

The objective of this component is to develop mechanisms for financial sustainability of TFCA management through the institutions responsible for the long term management and financing of the Nyika TFCA.

The intermediate outcome of this component is measured by two indicators: (1) Funds raised and revenues collected by both countries in addition to the GEF/Norway grants reach more than \$2 million for raised funds and more than US\$0.2 million annually for commercial revenues; and (2) Financial Sustainability Score Card for TFCA (mandatory as per GEF but baseline to be established by MTR)

The activities under component 2 include: (1) business plan for the Nyika TFCA, (2) a feasibility study for the NIA including a fund raising strategy, and an investment strategy, (3) a broker tasked with advertising concessions to attract private investors for tourism, logging or hunting concessions, and (4) promotion material for fund raising, investment promotion, partnership seeking as well as events, trips, workshops, etc.

Component 3: Protected Areas Management

The objective is to improve management effectiveness of the agglomerated three Nyika TFCA management “blocks”: the Nyika, the Vwaza and the Chama blocks.² The management of the Nyika and Vwaza blocks will be done jointly by ZAWA and/or DNPW. The management of the third block, the proposed Chama Nature Park in Zambia, will be supported by a joint venture ZFD/NGO Partner/Community association. It includes capacity building for community members to participate directly in park management and tourism investments as business owners and operators.

The intermediate outcome of this component is measured by three indicators: (1) Employment in tourism and conservation funded by TFCA revenues or commercial operations; (2) % area covered by patrols: 45 to 70 for Nyika block, 70 to 95 for Vwaza block, 0 to 100 for Chama block, and (3) Trend in number of signs of illegal activities per patrol-day decreases in all 3 blocks.

The activities proposed in each block include: (1) Capacity building for planning, management and reporting, (2) infrastructure development and maintenance such as staff houses, offices, workshops, airstrips, water crossing structures, tracks, fences and firebreaks, (3) Habitat management and resource protection and monitoring including patrol operations, (4) research and monitoring such as

² Although the initial project concept envisaged covering the entire TFCA which includes Musalangu GMA (over 17,000 km²), the Musalangu GMA is only partly included in the final project design since (i) GEF funds are insufficient to cover more than the three blocks mentioned,. Notably, the proposed “Chama nature park” is carved out of the GMA/Lundazi Forest which will contribute to mainstreaming biodiversity into production systems while also contributing to the livelihoods of communities. The project will however finance the development the Musalangu GMA management plan.

data collection, aerial surveys and research programs, and (5) implementation of mitigation measures such as community livelihoods support as part of the Process Framework.

World Bank Safeguard Policies

<p>Environmental Assessment (OP/BP 4.01) is triggered due to the planned project support for small infrastructure investments including rural roads, staff housing and bush camps. However, no significant adverse impact on the environment has been identified during preparation but may materialize during implementation. Rather, anticipated impacts of project activities will be positive. As a consequence, it was agreed to prepare an Environmental and Social Management Framework (ESMF) to detect and mitigate environment and social impacts when small infrastructures are designed and implemented as well as to enhance sustainability of the project results.</p>
<p>Natural Habitats (OP/BP 4.04) is triggered as most of the TFCA is natural habitat such as miombos, mopane and Nyika grassland. The Project aims to enhance its conservation status but there is a possibility that new tracks for habitat management through sensitive areas for example locally increase the ecosystem disturbance. A 3,000 hectare portion of the Lundazi National Forest will be degazetted prior to project start. That land has been settled and little natural habitat remains. This will be largely compensated by the increased conservation status of another 100,000 hectare of that national forest land under the proposed Chama Nature Park. The Environmental and Social Management Framework (ESMF) will be applied to that OP as well.</p>
<p>Forests (OP/BP 4.36) is triggered since logging of an exotic pine forest is on-going in the Nyika National Park as part of the eradication of species that has now become invasive. The Environmental and Social Management Framework (ESMF) will be applied to that OP as well.</p>
<p>Pest Management (OP 4.09) is not triggered since the project would not (i) procure any pesticides or pesticides-application equipment, (ii) lead to substantially increased pesticide use, (iii) maintain or expand pest management practices that are risky from an environmental or human health standpoint.</p>
<p>Physical Cultural Resources (OP/BP 4.11) is not triggered since the project's area does not harbor any known structure of cultural or archeological importance. If during implementation civil works would unearth archaeological relics, fossils, or human remains, then this policy would be triggered. In that case, the mitigation measure would be to include chance finds procedures as part of the generic environmental rules for contractors and construction workers.</p>
<p>Indigenous Peoples (OP/BP 4.10) is not triggered since there is no indigenous people living in the project area or will be affected by the project implementation.</p>
<p>Involuntary Resettlement (OP/BP 4.12) is triggered since improved resource protection and law enforcement may restrict access to wildlife from some people who were using it before, albeit illegally. Also, partially in the Lundazi Forest Reserve and partially in the Musalangu Game Management Area on the Zambian side, the Project will facilitate the creation of a new protected area of higher conservation status (Chama Nature Park). The design process is expected to be fully participatory and management by a community organization in partnership with Forest department. Still this process may lead to increased limitation in access to natural resources and agriculture land from some of the community members. As a consequence, community engagement needs to follow a process that is in accordance with the Bank resettlement policy.</p> <p>The two countries have prepared a Process Framework (PF) which indicates a process for identifying those protected area stakeholders who might lose access to natural resources and how they could become eligible for support under the Project as Persons Affected by the project (PAPs). Before the Project mobilizes its own financing to support a PAP, and in order to avoid duplication or to work at cross purpose, it will first verify whether another existing project is not already attempting to provide an alternative livelihood for this particular PAP.</p> <p>Because, a few families reside in the area currently proposed for Chama Nature Park, and even though there is no plan or budget to resettle these families under this Project, a Resettlement Policy Framework (RPF) was also prepared to ensure that that the Project is equipped with a set of rules and processes to handle resettlement issues should they become unavoidable.</p>
<p>Safety of Dams (OP/BP 4.37) is not triggered as the project does not intend to build any dam.</p>
<p>Projects on International Waterways (OP/BP 7.50) is not triggered since there is no international waterway in the project area and none is affected by the project implementation.</p>
<p>Projects in Disputed Areas (OP/BP 7.60) is not triggered since there is no disputed land in the project area.</p>

In conclusion, it has been determined that this project will trigger four World Bank

Safeguards Operational Policies (OPs): Environmental Assessment (OP/BP 4.01), Natural Habitats (OP/BP 4.04), OP/BP 4.36 Forests and Involuntary Resettlement (OP 4.12). In order to fulfill these requirements (1) an Environmental and Social Management Framework (ESMF) which satisfies the requirements of World Bank Safeguard Policies OP/BP 4.01, OP/BP 4.04 and OP/BP 4.36, as well as (2) a Process Framework (PF) and Resettlement Policy Framework (RPF) to satisfy OP/BP 4.12 on Involuntary Resettlement have been prepared.

Potential Adverse Impacts

The Nyika TFCA Project is still at planning stage and can only speculate what some of the potential impacts might be that would require an ESMF to help address and resolve. However, there are various broad activities the project will support in which potential adverse impacts could arise and a functioning ESMF would help mitigate, while enhancing their overall potential positive impact on conservation and the welfare of local residents associated with the project. Noteworthy, an ESMF does not identify all possible impacts from project activities, but instead provides a set of methods and procedures for mitigating those with possible negative impacts while enhancing those with potentially positive impacts. This is done within the framework of existing laws and WB Safeguards as well as within a formal process of collaboration among all relevant stakeholders, particularly the local community (see PF).

The Project will implement the guidelines contained in this framework to promote a participatory process of community involvement, as well as other relevant stakeholders, to support an accurate assessment of such impact before the Project activities commence. The ESMF proposes procedures that are not unduly complicated or time-consuming. This concern relates to the larger purpose of the Project, which is to maintain a clear and committed focus on building district, community and stakeholder commitment to the needs of improved environmental management and social welfare within the TFCA. This ESMF is therefore a methodology designed to streamline appropriate steps that enhance environmental and social planning and impacts in the TFCA. Most especially, the ESMF seeks to incorporate underlying principles of land and natural resource management, as well as lessons and experiences from work currently in practice in the Project area that will enhance the level of cooperation among community stakeholders to support improved protected area management.

Box 1 Compliance with generic environmental rules for contractors and construction workers

Compliance with the following environmentally and socio-culturally sound generic rules for contractors, community members and other construction workers needs to be monitored and assessed by the Malawian and Zambian implementing agencies:

Prohibitions on hunting, fishing, wildlife capture, illegal bush-meat purchases, burning of vegetation, washing vehicles or changing lubricants in or near waterways or wetlands, and any inappropriate interactions with local residents. In the case of road construction or up-grading, proper sourcing of road surfacing materials and sound disposal of construction-related wastes need to be defined and approved.

These rules and specifications – along with transparent penalties for non-compliance – will be included in any bidding documents and contracts for civil works.

The broadly defined project activities include the possible creation of a Nature Park within a currently national forest in Zambia (Chama District), improved management of protected areas (national parks, forest reserves and game management areas), and increased compliance to land use and farming practices on non-protected landscapes. Each activity, as the project planning and implementation phase gets underway, could contribute to a scenario where adverse environmental, habitat or social impacts might arise and where such impacts could be avoided through a functioning ESMF. The table below provides a summary of what are the conceived possible activities the project might support and the range of issues an ESMF will

need to address to reduce undesirable impacts while increasing the potential environmental and social benefits of the project itself.

Table 1: Project Activities with Potential Adverse Environmental or Social Impacts

Environmental Screening ³	Project Target Areas, Potential Activities	Adverse Environmental Impacts	Adverse Habitat Impacts	Adverse Social Impacts
<i>Environmental Impact Assessment (EIA) including Environmental Management Plan (EMP) will be prepared and approved before works begin.</i>	1. Linear Infrastructure construction <u>Chama Block</u> Opening 100km bush tracks/firebreaks each year 2 small culverts/bridges/weir 1 bush airstrip	Potential erosion, soil/water loss. Increased access for illegal use activities. Silting of streams, etc.	Increased wildlife disturbance near water hole and feeding grounds. Potential destruction of natural vegetation and habitat during construction. Increased human impact on vegetation and wildlife movements.	Increased undesired human immigration into area. Restricted access increases tension with park staff. Increased exposure to illegal markets and people who may exploit local residents
	2. Fencing <u>Chama Nature Park</u> 20 km of elephant restraining fence <u>Wvaza Block</u> Build 150 km of game fence (unfunded for now)	Increased availability of wires for snares	Disturb wildlife movement to usual habitat or feeding areas	Block traditional use of land. Limit access to wild resources and income opportunities
	3. Construction of facilities (camps, centre) <u>Nyika Block</u> Construct 12 guard houses, 1 gate, 6 offices, 3 pickets Construct research center <u>Vwaza Block</u> Construct 10 guard houses, 1 gate, 3 pickets, 1 operation room	Attracts human disturbances, loss of trees and habitat in affected area	disturb wildlife access to important resource requirements	Restricted areas, could cause antagonism with park authorities although these facilities are within existing camps
<i>No environmental analysis beyond initial screening.</i>	1. Linear Infrastructure rehabilitation <u>Nyika Block</u> Opening 1,000 km fire break per year Rehabilitate 250 km of existing bush tracks Maintain airstrip annually. <u>Vwaza Block</u> Open 200 km firebreak per year Rehabilitate 150km of existing bush tracks Maintain airstrip annually.	Potential erosion, soil/water loss. Increased access for illegal use activities. Silting of streams, etc.	Increased wildlife disturbance near water hole and feeding grounds. Potential destruction of natural vegetation and habitat during construction. Increased human impact on vegetation and wildlife movements.	Increased undesired human immigration into area. Restricted access increases tension with park staff. Increased exposure to illegal markets and people who may exploit local residents

³ Screening will be aligned with EIA guidelines for Malawi and Zambia.

	3. Rehabilitation of facilities (camps, centre) <u>Chama Nature Park</u> Rehabilitate 10 buildings for housing/workshop & office <u>Nyika Block</u> Rehabilitate/maintain 97 staff houses, 3 offices, 1 camp, 2 workshops, 2 gates, 1 clinic, 1 hangar, 1 operation room, <u>Vwaza Block</u> Rehabilitate/maintain 46 staff houses, 1 offices, 1 workshops, 2 gates, 1 hangar	Increase human disturbances, loss of trees and habitat in affected area	None identified	None identified
<i>No environmental analysis.</i>	4. Increased law enforcement	Nil	Nil	reduced income from illegal use activities
	5. Increased fire management control	Nil	Nil	possible fines, added cost
	6. Increased controls on tree cutting in park	Nil	Nil	possible fines, added cost, reduced access to natural resources
	7. Controlled or prohibited settlements in the park	Nil	Nil	reduced access to land
	8. Potentially more wildlife conflicts	Nil	Nil	crop damage, threats to human safety
	9. Controlled access to natural resources	Nil	Nil	loss of income and food
<i>Environmental Impact Assessment (EIA) including Environmental Management Plan (EMP)</i>	16. Logging of exotic pine in the Nyika Park (Chelinda)	Increase the biodiversity value of the park.	May decrease the habitat of species which have come to be used to the existence of a pine forest	Creates jobs during the logging period but will ultimately (after > 10 years) decrease availability of fire wood. Decreases the wind break effect that enhances lodging conditions.

In addressing this list of potential project activities, a number of operational questions arise that help define the need and set of required tools and management structures the ESMF will adopt for guiding the Governments of Malawi and Zambia in their implementation of the Nyika TFCA and in accordance to the policies mandated by the WB for receiving project support for full project implementation.

Preparatory question:

- 1) Do the project implementation agencies have sufficient knowledge of the environmental and social needs of the TFCA to plan and implement project activities?
- 2) Are they adequately familiar with who the relevant stakeholders and local experts in the area to best advise on these needs?

- 3) Are there existing structures for facilitating broad-based stakeholder participation in the planning process?
- 4) Is there a clear delineation of areas affected by the TFCA and how this area is zoned or classified to address both environmental and social needs of the project area?

Implementation questions:

- 1) Are administrative mechanisms already in place to facilitate the implementation of necessary social and environmental safeguards to avoid unnecessary duplication of administrative structures?
- 2) Are there existing facilities available to provide potential compensation to local communities for the possible cost associated with conservation compliances?
- 3) Will there be infrastructure activities that could contribute to significant alteration of natural habitat or other environmental concerns and who will undertake this assessment?
- 4) If there is need to change protected area boundaries, how will the reduction of the protected area affect its conservation objective and how will the project mitigate this potential loss or impact?
- 5) Is the Project sufficiently familiar with current activities in the TFCA that could help meet Project objectives and through which the Project could more cost-effectively support its own efforts?

To address such questions, the ESMF will operate through a set of tailored sub-processes or tools to ensure both environmental and social concerns of project activities are brought under careful review and analysis from the beginning of the project planning process. As the TFCA becomes grounded with its initial activities, the ESMF will also become an important foundation for maintaining responsible environmental and social accountability for all its approved activities.

The ESMF will be implemented through the following instruments: (i) Environmental Impact Assessment (EIA), (ii) Environmental Management Plan (EMP) and (iii) Environmental Audit. It is important to note that the Process Framework (PF) and the Resettlement Policy Framework (RPF) are complementing the ESMF but are separate documents and not described here.

Environmental Impact Assessment (EIA)

By virtue of ratification of the Nyika TFCA Treaty Agreement, the Nyika TFCA will have a multiple-use protected area status by both the Malawian and Zambian Governments. Consistent with the environmental laws of both countries, project activities and those activities directed by third parties outside the dictates of the Nyika TFCA Project will be subject to an EIA, should such activities pose significant potential adverse environmental impacts.

The Department of Environmental Affairs in Malawi and the Environmental Council of Zambia are mandated to review an activity's need for an EIA and provides an important process and way to regulate against practices or activities potentially destructive to the TFCA. The Nyika TFCA Project takes a broad interpretation for what may constitute the need for an EIA, including activities by resident commercial interests operating in the TFCA, as well as land use practices potentially harmful to the TFCA. EIAs provide a critical safety

net for identifying environmental risks before they become serious costs to Government or to local communities.

At time of appraisal no significant adverse impact on the environment has been identified for the type of project activities being considered. Rather, anticipated impacts will be positive. Small infrastructure investments and activities such as anti-poaching can affect locally the environment as well as the local communities. The impacts of specific investments could not be identified during preparation but may materialize only during implementation. As a consequence, it was agreed to prepare an Environmental and Social Management Framework (ESMF) to detect and mitigate environment and social impacts when small infrastructures are designed.

In the event that alternative activities do not exist and the level of risk is great enough, the mandated authorities may decide to undertake an EIA to appraise more accurately the actual impact and how best to mitigate and possibly compensate unavoidable negative impact. These decisions are formally documented with stated reasons regarding environmental concerns and potential impact. The process allows the affected party to respond within a specified period to the mandated authorities' appraisal to allow a reformulation of the activity design, allowing the mandated authorities to withdraw the need for an EIA.

To summarize, there are three broad categories of potential targets for EIAs: project activities or Government-funded activities, third-party activities, and resident land use practices. All project or Government funded activities in the TFCA are subject to an EIA, based on the ESMF, and if required, the project will contract a suitably qualified, independent contractor to undertake the EIA in pursuant to the laws of that particular country. For third-party requirements, the parties themselves are required to engage an independent EIA contractor, also in pursuant to the laws of that country, and at the cost of the parties themselves.

For all categories, the EIA represents a necessary pre-condition for project activities or Government-funded programs to proceed should they have a potentially significant environmental impact in the TFCA. A list of key elements that go into an EIA in order to meet the required standards of the ESMF is given below:

- Delimitation and geographical representation of the area of influence of the activity, as well as the referenced environmental situation
- Description of the activity, potential environmental risks and costs and its alternatives
- Comparison of the alternatives considered and the forecast of their future environmental impact
- Identification and assessment of mitigating measures
- Preparation of an Environmental Management Plan (EMP)
- Identification of the team that drew up the study to ensure the team consists of independent experts

Only upon completion of the above will the concerned party be issued an Environmental License that allows the activity to proceed, as defined by the approved EIA. It is necessary to point out that the EIA requirement does not seek to increase social costs to participating communities, but rather seeks to find better economic alternatives that improve the level of benefits associated with environmental compliance as recommended in the EIA.

Environmental Management Plans (EMP)

As part of the process of developing an EIA, an EMP will be prepared. An EMP describes the specific actions needed to manage and monitor the various impacts identified in a particular EIA. The EMP is a key working document to guide how a particular implementing party or stakeholder identified in an EIA will provide assurances for mitigation against potential environmental or social risks. Elements in the EMP are detailed steps or procedures the identified party or stakeholder must follow to receive support from the Nyika TFCA Project or to receive authorization by the mandated authorities for continuation of activities in the TFCA. Because the EMP is a working document, its format and language should be relatively simple, non-technical with clear, concise language on what the EIA prescribes as necessary steps to avoid environmental or social risks in the TFCA (see Appendix 1 for template).

Recommended format for an EMP in compliance with WB OP4.01 is a table with columns that include the activity identified with its impact/potential risk, mitigation measures to be taken, which party is required to do what and how often. The activities defined in this table relate to the sequence of operations or events as part of an overall project activity, like the construction of a lodge or development of a nature park, which could pose a particular threat. More broadly and with respect to community participation in the TFCA, the EMP may also relate to activities that promote improved synergies between development and conservation.

Another important part of the EMP is monitoring, evaluation and corrective actions if necessary. Such description should include what internal procedures will be used by the implementing party to monitor and evaluate compliance of mitigation steps and what indicators will be used to signal if corrective or mitigating measures were effective. This prescription will also lay out the framework for what criteria to use in a subsequent environmental audit, should the project feel compliance is in question and that there is need to evaluate the effectiveness of the mitigation measures put into place.

In summary, the EMP is a required part of the ESMF in the event an EIA is requested and carried out. It is also a necessary part of the overall agreement between the Project and those parties identified as accountable for implementing mitigating measures in an EIA to ensure potentially adverse environmental and social impacts are identified and are effectively managed. Though part of the EIA, the EMP is as separate document that identifies who must do what by when. As such, the EMP serves as a working document to guide relevant parties of their responsibilities in the TFCA.

Environmental Audits (EA) as part of TFCA Monitoring

An important part of the ESMF process is a procedure that helps to ensure the EMP is duly implemented in order for the project to have credibility with its stakeholders and its overall objectives. Should the project feel compliance issues are not being met; the ESMF process will call into action an EA.

Clearly defined indicators of mitigation compliance as defined in the EMP are used to trigger the need for an EA if the project via its project implementing agencies feels compliance measures fall short of required values. The Project implementing agencies will then commission a professionally qualified EA team to assess and compare predicted impacts as defined in the EMP with actual impacts on the ground. Further, the EA team will assess the extent to which the concerned parties made an effort to implement mitigating measures

identified in the EMP and what remedial steps are further needed to bring impact levels back in line to predicted levels. An overall set of recommendations or possibly punitive steps are made to the project/TFCA implementing agencies for addressing non-compliance of the EMP.

During the audit the auditors review the records and visit the site with a structured questionnaire. Based on their report an action plan is drawn up in conjunction with the proponents of the study, who are then responsible for implementing the actions according to the agreed period and conditions.

This process has potentially serious consequences. Should the EA, for instance, find that environmental damage or social costs are not being addressed and remedial steps are not actively enforced, the mandated authorities will either fine the party, close down its operations or both. Moreover, depending on the EIA regulations of the host country, the party may face criminal charges.

PF and RPF

The ESMF is complemented by two additional tools:

The Process Framework, is a “sister” document to the ESMF that the Nyika TFCA Project will use to provide a clear process by which communities affected by the TFCA participate in the design, implementation, and monitoring of relevant Project activities and potential benefits accrued from such activities. It also recognizes the existence of existing projects and the importance of dialog and close collaboration with these projects and community partners. The ESMF and PF work together as framework papers to ensure a clear pathway of guidelines and participatory procedures that will promote positive environmental and social impact by the Project. The PF has a Project budget attached to it.

The Resettlement Policy Framework (RPF): The RPF is activated if, following the defined screening process and through implementation of the PF, there is a clear consensus that there is no option but to displace one or several households. In such case, the RPF outlines the detailed steps that must be followed to prepare a Resettlement Action Plan (RAP). Since no resettlement is envisioned as part of the Project, no budget is available. All cofinanciers have committed that no RAP would be prepared unless funds are available to implement it.

Consultation

The Nyika TFCA ESMF describe different tools to address possible conflicts which TFCA project activities may cause with regard to rural livelihood needs, biodiversity protection, or environmental management requirements and how to mitigate these conflicts and to enable consultation throughout project implementation. Stakeholder consultations, including with communities, have been an important part of the project development process over the past 2 years. For the present project, consultations on the project design and safeguard policies were held at district level, with district councils, sector representatives, chiefs and headmen both in Malawi and Zambia. A special emphasis was given to the community stakeholder of the proposed Chama Nature Park to ensure that the creation of this protected area is indeed part of their plan and goes against no community interest (see annex A2).

Stakeholders and contributions

District Government Authorities

The ESMF suggest that the engagement process for the development of the TFCA must be on a District level. The TFCA covers two districts, one in Malawi (Rumphi) and one in Zambia (Chama). The Project will enhance and support an Integrated Development Planning (IDP) approach for the two districts. The District Government Authorities provide the appropriate local governance structure to ensure the Nyika TFCA is aligned with planned district development.

Local Advisory Board

The Project will help establish a Local Advisory Board (LAB). The LAB will include traditional, administrative and political representatives who will provide guidance particularly on local land, traditional and political issues.

Community Extension Officer

ZAWA and DNPW possess Community Extension Officers (CEO). The CEOs will work with community structures to assess the effect that project implementation and restrictions will have on resource use in protected areas and to determine how this will impact on the livelihoods of PAPs. The CEO will also coordinate all community development partners such as the Nyika Vwaza Association, or existing projects with regard to potential collaboration on implementing mitigation measures.

Zambia

The Provincial and District-level authorities have established a Provincial Land Management Authority loosely known as the Luangwa Valley Partnership Initiative. This Authority involves partnerships between Government and Non-Government Organizations (NGOs) and CBOs. The Authority meets periodically during the year and brings together the heads of key Government departments and maintains an important mechanism for monitoring management results. The Authority also recognize the role that District Governments play with regard to assessing the needs and views of resident communities as well as the formal link with Traditional Leaders, who maintain an important degree of influence over land use practices on customary land.

Malawi

The GoM has decentralized environmental management to local structures which consists of Village Development Committees (VDCs), Area Development Committees (ADCs) and then District Assemblies (DAs). Direct participation by local communities in protected area management is through Natural Resources Committees (NRCs). An umbrella organization known as the Nyika-Vwaza Association for Natural Resource Management and Rural Development oversees the work of the NRCs and forms a unified link with DNPW.

Consultation Plan

Public consultation aims to consult meaningfully with stakeholders on the preparation and findings of environmental impact assessments and to disclose to the public the results of such process. The project's public consultation plan needs to be seen in conjunction with the two other safeguard documents, the Process Framework and the Resettlement Policy Framework. The public consultation plan during the environmental and social screening process is aligned with the three main EIA related phases:

1/ Preparation and implementation of EIA

- 2/ Presentation and discussion of preliminary EIA report
- 3/ Validation and dissemination of final EIA report.

It will be carried out in Malawi and Zambia respectively and be in line with existing national policies, legislations and procedures for EIA processes. In each of these two countries, the national project implementation team will be responsible for complying with the public consultation and disclosure process for each EIA required as outlined below.

During phase 1, the **objectives** will be:

- ☞ Informing generally the greater public through written and oral communications in local languages and readily understandable formats;
- ☞ Identification of all stakeholders (beneficiaries, impacted people, institutions, public and private actors);
- ☞ Explanation of the project while pointing at the potential challenges, risks and gains; and
- ☞ Analysis of stakeholder interests.

During phase 1, the **activities** will include:

- ☞ Description of project, design elements and location (map).
- ☞ Summarize in-country and local requirements of policies, laws, regulations and review processes for public consultation and disclosure related to EIA.
- ☞ Individual and representative group interviews and consultations with key stakeholders using oral, visual methods as well as local languages to reach out to all stakeholders including non-literate people. Ensuring adequate representation of women, vulnerable groups, ethnic or religious minorities and facilitating respectful communication with them. Developing clear mechanisms to respond to people's concerns, suggestions and grievances and report in detail.
- ☞ Communication channels to be used (radio, print press, internet)

During phase 2, the **objective** will be:

- ☞ Validation of preliminary EIA report at local and national level

During phase 2, the **activities** will include:

- ☞ Report includes all public consultation and information disclosure undertaken to date including types of information disseminated, location and dates of meetings, description of stakeholders consulted, overview of issues discussed, and description of how issues raised were responded to and communicated back.
- ☞ Dissemination of preliminary report at local and national level
- ☞ Discussion of report results via media (radio, print press, internet)
- ☞ Workshop(s) for local and national stakeholders (NGOs, local authorities, community representatives, private sector, etc.) to present, discuss key results and findings and collect feed-back

During phase 3, the **objective** will be:

- ☞ Incorporation of suggested revisions and feed-back gathered during consultation process into final report.
- ☞ Dissemination of final validated EIA report at local, national and international level (see also chapter 8 of ESMF).
- ☞ Information of general public about final decisions, consultative process
- ☞ Presentation of communication plan/strategy during project implementation.

During phase 3, the **activities** will be:

- ☞ Meetings with local and national stakeholders

- 🔊 Use of media to inform greater public about final EIA report and main content
- 🔊 Availability of final document at public locations and on the internet
- 🔊 Launch of project's communication plan.

Legal and Institutional Framework

Legal framework

The ESMF will be implemented within existing policies and laws governing the management of the environment in Malawi and Zambia described in the following sections.

MALAWI

A number of legislation and policies instruments are available to support environmental management and the environmental impact assessment process in Malawi. They are supported by the constitution that acknowledges and supports accountable environmental management as a major input in ensuring that all development initiatives are sustainable. The Environmental Management Policy and the Environment Management Act are the key instruments that cover environmental management in all the sectors of development. The Environmental Impact Assessment Guidelines prescribe the process, procedures and practices for conducting an EIA and preparing the EIA reports. In addition to these instruments, there are sector specific policies and legislation that prescribe the conduct for managing the environment. Summarized below are some of the policies and legislation that are directly relevant to the implementation the Sustainable Management of the Nyika TFCA project.

National Environmental Policy (1996; 2004)

Based on the findings of the NEAP, a National Environmental Policy (NEP) was developed in 1996, and revised in 2004. The NEP highlights the areas of priority including efficient utilization and management of natural resources. It accommodates the private sector, CBOs, NGOs and the community to participate in the initiation and mobilization of resources, to achieve sustainable environmental management. It also provides for the involvement of local communities in environmental planning. The policy empowers the communities to protect, conserve and sustainably utilize the nation's natural resources. It advocates enhancement of public awareness and promotion of public participation. It also prescribes cooperation with other governments and relevant international / regional organizations in the management and protection of the environment. The NEP objectives set a foundation for addressing a broad range of environmental problems facing Malawi. The overall policy goal of the NEP is promotion of sustainable social and economic development through the sound management of the environment in Malawi.

Environment Management Act (1996; under revision)

The legal instrument for implementing the principles of environmental and natural resource management as contained in the NEP is provided for in the Environment Management Act (EMA) developed in 1996. Noteworthy, the EMA was enacted to remove the lack of an overarching statute providing general environmental protection. Sectoral policies and legislations were required to be revised to be consistent with this Act. A review and reform of environmental and natural resource management related policies and legislation was carried out in 2004. The EMA outlines the EIA process to be followed in Malawi and requires that all project developers in both the public and private sectors comply with the process. The act sets out the powers, functions and duties of the

Director of Environmental Affairs (DEA) and Environmental Affairs Department (EAD) in implementing the EIA process. The Act does not provide for an environmental and social screening process for those projects whose location and extent are not yet known at the inception and planning stage. However the EIA Guidelines developed in 1997 prescribe the types and sizes of projects, which should be subject to EIA (a/ agriculture/aquaculture projects, b/ water resource development, c/ infrastructure projects, d/ energy generation, e/ mining and quarrying projects, f/ forestry projects, g/ tourism development projects, g/ tourism development projects). EMA guidelines emphasize the following issues for EIA: avoidance of damage to biodiversity, promotion of sustainable use of natural resources and promotion of ecosystem maintenance. Further, the EIA Guidelines advocate for the Strategic Environmental Assessments (SEAs) for policies, programmes and plans but lacks concrete guidelines for conducting those. The EMA requires that environmental audits shall be carried out for purpose of enforcing provisions of the EMA and that all developers shall take responsible measures for mitigating any undesirable effect on environment arising from the implementation of a project which could not be foreseen in the process of conducting EIAs. Malawi initiated in 2006 a process to revise the Environment Management Act. The revised Act has provisions for establishment of an independent Environmental Protection Authority that should become responsible for overall coordination of environmental management in Malawi including law enforcement. In the Sustainable Management of Nyika TFCA project, some of the project activities may fall under the list of prescribed projects. If this will be the case, EIA studies have to be conducted, before implementation of the project activities. Since the project locations and the extent of project activities are not exactly known at this time, an environmental and social management framework is required for environmental and social screening.

Decentralization Policy (1998)

The Decentralization Policy devolves administration and political authority to district level, in order to promote popular participation. The Decentralization Policy assigns certain responsibilities to District Assemblies. One of the key responsibilities is to assist the government in the management and preservation of the environment and natural resources. In light of this devolution, the District Assemblies will play a very important role in the implementation of the environmental management process and plans for the Sustainable Management of the Nyika TFCA project. This policy is also significant in supporting the district focus of the safeguard frameworks.

Local Government Act (1998)

The Act unifies government and local authorities and facilitates community participation in the formulation, planning and implementation of development and environmental programmes through District Councils. District level committees facilitate integration of biodiversity into plans and programmes, coordinated by District Environmental Subcommittee (DESC). The revised EMA proposes the establishment of District Environmental and Natural Resource Management Committee at the district level.

Malawi National Land Policy (2002)

The Malawi National Land Policy is the principal policy that guides land management and administration in Malawi. The policy introduces major reforms intended for land planning, use, management and tenure. It provides clear definition of land ownership categories (Section 4), and addresses issues of compensation payment for land (Section 4.6).

The policy has provisions for environmental management, urban management of solid and liquid wastes, protection of sensitive areas, agricultural resource conservation and land use, community forests and woodland management. Of particular importance to the Nyika TFCA project are the requirements in Section 9.8.1 (b) of the policy, that environmental impact assessment studies shall be mandatory before any major land development project is carried out; and in Section 9.8.1 (c) that development activities in fragile ecosystems such as wetlands, game reserves, forest reserves and critical habitats will only be permitted after the appropriate authority has conducted an environmental impact assessment study.

Land Resources Management Policy (2000)

The Land Resources management Policy aims to introduce land use planning and to reduce biodiversity degradation. It promotes sustainable socio-economic use of the conservation of biodiversity and avoidance of sectoral land use conflicts.

National Parks and Wildlife Policy (2000)

The goal of the National Parks and Wildlife Policy is to ensure proper conservation and management of wildlife resources in order to provide for sustainable utilization and equitable access to the resources; and the sharing of benefits arising from the use of the resources for both present and future generations. One of the objectives of achieving this goal is to ensure adequate protection of ecosystems and their biological diversity through promotion and adoption of appropriate land management practices that adhere to the principle of sustainable development.

National Parks and Wildlife Act (1992, amended in 2004)

The Act primarily deals with the protection and sustainable management of wildlife. Of relevance to the Nyika TFCA project is Part IV relating to Wildlife Impact Assessment (WIA). This permits any person to request the minister, through the Wildlife Research and Management Board, to have a WIA prepared, where they have sufficient reason to believe that any proposed or existing government process or activity may have an adverse impact on any wildlife species or the community. Considering that the majority of project activities will be conducted in national parks and wildlife reserves, it is important that these provisions are taken into account and that appropriate action is taken accordingly. For instance, a Wildlife Impact Assessment (WIA) would be required in constructing small priority infrastructure in protected areas to assess the impacts on natural habitats, cultural property, forests and people who might lose access to the parks resources. However, regulations for implementing wildlife impact assessment provisions have not been formulated. Moreover, Wildlife Research and Management Board is non functional.

In 2004 the Act was amended to incorporate issues of collaborative management and benefit sharing and to provide for creation of buffer zones for all national parks and to incorporate provisions for the involvement of communities in wildlife management. It provides for sharing of 50% of Park entry fees and 20 % of concession fees with communities. The revenue sharing programme has been piloting in Nyika Vwaza area. The Nyika-Vwaza Association has collected revenues to construct school blocks, teachers' houses, health centres and boreholes. These benefit sharing programmes have promoted community participation in construction of fences, clearing of boundaries and law enforcement in Nyika-Vwaza. A roll-out scheme to other national parks and wildlife reserve is on-going.

Forestry Policy (1996)

The Forestry Policy was revised in 1996 to align with the EMA. It aims to integrate forestry management with environmental conservation and to establish incentives to promote community-based conservation and sustainable use of forest resources as a means to poverty reduction.

Forestry Act (1997)

The Forestry Act (1997) deals with the management of indigenous forests on customary and private land; forest reserves and protected forest areas; woodlots and plantation forests; and it also deals with crosscutting issues including law enforcement and fire management. The Act underlines the need for EIA studies for projects in the forest reserves or forest-protected areas. The Forestry Act gives the Forestry Management Board the responsibility to approve EIA reports for proposed projects within forest reserves and protected forest areas. There is a need to harmonize the Forestry Act with the Land Act, the Local Government Act and the National Parks and Wildlife Act since their provisions affect forestry issues. For example, the Local Government Act gives powers to local authorities to carry out reforestation programmes and manage forests in their areas of jurisdiction. The management and utilization of the Chilinda Pine Plantation needs to be guided by the EMA, National Parks and Wildlife Act and the Forestry Act.

Water Resource Management Policy (1994, revised 2006)

The Water Resource Management Policy aims to reduce degradation of water resources and reduce pollution by promoting an ecosystem-based approach for water resource management and by promoting EIAs in all major water developments including irrigation schemes and dams.

National Fisheries and Aquaculture Policy 2001

The National Fisheries and Aquaculture Policy aims to improve fisheries management and promotes aquaculture as a measure to reduce pressure on natural fisheries. It promotes co-management and protection of endangered species and sustainable use of fish resources.

Fisheries Conservation and Management Act (1997)

The Fisheries Conservation and Management Act (FCMA) enacted in 1997, identifies issues which may have a bearing on the proposed project such as: degradation of spawning grounds by siltation and changing flow regimes; retention of the unique biodiversity of Lake Malawi and identification of pollution and monitoring sources. However, in contrast to the later enacted policy (see above) it does not provide for provision of incentives to aquaculture farmers to encourage them to engage in fish farming. The proposed Nyika TFCA project should take these issues into account to ensure that it does not adversely affect fish resources (of relevance for the Kazuni Lake).

ZAMBIA

The National Policy on the Environment (2007) and the Environmental Protection and Pollution Control Act (1990) provide an overarching framework for environmental management and sustainable development in Zambia. The framework attempts to harmonize sectoral strategies and to rationalize legislation that concerns use and management of land, water and natural resources. The Act provides

for an Environmental Council whose main functions include protection of the environment and control of pollution so as to provide for the health and welfare of people, animals and the environment in general. A comprehensive set of regulations exists for conducting environmental impact assessment. There are also, at present, 28 pieces of sector-specific legislation relating to environmental management that must be taken into account when considering EIA decision making.

National Policy on Environment (2007)

The National Environmental Policy (NPE) of 2007, a framework for the management of the environment and natural resources was formally launched by the President on June 30, 2009. The policy aims to promote sustainable environmental protection including ensuring that economic activities are conducted in a manner that do not undermine the integrity of ecosystems. NPE marks a milestone in the management of the environment and natural resources in a harmonized manner. The Policy provides an umbrella framework to avoid conflict of interest, harmonizes sectoral strategies and rationalizes legislation regarding the use and management of the environment in order to attain an integrated approach to development in the country.

The Policy's overall objective is to support the Government's development priority to eradicate poverty and improve the quality of the life of the people of Zambia. One of the guiding principles of the NPE is to ensure wise and sustainable use of biological diversity consistent with maintaining the integrity of ecosystems and ecological processes. Underlying the entire policy is the Government's commitment to reduce poverty and achieve sustainable development for the nation as a whole on the basis of "development without destruction."

Environment Protection and Pollution Control Act (1990)

Passed in 1990 this is the principal Act on environment in Zambia. The Act provides for the establishment of an Environment Council whose main functions constitutes the protection of the environment and control of pollution in particular so as to provide for the health and welfare of persons, animals, plants and the environment in general. A comprehensive set of regulations exists for conducting environmental impact assessment. Although the inspection of pollution and compliance monitoring is implemented in principle; generally compliance levels are still low and capacities for measuring pollutants are low. Therefore, the Government has started to review the Environment Protection and Pollution Control Act of 1990.

National Decentralization Policy (2002)

The National Decentralization Policy (2002) provides for the strengthening of local government to facilitate more effective citizen participation in the governance and accountable delivery of public services as a basis for decentralization. The policy recognizes the district as the focal point for the planning and delivery of public services. To this end, Government will devolve specified functions, authority and resources to the Council which comprise democratically elected representatives. Government is however aware of the limited capacity Councils are posses and intend, for a start, to delegate to the districts. This policy is significant in supporting the district focus of the safeguard frameworks in particular and the Nyika TFCA project in general.

Local Government Act (1991)

The Act provides for the establishment of Councils in districts, the functions of local authorities and the local government system. Some of these functions relate to pollution control and the protection of the environment in general.

Lands Act (1995)

An Act to provide for the continuation of Leaseholds and leasehold tenure; to provide for the continued vesting of land in the President and alienation of land by the President; to provide for the statutory recognition and continuation of customary tenure; to provide for the conversion of customary tenure into leasehold tenure; to establish a Land Development Fund and a Lands Tribunal; to repeal the Land (Conversion of Titles) Act; to repeal the Zambia (State Lands and Reserves) Orders, 1928 to 1964, the Zambia (Trust Land) Orders, 1947 to 1964, the Zambia (Gwembe District) Orders, 1959 to 1964, and the Western Province (Land and Miscellaneous Provisions) Act, 1970; and to provide for matters connected with or incidental to the foregoing. Act may be significant in supporting and guiding implementation of Resettlement Policy Framework (RFP) where people may be resettled and land acquired for inclusion in the project.

Policy for National Parks and Wildlife (1998)

The mission of the Policy for National Parks and Wildlife is to encourage the promotion, appreciation and sustainable use of wildlife resources by facilitating the local communities in the management of the wildlife estate. It recognizes that local people are the best custodians of the wildlife estate and other renewable resources on their land. The Policy promotes the conservation of wildlife in National Parks, Game Management Areas and open areas. The Management of all National Parks is through approved general management plans developed in accordance with internationally accepted norms. The plans are prepared through an interactive consultative process with various stakeholders. In the GMAs and open areas the management of wildlife is done in collaboration with Community Resource Boards (CRBs). The CRBs have joint responsibility with ZAWA for managing GMAs. As an incentive, to any CRB an agreed portion of revenues and benefits accruing from sustainable utilization of wildlife resources in the GMA are ploughed back into the resource generating communities. A review of the Wildlife Policy (and Act) has commenced.

Zambia Wildlife Act (1998)

The Act primarily deals with the conservation and management of wildlife, eco-systems, biodiversity, and of objects of aesthetic, pre-historic, historical, geological, archaeological and scientific interest in National Parks and Game Management Areas; and for the promotion of opportunities for the equitable and sustainable use of the special qualities of National Parks; The Act provides for a wildlife impact assessment where a proposed or existing plan of the Government or organization or person may have an adverse effect on wildlife in a National Park or bird and wildlife sanctuaries or Community Partnership park or Game management Area or open area, However, regulations for implementing wildlife impact assessment provisions have not been formulated. Consultation is required with local communities but permits resettlement. The Zambia Wildlife Authority (ZAWA) a corporate body established under the Act is responsible for the overall management of wildlife in Zambia on behalf of the government.

International Game Park and Wildlife Act (1971)

The Act provides for the establishment of International Game Parks.

National Forestry Policy (1998; under revision)

The National Forestry policy aims to ensure sustainable flow of wood and non-wood products and services while at the same time ensuring protection and maintenance of biodiversity for the benefit of the present and future generations through the active participation of all stakeholders. A review is currently ongoing to strengthen biodiversity conservation and take care of emerging issues such as climate change. At present, guidelines for Joint Forest Management (JFM) are developed and piloted in 6 local forests.

Forestry Act (1974 and 1999)

The Act provides for the establishment and management of national and local forests as well as the conservation and protection of forests and trees, and licensing and sale of forest products. A review of the Forestry Act is currently on-going.

Tourism Act (1979, 1985)

The Act provides for the control of tourism enterprises. The Act, though making no direct reference to environmental protection does provide for appeals against authorization of tourism projects that are deemed to negatively affect Zambian tourism which is basically natural-resource based.

National Heritage Conservation Commission Act (1989)

The Act provides for the conservation of ancient, cultural and natural heritage, relicts and other objects of aesthetic, historical, pre-historical, archaeological or scientific interest. It is administered by the National Heritage Conservation Authority.

Institutional framework

Based on the 2004 signed Memorandum of Understanding related to the Nyika TFCA, Zambia and Malawi intend to sign a Bilateral Treaty and Implementation Protocol for the establishment of the Malawi-Zambian TFCAs.

Under the Treaty, the following is intended:

- i. Overall coordination of the implementation of the Treaty is entrusted to a TFCA International Coordinator. He/she is tasked to ensure that all instruments of the Treaty are properly activated.
- ii. Once a year, the ministries in charge of conservation and tourism in Zambia and Malawi will organize an Interministerial Meeting to review progress and issues.
- iii. The legal basis for the NIA Implementation Agency is provided in the Bilateral Treaty where it is described as the Implementation Agency for the Nyika TFCA.
- iv. Technical Advisory Committees (TAC) can be established to provide policy and technical input for various dimensions of TFCA development such as tourism, immigration, veterinary,

police, agriculture, fishery, etc. A TAC is mobilized only when an issue arises and is dismantled when the issue is resolved.

- v. A Local Advisory Board (LAB) would be established within 2 to 3 years of signature of the Treaty. It will include traditional, administrative and political representatives. The LAB will provide guidance on land tenure and land use as well as other local and political issues.

Implementing Arrangements and Agencies

Generally, the Project is coordinated and implemented by the country line Ministries' respective implementing agencies (DNPW, ZFD and ZAWA).

The two countries will establish a Joint Steering Committee (JSC) with equal membership from each country. The JSC will physically meet once a year. Other meeting will be organized using advanced communication technology. The JSC will review and approve the Annual Work Plan and Budget (each October) as well as the Annual Report (each March).

Project activities funded through Malawi are implemented by the DNPW Provincial Office in Mzuzu. Project activities funded through Zambia are jointly implemented by the existing ZAWA and ZFD staff in Chipata. They will be supported by two Technical Assistants to support functions that have been identified by the WB fiduciary staff as risky and in need of support: Procurement & Financial Management.

After following internal procedures, the three agencies will prepare in September of each year an Annual Work Program and Budget which they will together consolidate into a Project-wide Annual Work Program and Budget (AWPB). They will also report Quarterly to the JSC and the Bank and produce and disseminate a comprehensive Annual Report. The AWPB is subject to the approval of the JSC and no objection from the Bank. These reports and work programs will include reporting on ESMF, PF and RPF implementation and activities.

Implementation at site level:

Each of the Nyika TFCA protected area blocks will be managed by its designated agencies. The safeguard aspects will be monitored by safeguard focal points in the field identified for each of the three agencies (DNPW, ZAWA, and ZFD). Important, monitoring and assessing compliance with general environmental rules (see box 1 p. 11) is the responsibility of the designated agencies. During the course of the Project each executing agency is encouraged to establish public-private-partnerships (PPP) for the management of protected areas blocks, of tourism or logging concessions or for infrastructure development, research and community development. Partnerships can originate from communities, NGOs and the private sector. The Project is expected to work closely with existing community engagement structures which are based on a wide network of Community Based Organizations (CBOs) in both Malawi and in Zambia.

- The proposed pilot Chama Nature Park, which is located in the Lundazi National Forest, will be under the responsibility of the Zambia Forest Department (ZFD). ZFD will delegate the management of the area proposed for the nature park to a consortium constituted of itself-ZAWA-an NGO Partner and a Chama District stakeholder's association.

- Vwaza Marsh Wildlife Reserve & Bambanda-Zaro Sanctuary will be managed by DNPW with assistance from a team of wildlife police officers from ZAWA.
- Nyika National Park Malawi, Nyika National Park Zambia and Mitenge National Forest Zambia will be co-managed by DNPW-ZAWA teams, possibly assisted by ZFD staff, like the Bambanda-Zaro Sanctuary. During Project implementation, the three institutions will design an arrangement whereby a clear leadership for the whole block is designed and implemented.

ESMF implementation

The environmental management policies and acts of Malawi and Zambia are administered by the Department of Environmental Affairs and the Environmental Council of Zambia.

The ESMF (and PF, RPF) will be implemented by the two national implementation teams and related field staff. The M&E specialist is specifically charged with the responsibility of providing leadership in the implementation of the ESMF and RPF/PF. The capacity of the Department of Environmental Affairs and Environmental Council of Zambia to administer the Environmental Management Acts and related regulations is considerate adequate. However, national implementation teams and field staff will require systematic capacity building to effectively implement the ESMF and RPF/PF. Field teams will consist of DNPW, ZAWA and ZFD staff; Nyika-Vwaza Trust, communities, and any other implementation partners.

Support from World Bank

The Bank team will supervise the implementation of the ESMF, PF and RPF and provide guidance to Project implementation teams to address any issues. Inputs from an environment specialist are mainly provided from the team leader with back up from a safeguard specialist based at HQ. A social specialist will provide support as needed. Training will be required on environment monitoring and reporting. On the social side, supervision will focus on the implementation of the agreed ESMF, PF and RPF. Field visits are required on an annual basis with two visit per year at least for the two first years of implementation.

Public Disclosure

In line with national and World Bank procedures, the three project related safeguard documents (ESMF, PF, and RPF) have been developed following a public participation process including distribution of pre-draft documents through the project preparation coordinator to key stakeholders and executing agencies as well as donors. Several meetings and workshops have been carried out during project preparation to present, discuss and revise safeguard documents and are documented.

In compliance with the national and World Bank policies, the Governments of the Republic of Malawi and Zambia will disclose to the public and development partners the following Environmental and Social Safeguard tools that will be used to implement project activities: Environmental and Social Management Framework (ESMF), Process Framework and Resettlement Policy Framework (RPF). These documents were approved by the Ministry of Mines, Energy and Natural Resources and the Department of Environmental Affairs in Malawi and by the Ministry of Tourism, Environment and Natural Resources in Zambia.

The Project's safeguard documents will be disclosed to the public for consultation (as well as for obtaining hard copies) at the district of Chama and Rumphi, at the headquarter of DNPW (Malawi), ZAWA, Forestry Department and their local offices within the greater Nyika TFCA.

The disclosed documents will be made available at the following locations:

Malawi:

- Secretariat Mines, Energy and Natural Resources, Ministry of Mines, Energy and Natural Resources, Lilongwe 3
- Environmental Affairs, Department of Environmental Affairs, Lilongwe 3
- Ministry of Tourism, Wildlife and Culture, Tourism House, P/Bag 328, Capital City, Lilongwe 3
- Department of National Parks and Wildlife, Lilongwe 3
- Department of National Parks and Wildlife, Mzuzu
- Department of National Parks and Wildlife: Vwaza Marsh Reserve & Nyika NP (Chelinda)

Zambia:

- Department of Environment, Ministry of Tourism, Environment and Natural Resources, Lusaka
- Environmental Council of Zambia, Lusaka
- Office of the President: Resettlement Department, Lusaka
- Office of the Permanent Secretary: Provincial administration Chipata
- Zambia Wildlife Authority: Lusaka
- Zambia Wildlife Authority: Chipata Office
- Offices of the District Commissioners, Chama and Isoka
- Department of Forestry - Lusaka and Chipata offices
- Chiefs palaces within the project area

Budget

The project budget and work plan made specific provision for safeguard training and capacity building of the ministerial HQ staff and the national implementing agencies' field staff (DNPW, ZAWA, ZFD). The M&E officers being the safeguard focal point, the essential of the training budget will be spent in their favor. Safeguard training will be available in year one and year two with a budget of US\$ 10,000 in each country or \$20,000 altogether.

The component design of component 1 and 3 (e.g. review of legal and institutional framework, and work plan of the proposed Nyika Research Center,) will spent much resources on issues related to safeguard. For example, the TORS engineering study for the construction of the research center will have a section on safeguard and the construction will include a mitigation plan. If both account for 5% of the budget, the safeguard budget just for this structure is around: \$35,000.

Monitoring of the safeguard implementation carried out by the project funded M&E specialists and on the ground by the national implementation agencies that will designate a field team safeguard focal point. Assuming than 10% of the M&E effort (time, equipment, etc.) is spent on safeguard monitoring, the fund allocated to safeguard monitoring is around US\$61,000.

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APPENDICES

A 1 Example of an EMP for a small-scale project

Rehabilitation of a community campsite

Anticipated Effect	Mitigation Measure(s)	Monitoring	Responsibility	Schedule	Cost and Source of Funds
Possible clearance and over use of forest resources around the designated area	Leaving older more mature trees and blend in with campsite area	Through participatory mapping, establish a map showing where all the trees occur and prohibit cutting.	Conservancy committee and support organization	Prior to rehabilitation	Included in subproject grant
		Monitor the condition of the trees	Community resource monitors	Ongoing	Nil
	Collection of deadwood for fuel	Determine areas where deadwood commonly occur and do an inventory	Conservancy committee and Directorate of Forestry (DoF)	Prior to opening of campsite	Included in subproject grant
		Monitor wood consumption and determine use trends	Community resource monitor/campsite manager	Ongoing	Nil
	Establish forest-friendly walking trails as an activity – use knowledge about trees to create a story for tourists	Strategically clear walking trails by avoiding cutting down endemic trees.	Conservancy committee with TA from DoF	During campsite rehabilitation	Included in subproject grant
			Inspect the walking trail to see if any trees have been cut down	Resource monitors	Monthly

Importantly, compliance with the following environmentally and socio-culturally sound generic rules for contractors and other construction workers needs to be monitored and assessed by the responsible entity:

- prohibitions on hunting, fishing, wildlife capture,
- illegal bush-meat purchases,
- burning of vegetation,
- washing vehicles or changing lubricants in or near waterways or wetlands,
- and any inappropriate interactions with local residents.
- in the case of road construction or up-grading, proper sourcing of road surfacing materials and sound disposal of construction-related wastes need to be defined and approved.

These rules and specifications – along with transparent penalties for non-compliance – will be included in any bidding documents and contracts for civil works.

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A 2 Summary of Public Consultation

The table below shows a summary of the key consultations carried out during the course of project preparation until now excluding World Bank preparation support missions which also included stakeholder consultation at local and national level.

Theme	Date	Stakeholder invited	Stakeholder participated	Venue	Main issues raised
Assessment of up-scaling of COMACO approach in Nyika NP Malawi	15 Oct to 5 Nov.	George Nxymayo (Nyika Research Officer), Paston Simkoko (Nyika Park Ranger), Nigel Hawker (Nyika Vwarza Trust Manager), Lieza Swennen (Independent agricultural consultant working on eastern boundary of Nyika NP), staff of Total Land Care & staff of various agricultures offices, NGOs, and farmers	Same	Nyika NP and adjacent areas Malawi	Land use and resource degradation Trading tobacco and conservation farming for tobacco Existence of alternative to current trade
Establishment of Chama Nature Park	15 Oct to 5 Nov 2008. Then multiple visits from late August to December 2009	Multiple visit in small villages District level meetings with Commissioner and all government departments in Chama District including Forest, wildlife, road, agriculture, mines, education, etc.)	Same	Chama town and villages around proposed Chama Nature Park	Area proposed; Tourism potential; Presence/absence of wildlife and conflict with wildlife; Delimitation of area in particular near Chama town; Organization of community in Chama stakeholder association
Nyika-Vwaza Baseline survey 500 households	15 Oct to 5 Nov 2008.	300 men and 200 women from various villages in the area between Vwaza Marsh Reserve and Nyika National Park	Same	Villages in the area between Vwaza Marsh Reserve and Nyika National Park	Role of Nyika Vwaza Association; Tobacco farming and trading; Use of conservation farming method & support from other organization.