

2 Legal and Administrative Framework



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2.1 National Environmental Policies

2.1.1 Burundi's Environmental Policy

The new Constitution of Burundi promulgated in 2018 reiterates the provisions of Article 35 of the previous Constitution (2005) declaring that “The State shall ensure the sound management and rational exploitation of the country's natural resources, while protecting the environment and conserving these resources for future generations.”

The first texts on national environmental strategy – the National Strategy on the Environment in Burundi (NSEB) and the Environmental Action Plan (EAP) – were drawn up in a difficult period for the country (1997) and are already outmoded. Similarly, the first national strategy on biological diversity came out of the Rio Conference with the following national vision: “All sections of the population are properly informed about the values of biological diversity and the risks it incurs and are involved and committed to its conservation and sustainable use for the well-being of present and future generations”.

In 2006, the Ministry for the Environment adopted a sectoral policy and an action plan (2006–2010) with the following objectives:

- The promotion of coordinated environmental management.
- Rational management of land, water, forests and air.
- The preservation of ecological balances and the conservation of biodiversity.

This last objective was promoted in the (new) 2013–2020 National Biodiversity Strategy and Action Plan, with support from the GEF and the UNEP, with:

- As national priorities:
 - Engaging and involving all stakeholders, including decision-makers, in the conservation and sustainable use of biodiversity.
 - Developing and using effective knowledge, tools and techniques to halt pressures on biodiversity.
 - Creating ecosystem reserves representative of national biodiversity.
 - Maximizing the benefits derived from biodiversity and ecosystem services.
 - Establishing a framework for participatory planning, knowledge management and capacity building.
- And as strategic focuses:
 - Addressing the underlying causes of biodiversity loss through the involvement and commitment of all stakeholders at all levels.
 - Reducing direct pressures on biodiversity and biological resources.
 - Improving the status of biological diversity by safeguarding ecosystems, species and genetic diversity.
 - Capitalizing on the benefits derived from biodiversity and ecosystem services.
 - Strengthening a framework for participatory planning, knowledge management and capacity building.

The following strategic documents have been published:

- National Strategy and Action Plan for Environmental Education and Awareness in 2009.
- National Strategy and Action Plan to Combat Soil Degradation from 2011.
- National Water Strategy 2011–2020, finalized in 2012.

In 2021, the government of Burundi updated its law on Environment (law no. 1/09/25 of May 2021). The new environment law integrates the international commitments and policies that Burundi has ratified. These include, for example, the United Nations Framework Convention on Climate Change, the Kyoto Protocol and the Paris Agreement on Climate Change. Moreover,



this new law recognizes the role of civil society organizations involved in the field of environment and climate change.

2.1.2 DRC's Environmental Policy

Texts pertaining to environmental strategies mainly appear to be the:

- National Environmental Action Plan (EAP) from 1997.
- National Strategy and Action Plan for Biological Diversity, written in 1999 and approved in 2001.

The EAP establishes an initial inventory of the state of the environment in the DRC which, among the main threats and damage to the environment, points to the physical degradation of land. The sources of environmental degradation are mainly demographic pressure, erosion, poor farming practices, industrial pollution, deforestation, illegal logging, intensive poaching and uncontrolled mining in certain protected areas. The EAP stresses the urgent need to develop a legal framework for environmental protection and procedures for environmental impact assessments.

The EAP needs to be updated to integrate the new multilateral environmental agreements that have been adopted since it was first drawn up and ratified by the DRC (Basel Convention and Protocol, Rotterdam Convention, RAMSAR Convention, Kyoto Protocol to the United Nations Framework Convention on Climate Change, Cartagena Protocol on Biosafety), as well as broad guidelines to account for the impacts of infrastructure works and transport activities on the environment.

The National Strategy and Action Plan for Biological Diversity is a reference document for the sustainable management of the DRC's biological resources. As such, it defines various strategies to put an end to human activities that have a negative impact on natural ecosystems, namely the harvesting of wood fuels, agricultural slash-and-burn practices, lumber and timber exploitation, the harvesting of non-timber forest products, bush fires, and logging.

The focus of DRC's environmental policy is biodiversity protection.

2.1.3 Rwanda's Environmental Policy

Rwanda's first environmental policy was published in 2003, the same year as the Constitution which, in its Article 49, clearly enshrined environmental protection and conservation, a provision maintained in the revised Constitution of 2015. Rwanda's Ministry of Environment (MoE) published its latest National Policy Document on Environment and Climate Change in June 2019. The guiding principles are:

- Inclusiveness of women and youth in environmental management and decision-making.
- Economic value.
- An ecosystem approach.
- Environmental and social risk assessment.
- A precautionary principle.
- A principle of sustainability of the environment and equal opportunities across generations.
- Mitigation and adaptation to climate change.
- "Polluter pays" principle.
- Extended producer responsibility.
- Information dissemination and community awareness-raising in the conservation and protection of the environment.
- A principle of cooperation between public institutions, international partners, associations and private operators for the protection of the environment.



- Endeavours to promote the circular economy and industrial symbiosis.

The stated objectives and adapted strategies of this policy are:

1) The green economy:

- Promote a green economy that is resource efficient, low-carbon and climate resilient.
- Promote the circular economy to advance sustainable consumption and production patterns.
- Promote green technologies and procurement.
- Promote green urbanization and green rural settlement.
- Promote green mobility.

2) Enhancing functional natural ecosystems and managing biosafety:

- Conserve, preserve, and restore ecosystems and enhance their ecological functioning.
- Promote sustainable management of wetlands.
- Ensure biosafety and precautious adoption and use of biotechnology.

3) Strengthening meteorological and early warning services:

- Develop and maintain environment, climate services and climate change information systems and promote their use by all sectors of Rwandan society.
- Promote generation and access to accurate and adequate meteorological weather and climate information for better planning in all sectors of the economy.

4) Promoting climate change adaptation, mitigation and response:

- Strengthen adaptation mechanisms in planning and implementation.
- Strengthen mitigation mechanisms in planning and implementation.

5) Improving environmental well-being for Rwandans:

- Improve the health and quality of life for every citizen and promote sustainable socio-economic development.
- Prevent pollution and promote integrated pollution control and waste management.
- Strengthen capacity in the management of nuclear and radioactive substances.

6) Strengthening environment and climate change governance:

- Ensure that sectoral policies define and adopt sector-specific environment and climate change quality standards for their respective core activities.
- Establish a statutory national coordination framework for the management of critical ecosystems.
- Promote inclusivity for participation in environmental management and climate change intervention decision-making.
- Enhance environment, weather and climate information use and climate change awareness and education among Rwandans.
- Strengthen existing institutional roles and coordination mechanisms.

7) Promoting green foreign and domestic direct investment and other capital inflows:

- Strengthen the capacity of national environment and climate change finance mechanisms for greater efficiency, effectiveness and impact.
- Strengthen climate proofing capital inflow in national economic planning.

These strategies are set out in detail along with an implementation plan. Rwanda's recent environmental policy is therefore comprehensive and ambitious, drawing on the approaches developed by industrialized nations, most notably by integrating environmental and climate requirements into projects and investments in all sectors of the economy.



2.2 Institutional Frameworks

2.2.1 Burundi's Institutional Framework

Decree no. 100/037 of 19 April 2018 revising Decree no. 100/29 of 18 September 2015 on the Structure, Functioning and Missions of the Government of the Republic of Burundi, assigns the environment sector to the Ministry of Environment, Agriculture and Livestock (MEAE); from 2002 until then, it had been part of the Ministry for Water, Environment, Land Use and Urban Planning (MEEATU). The environmental role of the MEAE defined by the decree is to:

- Design, plan, coordinate and implement national policy on the environment, water, land, agriculture and livestock.
- Design and implement the national environmental policy by ensuring the protection and conservation of natural resources.
- Design and implement the national policy on sanitation and industrial pollution control in collaboration with the other services concerned.
- Ensure the protection and conservation of natural resources and develop environmental standards to serve as a code of conduct for environmental management.
- Develop and popularize a national environmental education program.
- Introduce climate change adaptation policies in collaboration with the other technical services concerned.
- Develop and enforce environmental protection and management regulations.
- Contribute to the implementation of international conventions and programs on the management and protection of the environment and natural resources.
- Oversee regular updates of the Environment Code.

Within the MEAE, the Burundian Office for Environmental Protection (OBPE) is more specifically in charge of the environmental assessment and management of projects. The prerogatives of the OBPE are defined in Decree no. 100/240 of 2 October 2014 on the establishment, role, organization, and operation of the OBPE. In particular, the decree's Article 6 sets out the OBPE's role, which includes:

- Ensuring compliance with the Water Code, the Forestry Code, the Environmental Code and other texts relating to environmental protection.
- Setting up and overseeing mechanisms for the international trade and exchange of fauna and flora species.
- Enforcing environmental standards and putting forward all measures to safeguard and protect nature.
- Monitoring and evaluation of development programs to ensure compliance with environmental standards when planning and implementing development projects that may have a negative impact on the environment.
- Ensuring implementation of the obligations arising from international conventions and agreements on the environment to which Burundi is a party.
- Undertaking and encouraging research and support measures for the maintenance of biological diversity.
- Setting up mechanisms for mitigation and adaptation to climate change.

The OBPE has a Board of Directors and General Management divided into two technical departments: the Forestry Department and the Environment and Climate Change Department (DECC), whose roles include:

- Coordinating the response to climate change.
- Analysing Environmental Impact Studies (ESIA).
- Monitoring the protection of green spaces and safeguard zones.



- Monitoring the implementation of the policy, the national strategy and the Action Plan on Climate Change by the different stakeholders on a daily basis.

It is therefore clearly the OBPE's responsibility to assess the ESIA/ESMP of projects such as Ruzizi-III.

2.2.2 DRC's Institutional Framework

At national level, the environment sector is overseen by the Ministry of the Environment and Sustainable Development (MEDD), whose attributions are defined by Order no. 17/025 of 10 July 2017. These attributions include:

- Implementation of national policies for the sustainable management of the environment and the preservation of biodiversity and ecosystems.
- Drawing up plans for the implementation of these policies, their monitoring and evaluation.
- Sustainable management of forests, water resources, wildlife and the environment.
- Human settlements management.
- Evaluation and follow-up of environmental and social studies of any project likely to harm the environment.
- Regulation of all activities likely to harm the environment, biodiversity and ecosystems and the health of the environment.
- Drafting and implementation of environmental sanitation standards.
- Protecting plant and animal life.
- Promotion and coordination of all activities relating to the sustainable management of the environment, forest, wildlife and aquatic resources, and nature conservation.
- Environmental monitoring and audits of public institutions and private companies as well as non-governmental organizations active in the environmental and nature conservation sectors.
- Ecosystem identification and management.
- Environmental services management.
- Creating protected areas other than strict nature reserves and proposals for the creation of the latter.
- Development, extension, and management of environmental education programs.

The MEDD's missions are applied at the provincial level by the Provincial Ministries of Environment and Sustainable Development and by the Provincial Coordination Units for the Environment and Sustainable Development (CPEDD). At provincial capital level, there are also Urban Coordination Units for the Environment and Sustainable Development (CUEDD).

The Executive Order of 2 July 1998 on the territorial and administrative organization of the DRC defines the decentralized administrative entities with legal status (provinces, towns, territories, and communes) and assigns them, inter alia, the following environmental competences:

- Vector control and, in particular, insect control in all its forms.
- Protection of classified sites and monuments in local entities.
- Raising public awareness of environmental health issues, licensing and control of unhealthy, inadequate and dangerous Class III establishments.
- Drainage and cleaning of sewers and sewage collection systems.
- Cleaning, collection and disposal of household waste and rubbish.

However, the low financial and technical capacity of these collectivities often holds back their environmental and social management performance, particularly when it comes to overseeing the implementation of projects within their territory.



Within the MEED, the Congolese Environment Agency (ACE), created by Decree no. 14/03 of 18 November 2014, is responsible for the environmental and social assessment of projects likely to impact the environment, thus replacing the Congo Environmental Assessment Group (GEEC) created in 2006.

Under the terms of this Decree, the ACE's mission is to:

- Evaluate and approve all environmental and social studies, and monitoring their implementation.
- Ensure that environmental protection is considered when implementing any development or infrastructure project or any industrial, commercial, agricultural, forestry, mining, telecommunications or other activity likely to have an impact on the environment.

The ACE's role in any project is to ensure strict compliance with the applicable laws, decrees and ministerial directives on environmental protection and improvement throughout the project's implementation. In this respect, the ACE is responsible for assessing and approving Environmental and Social Impact Assessment (ESIA) reports, Environmental and Social Impact Diagnostics (ESID), Environmental and Social Management Plans (ESMP) and Environmental and Social Compliance Plans (ESCP). The ACE also monitors projects underway (analysing field reports, inspections, and environmental audits).

According to the legal texts, the ACE has the required human resources skilled in the field of Environmental Impact Assessments and Studies. However, given the vastness of the territory, it lacks the necessary material and financial capacities to fully fulfil its role.

2.2.3 Rwanda's Institutional Framework

Established by Prime Ministerial Order no. 131/03 of 23/12/2017, the Ministry of Environment (MoE) recently replaced the Ministry of Natural Resources (MINIRENA), which had previously taken over from the Ministry of Environment and Land, created in March 2009.

The Order defines the MoE's main responsibilities as follows:

- Develop and publish national policies, strategies and programs on environment and climate change to:
 - Develop strategies to promote partnership and strengthen the private sector's capacity to invest in environment and climate change activities that foster sustainable economic development.
 - Develop laws and regulations designed to protect the environment and conserve natural ecosystems.
 - Develop the environmental and climate competences of institutions and human resources.
- Monitor and evaluate the implementation and integration of environment and climate change policies, strategies and programs in all sectors of activity, and especially the productive sectors.
- Supervise and evaluate the institutions under its authority by providing guidance documents for the delivery of programs to be implemented by those institutions and local governments; and,
- Mobilize the resources needed for development, environmental protection, and conservation and for climate change adaptation and mitigation.

The MoE has two technical directorates:

- The Environment and Climate Change Directorate.
- The Directorate of Land, Water and Forests.

The MoE also comprises certain entities that report directly to the General Secretariat, including:



- The Rwanda Environment Management Authority (REMA), in charge of implementing the State's environmental policy. It coordinates and supervises all environmental management and sustainable development aspects throughout the country. Although placed under the supervision of the Ministry for the Environment, it enjoys administrative and financial autonomy. The REMA was also previously charged with reviewing impact assessments, but this responsibility was transferred to the Rwanda Development Board (RDB, see below) in 2008. However, the REMA remains responsible for the environmental and social monitoring and evaluation of development projects and for monitoring compliance with safeguard measures during project operations.
- The Rwanda Water and Forestry Authority (RWFA).
- The Rwanda Land Management and Use Authority (RLMUA).
- The Rwanda Meteorology Agency (RMA).
- The Rwanda Green Fund (FONERWA).

The Rwanda Development Board (RDB) is the national agency for the promotion of investments in the country. It is a "one-stop-shop" for all the administrative formalities required for investments. The RDB therefore includes an "Environmental Compliance and Cleaner Production Unit" responsible for examining environmental and social impact studies before issuing certificates approving the impact studies required before project implementation.

Decentralized environmental management is governed by Law no. 04/2001 of 13 January 2001 on the Organization and Functioning of Districts and Cities which defines their responsibilities, in particular in terms of land-use planning and environmental protection and management.

Environment Law 48/2018 of 13 August 2018 provides for District or City Environmental Protection Committees, who oversee environmental management and assist with the implementation of environmental protection policies and programs at the local level. Their organization, functioning and allocation are subject to a Prime Ministerial Order.

However, the central Government remains responsible for policy formulation and environmental planning, making laws and regulations as required and providing monitoring and evaluation services. Local Government will be responsible for policy implementation, enforcement of environment laws and regulations, and ensures the day-to-day safeguarding of the environment under its jurisdiction.

2.3 National Legal Frameworks for Environmental Management

2.3.1 Burundi's Environment Legislation

2.3.1.1 Basic Texts on Environment and Impact Assessment

Burundi's Environmental law no. 1/09/25 of May 2021 lays down the fundamental rules for managing the environment and protecting it against all forms of degradation, to safeguard and enhance rational use of natural resources, combat the various forms of pollution and undesirable impacts, and improve human living conditions, while respecting ecosystem balance (Article 1).

When developments, works or installations are likely to harm the environment, the Code requires the proponent or contractor to draw up and submit to the environmental authorities an impact study assessing the direct or indirect impact of the project on the ecological balance, the environment and the population's quality of life, and the impact on protection of the general environment (Article 31 and 32). When the impact study is given the green light by the Ministry, the public will be consulted on the nature of the project to gather their comments or possible recommendations that must be considered in the final report (Article 40). Hydropower and rural



road projects are likely to harm the environment and are thus concerned by this requirement (Article 74).

The other provisions in the Act (Titles III and IV) concern the protection and development of natural resources such as soil, subsoil, water and forests, and the control of pollution and undesirable impacts. According to these provisions, protecting soil against erosion is a national and individual ecological duty, and the measures to be taken to achieve this goal may be declared to be in the public interest and imposed on any person using or occupying land (Art. 69).

The impact study procedure is described in chapter 3 of the environmental law

For project investments, the proponent or contractor is required to send a screening document, using the format stipulated by the Ministry for the Environment. This document will describe the project and its potential effects on the environment, as well as the terms and conditions for its implementation, including the necessary measures applied to prevent, mitigate, correct, or offset the potential effects on the environment (article 37) Based on this document, the Ministry decides, within a maximum period of one month, whether or not to carry out an Environmental Impact Assessment (Article 38)

The environmental impact study is carried out before the project gets underway and is the responsibility of the proponent or person/entity in charge of the project (Art. 41). The main components of the Environmental impact study listed are:

- A non-technical summary that allows the public to analyse the environmental and social impact study and the environmental and social impacts of the project and its alternatives.
- An introduction which contains a presentation of the applicant, the title and category of the project, the supervising ministry, and the authorization(s) to be obtained in order to carry out the project.
- The legal and institutional framework and its relevance to the project.
- The project components: location, layout, size/scope/area, capacity, pre-construction, construction, operation and rehabilitation activities, schedule, staffing requirements, facilities and services, operation and maintenance activities, required off-site investments and life span, project budget, and an indication of the main reasons for its selection, taking into account environmental and social impacts.
- An analysis of the initial state of the project's area of influence and its physical, biological, socio-economic and human environment, including natural resources, socio-economic and socio-cultural aspects likely to be affected by the project or its alternatives.
- An analysis of the evolution of the environment of the project's area of influence, based on the analysis referred to in point 5, in the absence of the project or its alternatives, and in the presence of other projects already authorized but not yet implemented.
- A description of the main positive and negative impacts that the project and its alternatives are likely to have on the environment and an explanation of the methods of identification and description of these impacts.
- A comparison of the evolution of the environment of the site, in accordance with point 6, and the environmental and social impacts of the project and its alternatives, in accordance with point 7
- A description of the measures to avoid, reduce and eliminate the harmful impacts and those foreseen to optimize the favourable impacts on the environment and the social life.
- The environmental and social management plan which describes the measures to prevent, reduce and/or compensate for the environmental impacts of the project, including the institutional arrangements, their costs, the timetable for their implementation, the mechanisms for monitoring the project and its environment, as well as the compensation plan for the people and communities affected by the project, if any.



- Approved terms of reference.
- A summary of public participation, including the list of stakeholders consulted (administrative, local residents, non-governmental organizations, other stakeholders, and concerned groups), the methods used to inform and consult stakeholders (meetings, communications, observations, and surveys), and the results of public participation.
- A description of the data gaps in the analyses according to points 5° and 6°, and the description according to point 7°.

A presentation of the information using tables, photos, figures, and maps with clear legends, inclusion in the annex of an explanatory list of terms and abbreviations, recitation of any useful source of information in the area. The start of work will be subject to an environmental compliance certificate or statement issued by the Ministry for the Environment after approval of the EIA report (Article 44).

The authorities and the public may express their opinion on the EIA report, which is subsequently submitted (in three copies) to the Ministry of Environment for review and approval ((article 48)The review is carried out within a period not exceeding three months from the date of closure of the mandatory disclosure procedures (Once the EIA report has been approved, it becomes a legal act and requires the proponent or contractor to comply with and carry out the measures it sets out (Article 43).

2.3.1.2 Other Texts on Water and the Natural Environment

Law no. 1/02 of 26 March 2012 on the Water Code in Burundi defines the principles of water management and use, which include:

- The user-pays principle: this principle recognizes water as an economic good. Water thus has a cost, which must be borne by the user.
- The principle of sustainability: since water is recognized as a finite resource, appropriate measures must be taken at all levels to ensure efficient management of resources and infrastructure and to reduce the burden on water services. Therefore, in rural areas, the water tariff must at least cover the costs of operating and maintaining infrastructures.
- The principle of accountability: this principle aims to prevent waste and activities related to water resources. In the event of environmental damage, it also aims to introduce mechanisms to redress the damage either by compensating the victims or by remedial measures in kind. In a river basin, the different uses of water are therefore taken together, and each use takes into account its effects on the others. Accountability implies several duties for users and public authorities with regard to water resources, including application of the “polluter-pays” principle.

Under the principles of accountability and “user pays”, natural or legal persons using water for productive or income-generating purposes are subject to the payment of a license fee, the rate of which is set in the regulations (Article 35). However, the payment of this fee does not preclude the civil or criminal liability of the fee-payer when their activity causes damage or constitutes an offence (Art. 36).

Furthermore, every holder of a right to use water is bound by the following obligations (Art. 92):

- To use water in a rational and economical way, avoiding all waste.
- To observe strictly the conditions laid down for applying the right to use water.
- To respect the rights of other legitimate water users.
- To submit to regular water metering (or monitoring) and the conditions under which this takes place.
- To pay the license fees that are due.

The Water Code provides, inter alia, for a 150-metre-wide protection zone along the shores of Lake Tanganyika, a 25-metre-wide zone on each of the banks of the rivers tributary to the Lake,



and a 5-metre-wide zone along rivers that are not tributary to Lake Tanganyika (Art.5, paragraph 3). The delimitation of these protection zones is the responsibility of the Ministry for Water and is performed in respect of any duly acquired rights (Art.11). When implementing the project, investments in these zones must be avoided, except for waterworks.

Law no. 1/10 of 30 May 2011 on the creation and management of protected areas stipulates that protected areas must be considered in the overall development plan and their management must go hand-in-hand with the development of the riparian human environment. It also indicates that the participatory management of protected areas must commit to improving the living environment of local communities (Art.29). The project will therefore contribute to the fulfilment of this requirement, most notably with the actions designed to benefit residents in the protected areas of Rusizi, Rumonge and Kigwena.

Law no. 1/07 July 2016 on the Forestry Code lays down special rules on the administration, management, exploitation, surveillance, and policing of forests. It regulates wildfires, defines prevention measures, and establishes protection forests or forest reserves to combat soil degradation and protect plant and animal species threatened with extinction.

2.3.2 DRC's Environmental Legislation

2.3.2.1 Basic Texts on Environment and Impact Assessment

The first text to formally integrate environmental considerations was actually the Constitution of 18 February 2006 which, in its Articles 53, 54 and 55 respectively, stipulates that:

- Everyone has the right to a healthy environment conducive to their overall development and a duty to defend it.
- The State sees to the protection of the environment and the health of the population.
- The conditions for the construction of industrial plants, and of facilities for storage, handling, incineration and disposal of toxic, polluting or radioactive waste produced by industrial units or workshops within the national territory are laid down by the law.
- Any pollution or destruction resulting from economic activity shall give rise to compensation and/or to reparation.
- The transportation, importation, storage, spilling or disposal in inland waters or maritime spaces under national jurisdiction, or the release into the airspace of toxic, polluting, or radioactive waste or of any other dangerous product, of foreign origin or otherwise, is a crime punishable by law.

The main environmental text in force in the DRC is Law no. 11/009 of 9 July 2011 modified and completed by the "ordonnance-law" no. 23/007 of 3 March 2023 on the fundamental principles of environmental protection. The law has been This framework law defines the principles and tools for environmental management to be applied in the DRC. It stipulates that:

- Any policy, plan or program initiated up by the State, a province, decentralized territorial entity or public institution, the implementation of which is likely to have a significant impact on the environment, shall be subject to a prior environmental assessment (Article 19).
- Any development or infrastructure project or any industrial, commercial, agricultural, forestry, mining, telecommunications, or other activity likely to have an impact on the environment is subject to a prior environmental and social impact study, together with a management plan, duly approved by a public institution (Arts. 21–22).
- The Minister for the Environment will audit any work, project or activity presenting a potential risk for the environment and population. This audit will lead to the prescription of appropriate environmental protection measures (Art. 23).
- Any project or activity likely to have an impact on the environment is subject to a prior public inquiry, including a public information and consultation campaign (Art. 24).



- Any person who carries out or contributes to a project or activity without an impact study, where one was required, will be subject to a fine and the court addressed may order the destruction of any unlawfully constructed work (Art. 72).

The Law also made provision to establish a National Council for the Environment and Sustainable Development (CNDD, Art. 17) under the authority of the Prime Minister. This Council provides advice on the definition and implementation of national environmental policy, and on the preparation of sectoral environmental plans and programs that may have an impact on the environment.

This framework law is not self-executing, so for it to become fully operational it will require the publication of a series of implementing decrees setting out, as priority, the (new) formal and detailed procedures for the implementation of impact assessments and environmental audits. A further series of texts will be needed to define precise standards for air and water quality and for the management of the various categories of waste and other toxic or environmentally harmful substances.

The principle of environmental assessment was already the subject of Ministerial Order no. 043/CAB/MIN/ECN-EF/2006 of 8 December 2006 on the obligation to conduct environmental and social assessments for projects in the DRC. However, ESIA procedures are described in the implementing texts of the Framework Law, namely:

- Decree n° 13/015 of May 29, 2013 regulating classified installations, and more significantly.
- Decree no. 14/019 of 2 August 2014 defining how the procedural mechanisms for environmental protection are applied.

The latter lists the types of projects and activities subject to an ESIA, including hydropower dam projects and power line installations. It also describes the procedures and contents of ESIA, strategic environmental studies and environmental audits.

According to Order 14/019 (Title III, Chapter 2), an ESIA report must contain the following elements:

- A non-technical summary written in English, French and the relevant local language.
- Project background and justification.
- The project's institutional, legal and judicial framework.
- A detailed description of the project, including plans, maps, images and figures useful for its understanding.
- A detailed baseline inventory of the site, its natural, socio-economic and human environment, including the elements and natural resources likely to be affected and the use that would be made of them.
- A comparative analysis of alternatives, justification of selected technologies and the procedures to be adopted by the contractor, in light of concerns to protect the environment.
- Identification, analysis and evaluation of predictable direct, indirect and cumulative impacts of the project and its options on the environment.
- The ESMP describing the impacts, mitigation or enhancement measures, monitoring and evaluation responsibilities and their estimated cost during and after project implementation, follow-up indicators, timelines, capacity building procedures, and the results of public consultations.
- A conclusion that can be drawn from the study and a commitment from the contractor to respect environmental and social requirements.
- Annexes including maps, figures, documentation concerning the public consultation, administrative documents, analysis results, the curriculum vitae of experts, any further information on the study, and the terms of reference for the study.



The ESIA process for a project described in Order 14/019 (Title III, Chapters 3 & 4) is as follows:

- The proponent submits a request to the ACE to conduct an ESIA, in accordance with the guidelines in the Operations and Procedures Manual from the ACE.
- Authorizations to proceed with a project subject to an environmental and social impact study is subject to an Environmental Certificate issued by the ACE.
- The ACE reviews the request and decides whether the project should undergo an ESIA and informs the proponent accordingly.
- After submission of the report, the ACE establishes a panel of experts, selected according to the project's specifics, to review the report. This Panel includes four representatives of the competent public institution, one representative per Ministry concerned by the project, one representative of the National Fund for the Promotion of Social Services (FNPSS) and three resource persons with the relevant expertise.
- The ACE has three months from the date of submission of the report to notify the proponent, either:
 - of the admissibility of the report, in which case it issues the Environmental Certificate,
 - or of the observations to be incorporated to make the study admissible, subject to amendment,
 - or its rejection, in which case the proponent must redo its study.
- The proponent has 30 days from the date of notification of the observations to incorporate them into its report and submit it again for review. After that period, the report shall be deemed rejected.
- If the proponent does not hear anything from the ACE within the timeframe indicated in Article 27 above, the study shall be deemed admissible and the certificate acquired.
- Costs related to the review of environmental and social impact studies shall be borne by the proponent and payable at the time of submission of the study report.
- After issuance of the Environmental Certificate and prior to starting work, the proponent prepares its Environmental and Social Management Plan (ESMP), which it submits to the ACE for evaluation.
- When it receives this plan, the ACE requests the opinion of the National Fund for the Promotion of Social Services on the project's social management aspects.
- The ACE has 60 days from receipt of the ESMP to review and approve it. After this period, the ESMP is deemed to be approved.
- The Environmental Certificate issued is valid for the entire duration of the project.
- In the event of amendments made to the initial project that was subject to the environmental and social impact study approved by the ACE, an update is required and subject to the same conditions.
- When the ESMP is implemented, along with any work carried out by subcontractors under supervision of the proponent's Environmental Officer, the prescribed measures to prevent, reduce and eventually offset the harmful consequences on the environment must be applied throughout the project.
- Implementation of the plan is monitored to track changes in the state of the environment and the effectiveness of the mitigation measures and other recommended measures.
- In the event of non-compliance with the obligations, the ACE shall suspend work and ask the proponent to comply within a certain period, which will be defined according to the scale of the negative impacts.
- If the proponent does not react within the given timeframe, the environmental certificate shall be duly withdrawn.
- If the measures initially planned in the environmental and social management plan prove inadequate for any reason, the proponent is required to take appropriate measures to



adapt them. These measures shall comply with any new directives and environmental standards applicable in this area.

The environmental and social impact study is the responsibility of the proponent, who shall recruit a national consultancy firm approved by the Ministry for the Environment, or an international consultancy to conduct the study. Where there is equal merit, priority is given to national firms. Any international consultancy firm recruited must be partnered with a national consultancy. A decree by the Minister for the Environment lays down the conditions for approving consultancy firms.

As far as we know, the ACE's Operations and Procedures Manual is not yet available.

2.3.2.2 Other Texts on Water and the Natural Environment

Law no. 15/026 of 31 December 2015 on water (the Water Code) aims at the fair and sustainable management of water resources (both ground and surface water). It defines its nature, the regimes for its development, protection and use as an economic resource, and inter-State cooperation for cross-border lakes and rivers. As concerns these projects, Article 40 of the law stipulates: "Riparian land along a river or lake is subject, on each bank, to a public utility servitude over a width of 100 meters from the banks, known as an 'easement of unrestricted access', to allow the circulation of dredging and maintenance equipment and for the water authorities to install signage and measuring and surveying equipment."

Law 011-2002 of 29 August 2002 on the Forestry Code prohibits land clearing over a distance of 50 meters on either side of a watercourse. The Code also stipulates that any forest clearing is subject to a permit and payment of a tax. Forest clearing work must be offset by the planting of an equivalent number of trees over the same surface area as the initial forest cover; this will be carried out by the operator behind the forest clearing work or at their expense (Art. 52). For an agricultural activity, a deforestation permit is only required beyond an area of 2 hectares (Art. 53). It should be noted that, with regard to firewood production, the DRC Forest Code and Land Law provide for the following legal options: (i) public plantations, (ii) private plantations, (iii) reforestation of agricultural plots, (iv) exploitation of firewood with a permit to cut wood and proceed with carbonization, and (v) community forests.

Inter-ministerial Order n° 0021 of 29, October 1993 implementing regulations on Easements include:

- The banks of the courses up to at least 10 metres from the line formed by the highest level reached by the waters in their normal flood period.
- The rights-of-way of high voltage power lines for a distance of 25 metres on each side (50 m on both sides).

2.3.3 Rwanda's Environment Legislation

2.3.3.1 Basic Texts on Environment and Impact Assessment

The 2003 Constitution, revised in 2015, specifies that every individual has the right to a clean and healthy environment and the duty to protect, safeguard and promote the environment. It also stipulates the prohibition of international agreements to store hazardous waste in the country.

The recent Environment law no. 48/2018 of 13 August 2018 defines the procedures for the protection, conservation, and promotion of the environment (air, water, soil, living species) and lays down the rules for environmental assessment. The law is based on the principles of precaution, environmental sustainability, the polluter pays principle, dissemination of information, and incentives for environmental conservation and cooperation.

The Act states that rivers, streams, creeks, groundwater, springs, ponds, marshes, and lakes are part of the State public domain. It prohibits the construction of an agricultural or livestock



facility within 10 meters of the banks of a watercourse and within 50 meters of the banks of a lake (Art. 42, 5°). This law recalls the principle of environmental impact assessment but does not define any new procedures or standards. The numerous implementing texts that will make it fully operational are currently being drafted.

Prior to the Environmental Law of 2018, the reference text for environmental protection was the Organic Law no. 04/2005 of 8 April 2005 on the protection, preservation, and promotion of the environment in Rwanda. This law introduced the principle of a two-level impact study (partial and full) and appointed the REMA as the national authority in charge of the environment. Following the promulgation of this law, a general procedural guide for impact studies was published (REMA, 2006), along with a guide to environmental auditing (REMA, 2009) and a series of sector-specific guides, including a guide on impact studies for hydropower development projects (REMA, 2008).

The lists of projects requiring a full or partial environmental impact assessment are regularly updated. The latest version is set out in Ministerial Order No. 001/2019 of 15 April 2019 establishing the list of projects subject to an environmental impact study, and the instructions, conditions, and the procedures for conducting the said impact study, which is a revision of Ministerial Order No. 001/2018 of 25 April 2018 on the list of works, activities and projects subject to environmental impact assessment.

Among the projects subject to full impact assessment are the construction of buildings of more than 1,000 m², construction and repair of international, national and district roads and repair of large bridges, construction of hydropower dams and power lines, and construction of artificial lakes and water storage dams. However, projects for micro-hydro power plants, small power lines and off-grid power lines are subject to a partial impact assessment.

The Environmental and Social Impact Assessment (ESIA) procedure, as defined in Ministerial Order No. 001/2019 of 15 April 2019, is as follows:

- The Project Proponent submits a short project description and a proposed Terms of Reference (ToR) online via the Rwanda Development Board (RDB) website.
- The RDB (i) reviews the project description, (ii) visits the site, and (iii) reviews the proposed ToR for approval. All of these scoping activities are completed within a timeframe of 7 + 2 + 15 = 24 days.
- Once the ToR have been approved, the Proponent will recruit a Consultant certified by the Ministry for the Environment to conduct the ESIA.
- The Consultant carries out the ESIA in accordance with the ToR. The Consultant is required to involve the Proponent in all stages of the ESIA process. It also has the duty to assess the Proponent and its responsibilities and obligations in implementing the results of the environmental impact assessment. The ESIA takes into account the views of all relevant stakeholders.
- Upon completion of the ESIA, the Consultant submits the report to the Proponent for approval. The Consultant then submits the report online to the RDB.
- The RDB reviews the ESIA report within 20 days to ensure compliance with the ToR and relevant guidelines. As appropriate, the RDB approves the report or requests additional information.
- Where public consultation is required, the period for examining the report may be extended by a further 15 working days from the date that the consultation is notified.
- Stakeholders can comment on the ESIA report and express their views on the impacts of the proposed project.
- The RDB covers all costs of the public consultation process.
- As part of the public consultation, the RDB shall inform the public of:
 - The day, time and place of the public consultation by means of a notice published twice in a local newspaper or four radio announcements, or by displaying posters at the project site.
 - The Proponent's contact information, including name and address.



- The RDB shares its decision (acceptance and environmental certificate, or rejection of the project) in writing with the ESIA Consultant, who then has 24 hours after receipt to submit a copy of the decision to the Proponent.
- If the Proponent contests the RDB's decision, it may appeal to the Minister for the Environment.
- The required content of the ESIA is defined in Article 68 of the Organic Law of 2005 and in the General Guide to Environmental Impact Studies (REMA, 2006). The report must at least include the following chapters:
 - Executive summary of the ESIA report.
 - Objectives of the project, including ideas, intentions and specific goals.
 - Description of the proposed project and its alternatives.
 - Discussion of the proposal and its relationship to relevant (sectoral and regional) policies, laws and programs.
 - Description of the initial state of the environment.
 - Impact analysis. In this section, the spatial and temporal scope of the impacts and the characteristics of the various impacts (positive or negative, direct or indirect, their intensity, extent and significance) must be described for the project and for all alternatives considered.
 - Evaluation and comparison of the alternatives and selection of the one best suited to the environment.
 - Impact Management Plan and Environmental Monitoring and Surveillance Plan (ESMP).
 - Financial evaluation of the recommended measures.
 - Annexes containing tables, diagrams, maps, supplementary documents, and anything else relevant.

It is recalled that while the RDB is tasked with reviewing and approving the ESIA, the REMA is responsible for environmental monitoring and inspections conducted on behalf of the State.

2.3.3.2 Other Texts on Water and the Natural Environment

Enacted on the same day as the Environment Act, Law No. 49/2018 of 13 August 2018 on the use and management of water resources in Rwanda sets out as guiding principles the prevention of pollution – at source as a priority –, the precautionary principle, integrated water resources management (IWRM), participation, the user-pays principle and the principle of subsidiarity. The law also provides for a National Water Advisory Committee, River Basin Committees and assigns responsibilities to decentralized administrative entities to contribute to the development of rivers and lakes, the protection of water bodies and the drafting of river basin management plans. It sets up buffer zones for the protection of surface and ground water resources. It also provides for a Technical Commission on Dams to advise on the construction and use of dams and stipulates that any person who has built a dam or who is entrusted with dam management is responsible for ensuring the safety of the dam.

Ministerial Order No. 007/16.01 of 15 July 2010 determining the length of land along the banks of lakes and rivers to be transferred to the public domain states that land located within 50 meters of the banks of a lake is State property. Land located within 10 meters of a large river and 5 meters of a small river is also State property. The distances are calculated from the most distant line reached by the water during reported floods. This land is considered to be a protected area and not available for private construction. Only activities designed to protect the water bodies are permitted.



2.3.4 Comparative Analysis of Environmental Legislation and National ESIA Procedures

The table below provides a comparative summary of environmental legislation and ESIA procedures in the three countries.

Table 2-1 Comparative Analysis of ESIA Frameworks in Great Lake States

Ministry currently responsible for the environment	Burundi	DRC	Rwanda
	Ministry of Environment, Agriculture and Livestock (MEAE) since 2018	Ministry of the Environment and Sustainable Development (MEDD) since 2017	Ministry of Environment (MoE) since 2017
Reference legislation (most recent texts)	Law no. 01/09 May 2021 on the Environment Code. This new law defines the framework for the environmental impact study procedures.	Law no. 11/009 of 9 July 2011 on the fundamental principles of environmental protection modified and completed by the ordonnance-law no. 23/007 of 3 March 2023. Ministerial Order no. 043/CAB/MIN/ECN-EF/2006 of 8 December 2006 on the provisions concerning the obligation to conduct environmental and social assessments. Decree no. 14/019 of 2 August 2014 defining how the procedural mechanisms for environmental protection are applied	Environment Law no. 48/2018 of 13 August 2018 Organic Law no. 04/2005 of 8 April 2005 on the protection, preservation, and promotion of the environment Ministerial Order no. 001/2019 of 15 April 2019 establishing the list of projects subject to an environmental impact study, instructions, conditions, and the procedures for conducting the said impact study
Administrative body responsible for examining and approving ESIAs	Burundian Environmental Protection Office (OBPE)	Congolese Environment Agency (ACE)	Rwanda Development Board (RDB)
Handling ESIA files	By post	By post	Online via the RDB website
Administrative body responsible for follow-up	OBPE	ACE	Rwanda Environment Management Authority (REMA)
List of projects and activities subject to an ESIA	Yes	Yes	Yes (regularly updated for full or partial ESIAs)
Different levels of impact study?	No	No	Yes (full or partial ESIA)
Methodological guides	No, but content of ESIA defined by the legal texts	No, but content of ESIA defined by the legal texts	Yes (general and sector-based)
Prior approval of the ToR by the administrative body in charge	Yes	No, but the administrative body decides whether or not the impact assessment is necessary	Yes
Public consultation	Yes	Yes	Yes
Accreditation of experts responsible for ESIAs	No	Yes	Yes
Document approving the ESIA	Environmental compliance certificate	Environmental certificate	ESIA certificate of approval

All three countries thus have basic environmental legislation establishing the principle of an environmental impact assessment as a prerequisite for the authorization of projects or activities potentially harmful to the environment. The three countries all have ministries in charge of the environment, sometimes with exclusive responsibility as is the case in the DRC and Rwanda.



They also have administrative entities dedicated to examining and approving the impact studies. However, from an operational viewpoint, the environment appears to be more effectively taken into account in the project cycle in Rwanda, which has fully integrated environmental assessment into the formalities required for national and international investments through the RDB (a one-stop shop) and has an exclusively online procedure for submitting files and correspondence. Rwanda also separates responsibility for examining and approving ESIA's from that for the environmental monitoring of projects once implemented. This progress has largely been enabled by more than 20 years of political stability and the desire to promote investment in a context of sustainable development.

To meet the requirements of international Technical and Financial Partners such as the European Investment Bank, the World Bank, the International Finance Corporation, the African Development Bank, and others, national ESIA's of the three countries need additional information that is not required by national regulations and procedures, such as:

- Greenhouse gas (GHG) emissions.
- Gender and social inclusion.
- Health of local residents and workers.
- Stakeholder engagement and communication plans.
- Complaint management and grievance procedure.
- In some cases, human trafficking.
- Supply chain management.
- Worker's influx.

In addition, there are specific procedures for land acquisition and the involuntary resettlement of populations.

It has been confirmed that in all three countries, a project such as Ruzizi III is subject to impact assessment (a full ESIA in Rwanda).

2.4 Legislation on Expropriation in the Public Interest

2.4.1 DRC's Legislation on Expropriations

The Constitution of 18 February 2006 stipulates that *'the State guarantees the right to individual or collective property, acquired in conformity to the law or to custom', and that 'one may only be deprived of his property for reasons of public utility and in return for a just and prior indemnity conceded under the conditions established by the law.'*

Law no. 73-081 of 20 July 1973 (Land Law), amended and completed by Law no 80-008 of 18 July 1980, states that soil is the exclusive, inalienable and imprescriptible property of the State. The State's domain includes a public domain and a private domain (Art. 54). Land in the private domain may be the subject of a concession, defined as a contract whereby the State grants a community, a natural person, or a legal entity of private or public law the right to enjoy a piece of land under the terms and conditions provided for by this law and its implementing measures (Art. 57 and 61). The different kinds of concessions recognised by the law are:

- A perpetual concession, where the State grants a natural person of Congolese nationality the right to indefinitely enjoy a plot of land as long as the conditions provided for by the law are met; or,
- An ordinary concession (most common), granted to a natural or legal person of private or public law in one of the following forms:
 - Emphyteutic lease: full use of an uncultivated plot of land belonging to the State with responsibility to develop and maintain the land and to pay the State a fee in kind or in money, for a maximum period of 25 years renewable.



- Surface area contract: the right to enjoy the land and to dispose of the buildings, wood, trees and other plants thereon, for a maximum period of 25 years renewable.
- Usufruct contract: the right to enjoy the land, like the State itself, but with responsibility to keep it in good condition, for a maximum period of 25 years, renewable.
- Contract of use: recognized right of a person to enjoy a plot of land with his/her family, either by living on it or by creating warehouses for him/herself for a maximum period of 5 years renewable.
- Rental contract: enjoyment of land for a specific price that the lessor undertakes to pay to the State for a maximum period of 3 years, generally preparatory to another type of concession.

According to Article 18 of Law 11/022 of 24 December 2011, each local community is recognized as having customary land rights exercised collectively or individually on the land. State lands can indeed be inhabited and used by local communities – individually or collectively – in accordance with local customs and practices. Land where customary rights are exercised may be subject to expropriation in the public interest: in this case, the identification of entitled persons will have to take into account the traditional system of land allocation and management.

There are four different types of land titles in DRC:

- The Certificate of Registration (most common) formalises the right to enjoy land conceded by the State. The private ownership of buildings on a concession is always considered separately from that of the land and is only legally established by the registration of the buildings on the Certificate of Registration establishing the concession ('ownership by incorporation'). Without this registration, the ownership of the buildings is not legally recognized.
- The 'Titre de propriété foncière' (Land Title) for land acquired in accordance with the rules before the publication of the Land Law, provided that it has been sufficiently developed.
- The 'Titre d'occupation 2-18roviso ire' Provisional Occupation Title, preparatory to the concession of rural land exceeding 10 ha intended for agricultural or livestock farming purposes.
- The 'Livret de logeur' or equivalent title in a city: a perpetual concession on a piece of land in a district divided into plots and registered in the land register under the private domain of the State, exclusively for national citizens.

Immovable property, perpetual concessions, emphyteutic concessions, surface area concessions and the rights of enjoyment of local communities to State lands are all eligible for public expropriation.

The procedure of expropriation is outlined in Law 73-021 of 20th July 1973 and in Law 77-001 of 22nd February 1977 of expropriation for public utility.

According to articles 4-7 of Law 77-001 of 22nd February 1977, the procedure of expropriation starts with a decision pronouncing the public utility of the project and ordering the expropriation.

In the case of expropriation of collective or individual rights of use exercised by local populations on state-owned land, the expropriator shall base his compensation proposals on a survey prescribed and carried out in accordance with the provisions of articles 193 to 203 of law no. 73-021 of 20 July 1973. Expertise and survey can be made prior to the opening of the expropriation procedure.

Articles 193 to 203 of the Land Code describe, in the case of an application for a concession, the data that must be collected during the appraisal of the property to be expropriated, including the collective and individual rights of enjoyment exercised by the local populations on State lands. The enquiry prior to the concession (a public enquiry) includes:

- On-site verification of the delimitation of the requested land boundary;
- A census of the persons present on the land or who carry out any type of activity thereon;



- A description of the site and an inventory of what exists on it in terms of woods, forests, watercourses and traffic routes;
- A hearing of anyone making oral complaints or observations; and,
- A record and study of all written information.

The enquiry is carried out by the Zone Commissary or by a functionary or agent charged with this task. The enquiry is opened by posting of a notice in the locality where the land is located. A copy of the application specifying the land concerned shall be annexed to the posted notice. The investigation is closed by a report indicating all the information gathered and the conclusions of the agent who was in charge. Any document useful to support the report shall be attached to it.

Within one month, the author of the enquiry sends two copies of his/her report to the competent administrative authority. The applicant may obtain a copy of the letter of transmission of the file. The various levels of administration involved in the expropriation may request a review of the enquiry. When the enquiry file is deemed satisfactory, it is sent to the Public Prosecutor who has one month to approve the enquiry report or to communicate his/her observations. The administration must respond to all of the Public Prosecutor's observations. If this one-month period is exceeded the report is automatically accepted.

Once that the public prosecutor has validated the enquiry report, the decision of expropriation is made by ministerial order (ordinary expropriation) or presidential decree (expropriation by area) and published in the Official Gazette. The decision of expropriation will set a date for eviction. Expropriated people will be notified by registered letter either delivered by post with acknowledgement of receipt or hand-delivered with a dated and signed receipt. When the expropriation concerns collective rights of enjoyment, the population is notified by a communication made to the representative of the community by the Zone Commissioner or his/her delegate. If a person cannot be reached, the administration notifies the Public Prosecutor who issues an instruction to continue the investigation. In case of failure, the Public Prosecutor asks the Court of First Instance to appoint an administrator of the property to be expropriated, who will represent the person to be expropriated in the expropriation procedure and the legal establishment of the compensation.

Following receipt of the letter, the person to be expropriated has in principle one month to communicate his/her observations and claims to the ministry in charge of land matters. During this period, which may be extended by the competent authority, the expropriator and the expropriated person may reach an agreement on the amount of compensation. If an agreement has not been reached, the authority sends the person to be expropriated a compensation proposal, based on an expert report drawn up and signed by two land surveyors from the Land Registry, and possibly a specialist on the type of property to be expropriated (for example, an agronomist for agricultural property). If the expropriated person does not accept the compensation, the expropriator will resort to the court's judgment. Within 15 days following the summons, the court hears the parties. Within 8 days from the hearing, three experts are appointed to submit a report within an established deadline. This period may not exceed 60 days or exceptionally 90 days. Within 8 days from the submission of the experts' report, the court summons the parties to a hearing. No later than one month after this hearing, the court decides on the amount of compensation and deadline for eviction.

The compensation due to the expropriated person must be based on the value of the property at the date of the court's judgment. It must be paid before the registration of the transfer and at the latest 4 months from the date of the judgement establishing the compensation. Once this period has elapsed, the party to be expropriated can take legal action for the expropriator to cancel the expropriation.

Table 2-2 summarises the steps included in the public expropriation process in DRC, alongside the institution responsible for each of them.



Table 2-2 Summary of Steps for Public Expropriation in DRC

#	Activity	Description	Responsibility	Time
1	Public enquiry	A public enquiry will be opened by displaying posters and closed by a conclusions report. The public enquiry will identify the rights enjoyed by local populations on the land, describe the environment and enumerate the people using the land through a census.	Ministerial officer	Once land to be acquired has been demarcated
2	Transmission of the conclusion report to the competent administrative authority	Within one month, the author of the enquiry sends two copies of the report to the competent administrative authority.	Competent administrative authority	Within one month from opening the enquiry
3	Transmission of the enquiry to the public prosecutor for approval	When the enquiry file is deemed satisfactory, it is sent to the Public Prosecutor who needs to approve it or communicate his/her observations. The administration must respond to the Public Prosecutor's observations.	Competent administrative authority	The public prosecutor has to approve the enquiry within 1 month from reception
4	Declaration of Public Utility	The decision declaring the public interest of the works and ordering the expropriation is made by ministerial order or presidential decree and published in the Official Gazette.	Ministry of Land Affairs	Once the public prosecutor has approved the enquiry report
5	Notification of expropriated people	This decision, setting an eviction date, is notified to the expropriated people by registered letter delivered by post with acknowledgement of receipt or hand-delivered with a dated and signed receipt	Ministry of Land Affairs	Once the declaration of public utility is published
6	Negotiation of compensations	Once informed, the expropriated people have one month to communicate their claims and observations to the Ministry of Land Affairs. During this period, which may be extended by the competent authority, the expropriator and the expropriated person should reach an agreement on the amount of compensation and indemnity.	Ministry of Land Affairs	Within 1 month from the notification of expropriation
7	Agreement or disagreement with compensation	If satisfied, the expropriated person signs the compensation report.	Expropriated person	As soon as a compensation is agreed upon
		If dissatisfied, a compensation amount is proposed based on an expert report prepared and signed by two land surveyors from the Land Registry and a specialist on the type of property to be expropriated, as required	If an agreement is not reached after the evaluation, the expropriated person can resort to justice	If an expropriation case goes to court, three experts are appointed to submit a report within 60 days from the first hearing. Within a month after the delivery of the report, the court decides on the amount of compensation.
9	Payment of compensation	The compensation will be based on the value of the property at the date of the judgement ruling on the regularity of the procedure.	Expropriating authority	Compensation must be paid 4 months from the date of the judgement establishing compensation
10	Eviction of the acquired land	The evacuation date is set in the declaration of public utility.	Affected person	By the evacuation date set in the declaration of public utility



2.4.2 Rwanda's Legislation on Expropriations

The 2003 Constitution, revised in 2015, establishes the right to individual or collective private property. Private property is guaranteed by the State and is inviolable except when it interferes with the public interest. Land in Rwanda is divided into public land (public and private domains of the State, public institutions, and local communities) and the private domain. According to Law No. 43/2013 of 16 June 2013, there are two types of private ownership:

- Full ownership (perpetual possession).
- Emphyteutic lease (land granted for 20, 49 or 99 years), which is the predominant form of ownership.

According to Organic Law No. 08/2005 of 14/07/2005, the state has the right to own and use land for public interest and to expropriate, if necessary, through procedures established by national law and ensuring adequate compensation. Law No. 32/2015 of 11 June 2015 established that Projects wishing to expropriate for the public interest must provide at their own cost a list of the land and people to be expropriated and make provision for the amount of compensation from their own budget.

To begin the procedure, the Project developer must do an application for expropriation in the public interest. The following documentation must be included in this application (Art. 10):

- The nature of the project.
- The justification of the Project's relevance for being in the general interest.
- The master plan of the land on which the project will be carried out (demarcations, maps, nature of assets, list of holders of rights registered on the land titles).
- A document indicating that the project has no detrimental effects on the environment.
- A document confirming the availability of funds for fair compensation.
- An explanatory note detailing that such land or place suits the project.
- Minutes of the consultative meeting indicating that the concerned population has been made aware of the Project and its importance.
- A study indicating the consequences of expropriation on PAP's living conditions.

The competent committee in charge of monitoring projects of expropriation in the public interest considers the relevance of the project within a period not exceeding 30 days after receiving the request for expropriation (Art. 11).

The expropriated persons shall receive a fair and just compensation covering not only the price of the land but also compensation for the activities carried out on expropriated plots such as crops, plantations or buildings, or other activities aimed at improving the productivity of the land. However, no activity undertaken after the official publication of the expropriation decision shall be subject to compensation (Art. 17). The amount of compensation shall be set according to prevailing market prices estimated by the Institute of Real Property Values in Rwanda. The unit prices of land and property thus established are published annually in the Official Gazette (Art. 22). The District or City of Kigali administration or the relevant Ministry must inform the persons to be expropriated of the expected start date of the measurement of the land and inventory of property incorporated thereon. This information must be conveyed via posters at the Unit's office at the project location, or by messages on the radio or in the press (media with a large audience or readership). If necessary, other means of communication may be used (Art. 24).

Anyone claiming expropriation rights must provide proof of their property rights (Art. 26).

Compensation for disruption (5 % of the basic compensation) shall be granted to those expropriated (Art. 27).

If the person to be expropriated is satisfied with the amount of compensation, he/she shall sign or fingerprint the compensation report (Art. 32). If the person to be expropriated is not satisfied, s/he has the right to contest the amount based on the work of a valuer recognized by the



Institute of Real Property Valuers in Rwanda, at his/her own expense and within a maximum of 10 days (Art. 33). In the absence of an arrangement, the dispute will be dealt with in court, but the compensation initially planned will be paid before the court's decision to avoid delay of the expropriation (Art. 34). The amount of compensation must be paid within 120 days of approval by the District Council. After receiving fair compensation, the expropriated person must move out within a period not exceeding 120 days. The person to be expropriated is not allowed to plant crops that require more than 120 days of growth before they can be harvested (Art. 36). The compensation shall be made in Rwandan currency or in any other form agreed upon (in kind) between the expropriating party and the expropriated person but must be paid before the resettlement (Art. 35). Monetary compensation shall be deposited into the account of the person to be expropriated opened with a recognized locally based bank or financial institution of his/her choice (Art. 38). Compensation in kind shall be paid in line with the agreed upon method (Art. 39).

Table 2-3 summarises the steps included in the public expropriation process, alongside the institution responsible for each of them.

Table 2-3 Summary of Steps for Public Expropriation in Rwanda

#	Activity	Description	Responsibility	Time
1	Application for expropriation in the public interest	The application for expropriation shall be prepared according to article 10 of Law No. 32/2015 of 11 June 2015	Project developer	Once affected people have been enumerated and the required land has been demarcated and surveyed
2	Approval of the application	A competent committee in charge of monitoring expropriation for public interest projects will consider the relevance of the project within 30 days from reception of the application.	Land Commissions and Land Committees (District, Sector and Cell level), which are in charge of monitoring public expropriations.	No later than 30 days after reception of the application
3	Publication of the official decision of expropriation	Once the application is approved, the decision of expropriation will be published. No activity undertaken after the official publication of the expropriation decision shall be subject to compensation.	District Council	Once the application has been approved
4	Land measurement and asset inventory	The District or City of Kigali administration or the relevant Ministry must inform the persons to be expropriated of the expected start date of the measurement of the land and inventory of property incorporated thereon (radio, press and posters). At this stage, the validity of land tenure rights will be assessed. If needed, required land documents can be updated or produced at this stage.	District Land Office	Once the official decision has been published



#	Activity	Description	Responsibility	Time
5	Establishment of compensation payments	The amount of compensation shall be set according to prevailing market prices estimated by the Institute of Real Property Values in Rwanda. The unit prices of land and property thus established are published annually in the Official Gazette	Project developer, according to the expert judgment of registered real property valuers from the Council for Regulation of the Real Property Valuation	Once the official decision has been published
6	Agreement or disagreement with compensation	If satisfied, the expropriated person signs the compensation report. All compensation reports are sent to the district council for validation.	Affected person	Once the affected person agrees with the compensation
		If dissatisfied, the expropriated person can demand an evaluation of their property	If an agreement is not reached after the second evaluation, the expropriated person can still resort to justice	The expropriated person has 10 days from the proposal of compensation to request an evaluation
7	Payment of the agreed compensations	The amount of compensation must be paid within 120 days after approval by the District Council. All compensations must be paid before the affected people are resettled	Project developer	Within 120 days from the District Council's approval
8	Evacuation of the acquired land	After receiving fair compensation, the expropriated person must move out within a period not exceeding 120 days. The person to be expropriated is not allowed to plant crops that require more than 120 days of growth before they can be harvested.	Affected person	Within 120 days from the payment of compensation



2.4.3 Burundi's Legislation on Expropriation

Land use is governed by the Law 1/13 of August 9, 2011 (Land Code), which replaced Law 1/008 of September 1, 1986. The main objective of the revision of the Land Code was to formalise unwritten rights and reconcile the legitimacy of local actors' land tenure practices with the legality of legislative and regulatory texts. This law recognises three categories of land ownership (Article 2):

- Land under the public domain of the State or other public entities.
- Land belonging to the private domain of the State or other public entities.
- Land belonging to private individuals or legal entities – as Article 313 establishes, these titles are granted by the Communal Land Service.

Expropriation is enshrined in Article 36 of the Constitution (June 7, 2018), which lays down the principle that *"Every person has the right to property. No one may be deprived of his property except for reasons of public utility, in the cases and in the manner established by the law and in return for fair and prior compensation or in execution of a judicial decision having the force of res judicata"*. Paragraph 5 of the Land Code sets out the expropriation procedure.

The first step of expropriation is outlined in Article 417 of the Land Code. This article states that the Project developer requiring a land concession will have to file an application for expropriation in the public interest, justifying the Project's land requirements. The validation of the expropriation file will lead to a provisional declaration of public utility, published by ministerial decree. After this step, an enquiry report will be produced for the validation of the National Land Commission. Once the enquiry report is accepted, a decree of order of expropriation is published by:

- The Ministry of rural lands for areas of rural lands which do not exceed 25 hectares.
- The Ministry of urban planning for urban areas which do not exceed 1 hectare.
- The President of the Republic for a rural land exceeding 25 hectares or an urban area exceeding 1 hectare.

The Decree of Order of Expropriation needs to be posted for the comments and observations of interested parties at the communal administration for a month. All comments are compiled in a report sent to the competent authority. During this phase, the expropriated people will be proposed a compensation offer, following which:

- If the expropriated person accepts, a deed of sale by mutual agreement is prepared.
- If the person disagrees, she will be able to resort to justice according to article 428.

Compensation rates for land, crops and buildings are set by Ministerial Order No. 720/CAB/304/2008. This ordinance establishes the modalities for calculating compensation, based on formulas adapted and applied to annual and biennial food crops, perennial crops (banana, coffee, tea, etc.) and buildings. Article 1 of this order specifies that the payment of compensation is in all cases prior to any action for the expropriated person. According to Article 14, the rates should be updated every 3 to 5 years to reflect socio-economic changes. Table 2-4 summarises the steps included in the public expropriation process, alongside the institution responsible for each of them.

2.4.4 Comparison with International Standards

The texts governing land tenure and expropriation procedures in the public interest are relatively old in the DRC (pre-1980), and more recent in Rwanda and Burundi (post-2010). Rwanda has a much smaller surface area than DRC and has been able to finalize the formalisation of its land cadaster making the expropriation procedure easier to implement, particularly for linking plots with plot owners. Table 2-7, at the end of this section, sets out the differences between DRC and Rwandan legislation and lenders' requirements. In almost all aspects, the lender's requirements are more protective of Project Affected Persons than the laws and procedures of DRC, Burundi and Rwanda and the lenders' policies therefore remain benchmarks for the implementation of the RAP.



Table 2-4 Summary of Steps for Public Expropriation in Burundi

#	Activity	Description	Responsibility	Time
1	Application for expropriation in the public interest	A file describing the Project and justifying the land needs for which expropriation will be necessary is compiled by the Project developer and sent to the competent ministry.	Project developer	Before receiving a declaration of expropriation
2	Provisional declaration of public utility	The validation of the expropriation file will lead to a provisional declaration of public utility, published by ministerial decree	Competent ministry	Once the application for expropriation in the public interest has been approved
3	Enquiry Report	An enquiry report is prepared by a ministerial officer for validation by the National Land Commission	Ministry of Land Affairs	Once the declaration of public utility is published
4	Decree of order of expropriation	Compensation is set according to the unit prices of land and property published annually in the official gazette. The order of expropriation will be sent to the communal administration concerned for the public enquiry stage. The decree of order of expropriation sets the deadline for the occupants' expropriation.	<ul style="list-style-type: none"> > Ministry of rural lands for rural areas over 25 ha. > Ministry of urban planning for urban areas over 1 ha. > President of the Republic for rural lands over 25 ha or urban areas over 1 ha. 	Once the enquiry report is validated by the National Land Commission
5	Public enquiry	Article 420 establishes that the Decree of Order of Expropriation needs to be posted for the comments and observations of interested parties at the communal administration for a month. The results of the enquiry are compiled in a report sent to the competent authority.	Communal administration	For a month, from the transmission of the decree of order of expropriation to the communal administration
6	Agreement or disagreement with compensation	If satisfied, the expropriated person signs the compensation report.	Affected person and Project expropriator	As soon as an agreement on compensation is reached
		If dissatisfied, the expropriated person can bring legal action before the competent court. The court will appoint three experts and set a time limit for filing the report.	Competent court	The amount of compensation is established by the court within a month from the delivery of the report.
7	Payment of the agreed compensations	The compensation will be based on the value of the asset at the time of evaluation.	Expropriator	Compensations will be paid 4 months after the legal or amicable judgment at latest.
8	Eviction from the acquired land	The eviction limit will be set in the order of expropriation	Affected person	By the date set in the order of expropriation



2.5 Legislation on Indigenous People

2.5.1 Burundi's Legislation on Indigenous People

Burundi does not have specific laws which recognise indigenous people.

2.5.2 DRC's Legislation on Indigenous People

In DRC, Law No. 22/030 was established in July 2022 to promote and protect the rights of indigenous Pygmy peoples. The law recognizes Pygmy communities as hunter-gatherer groups with distinct cultural identities and lifestyles and seeks to incorporate international standards into national law. It covers various aspects, including civil and political rights, economic and social rights, environmental protection, land rights, and participation in decision-making processes. Additionally, the law mandates the creation of development plans, policies for indigenous women and children, and a special fund for the protection and promotion of Pygmy rights.

2.5.3 Rwanda's Legislation on Indigenous People

Since the genocide, Rwanda has adopted a policy of national reconciliation which prohibits ethnic identification. Laws against ethnic divisionism were passed in 2001 (Law n°47/2001 of 18 December 2001 on the Prevention, Suppression and Punishment of the Crime of Discrimination and Sectarism) and are enshrined in the 2003 Constitutions. Consequently, Rwanda does not legally recognise the existence of indigenous people.

2.6 International Legal Framework

2.6.1 International Environmental Commitments of the Three States

With the development of international relations, it seemed crucial to introduce the concept of ESIA to international instruments. This was achieved in 1972 through the Stockholm Declaration, then in the Rio Convention and its action plan (Agenda 21) and has been included in the guidelines of the United Nations Environment Program as well as instruments of a more 'philosophical' nature, such as the World Charter for Nature.

While this ESIA focuses on a number of acts chosen for their particular importance, it should be borne in mind that almost all conventions and other acts in the field of environmental protection include one or more provisions on impact assessment.

Moreover, in the context of the Ruzizi III dam construction project, Burundi, Rwanda and DRC have joined in this global obligation as described in certain acts of conventions listed in the table below.

Table 2-3 below presents the main commitments made by the three States in terms of environmental protection. The three countries appear to present equivalent profiles with regard to their environmental commitments even if the dates of membership differ depending on the country's recent history.



Table 2-5 Main International Environmental Conventions Signed by the Three States

International commitment	Burundi	DRC	Rwanda
Ramsar Convention on Wetlands (2 February 1971)	Joined (2002)	Joined (1996)	Joined (2005)
Convention on Biological Diversity (the 'Rio Summit') (5 June 1992)	Ratified (1997)	Ratified (1994)	Ratified (1996)
Basel Convention on the control of transboundary movements of hazardous wastes and their disposal (22 May 1989)	Joined (1997)	Joined (1994)	Joined (2004)
The Kyoto Protocol on climate change (1998)	Joined (2001)	Joined (2005)	Joined (2004)
United Nations Convention to Combat Desertification (October 1994)	Ratified (1997)	Ratified (1997)	Ratified (1998)
United Nations Framework Convention on Climate Change (1992)	Ratified (1997)	Ratified (1994)	Ratified (1998)
The Vienna Convention and the Montreal Protocol for the Protection of the Ozone Layer (1985)	Joined (1997)	Joined (1994)	Joined (2001)
Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) (1971)	Joined (1988)	Joined (1975)	Joined (1980)
Cartagena Protocol on Biosafety (29 January 2000)	Joined (2008)	Joined (2005)	Ratified (2004)
Stockholm Convention on Persistent Organic Pollutants (22 May 2001)	Ratified (2005)	Joined (2005)	Joined (2002)
Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade	Joined (2004)	Ratified (2005)	Joined (2004)
Source: website of each convention			

2.6.2 Regional Environmental Commitments

2.6.2.1 The Convention on the Sustainable Management of Lake Tanganyika (2003)

The objective of this Convention is to ensure the protection and conservation of the biological diversity and the sustainable use of the natural resources of Lake Tanganyika and of its basin by the Contracting States on the basis of integrated management and cooperation (Art. 2). It is based on a number of principles, namely: precaution, the polluter pays, preventive action and participation (Art. 5).

By signing the Convention, each of the four riparian States, Burundi, DRC, Zambia and Tanzania, undertake to:

- Ensure that activities within their jurisdiction or control do not cause transboundary adverse impacts, particularly related to fishing activities, through preventive measures (Arts. 6 and 7);
- Prevent, control and reduce liquid and solid pollution from, amongst others, factories, and the handling, transportation, use and disposal of toxic or hazardous materials in the lake basin. Each State must, to the extent possible, construct and maintain installations to reduce the risk of pollution of the lake and of its environment (Art. 8);
- Prevent all causes of excessive sedimentation in the lake, such as deforestation, land degradation and the destruction of wetlands (Art. 9);
- Conserve ecosystems, species of fauna and flora and genetic resources as well as their habitats that form part of the lake basin, particularly those that are endemic, rare, fragile, depleted or threatened; and prevent the introduction of, control and eradicate exotic species that threaten ecosystems, habitats or species and the genetic resources that form part of the lake basin (Art. 10).



If a Contracting State (or States) envisage(s) activities that could give rise to adverse impacts, it (they) must notify the Secretariat of the Lake Tanganyika Authority as soon as possible and carry out an environmental impact assessment which must necessarily involve the public (Arts. 14, 15 and 17).

With regards to the Ruzizi III HEPP, it is noteworthy that the first version of the ESIA prepared in 2012 by SOFRECO was prepared under the auspices of regional organisations, including EGL, and included transboundary impacts. This ESIA, prepared in 2024 by REL in coordination with EGL, is an update of the 2012 ESIA. In addition, transboundary aspects are included in the project Implementation Agreement: Article 4.3 (i): *“The Company shall update the Resettlement Action Plan and the Environmental and Social Impact Assessment, with respect to the Site, in accordance with the Environmental and Social Standards. No later than six (6) months after the Effective Date, the Company shall submit the updated Resettlement Action Plan and the Environmental and Social Impact Assessment to the Contracting States for their approval”*.

2.6.2.2 Joint Management of the Water Resources of the River Ruzizi (ABAKIR)

With a view to implementing international cooperation for the sustainable and equitable management of the basin's water resources and for the better socio-economic integration of the countries of the subregion, the three ECGLC countries decided to sign an international convention establishing an International Basin Authority under the acronym of ABAKIR (Autorité de Bassin du Lac Kivu et de la rivière Ruzizi), in English, the Lake Kivu and Ruzizi River Basin Authority, located in Rubavu in the ECGLC's buildings.

ABAKIR was created in July 2011, but its transitional structure only became operational in January 2013. On 4 October 2014, ABAKIR's Council of Ministers endorsed the international convention on the integrated water resource management of the basin of Lake Kivu. The participants also officially adopted and signed the statutes of ABAKIR.

The main objective of ABAKIR as set out in its presentation is to implement a cooperation policy for the sustainable development and stabilization of the Great Lakes Region, through the integrated management of the water resources of the basin of Lake Kivu and of the River Ruzizi in all dimensions (energy, agriculture, fishing activity, lake transportation, tourism, biodiversity, etc.).

ABAKIR's main roles are to:

- Establish an overview of the current situation of the water resources and environment of the basin, with an inventory of sources of pollution of Lake Kivu and of the River Ruzizi (industries, agriculture, intensive livestock farming, mines), and carry out a baseline environmental assessment of the catchment area.
- Monitor the state of the resources, their uses and consequences, taking into account risks such as floods, droughts, fluctuations in the lake's level, the release of gases at the lake's surface, erosion, volcanic and seismic activity, pollution, etc., with a view to proposing adapted measures.
- Develop and maintain a network on the quality and quantity of the water resources.
- Draw up development plans to manage and protect the resources based on information collected from various existing sources or structures and on that exchanged between the Member States.
- Establish common rules for the regulation of the resources, ensure their application, and assess the impact of non-compliance in order to establish remedial measures.
- Examine any user complaints and help the States to resolve conflicts in this area.

ABAKIR is very supportive of the project to build the Ruzizi III hydroelectric power plant and wants to contribute to its success, in particular:

- Through the reasoned promotion of reforestation in the upper part of the Ruzizi sub-basin to limit soil erosion and the resultant sedimentation in reservoir dams reducing the potential for peak electricity production.



- By promoting resilient agricultural practices including erosion control.
- By organizing the collection of floating solid waste (soft and hard plastics, etc.).
- By monitoring and maintaining the physico-chemical and biological quality of the waters of the Kivu–Ruzizi system.
- By maintaining the stable annual flow of the River Ruzizi.
- By implementing a database that is available to all and which allows the water quality and the environment of the Kivu-Ruzizi system to be monitored.

ABAKIR also wants to invest in the basin's protection against erosion and soil degradation through reforestation and a sustainable land management policy. Cultivation practices that are resilient to climate change have been adopted (soil fertility management, anti-erosion, etc.). Renewable energies should be promoted on the scale of the basin. Environmentally-friendly solid and liquid waste management should be ensured in the urban areas of Lake Kivu and the Ruzizi [Kubaburanzi, 2015].

2.6.3 Lenders' Environmental and Social Standards

The Lenders that are considering providing financial assistance for the Project comprise:

- African Development Bank (AfDB).
- European Investment Bank (EIB).
- German Development Bank (KfW) – which aligns with World Bank Environmental and Social Standards (ESS).
- French Agency for Development (AFD) – which aligns with World Bank ESS.
- World Bank.

The potential Lenders' environmental and social policies are listed in the following paragraphs. The rationale for triggering the standards and operational safeguards is presented in Table 2-6 and a gap analysis of Lenders' requirements compared to national requirements is provided in Table 2-7.

2.6.3.1 African Development Bank

The AfDB's environmental and social requirements are set out in an Integrated Safeguards System comprising a policy statement and operational safeguards (2013). The Operational Safeguards (OS) are as follows:

- OS1 – Environmental and social assessment
- OS2 – Involuntary resettlement: land acquisition, population displacement and compensation
- OS3 – Biodiversity, renewable resources and ecosystem services
- OS4 – Pollution prevention and control, hazardous materials and resource efficiency
- OS5 – Labour conditions, health and safety.

2.6.3.2 European Investment Bank

The EIB's environmental and social requirements are set out in the EIB's Environmental, Climate and Social Guidelines on Hydropower Development (2019) and in the Environmental and Social Sustainability Framework which is included in the EIB Group Environmental and Social Policy (2022). The policy includes the following 11 Environmental and Social Standards ("E&S Standards" or "the standards"):

- Standard 1: Environmental and social impacts and risks
- Standard 2: Stakeholder engagement
- Standard 3: Resource efficiency and pollution prevention
- Standard 4: Biodiversity and ecosystems



- Standard 5: Climate change
- Standard 6: Involuntary resettlement
- Standard 7: Vulnerable groups, Indigenous Peoples and Gender
- Standard 8: Labour rights
- Standard 9: Health, safety and security
- Standard 10: Cultural heritage
- Standard 11: Intermediated finance

The EIB's Environmental, Climate and Social Guidelines on Hydropower Development set out the EIB's objectives for investments in hydropower projects, establishing sector-specific standards and criteria, which promoters should meet. They also summarise best practice recommendations for integrating social, biodiversity, natural resource management and climate considerations into hydropower projects. The topics included in the guidelines include management of the following: (i) strategic and basin-wide issues, (ii) environmental issues and impacts, (iii) social issues and impacts, (iv) climate resilience and GHG emissions, (v) reservoir and dam safety issues, and (vi) monitoring requirements.

2.6.3.3 IFC Performance Standards

The IFC Performance Standards (PS) where relevant:

- PS1 – Social and Environmental Assessment and Management System
- PS2 – Labor and Working Conditions
- PS3 – Pollution Prevention and Abatement
- PS4 – Community Health, Safety and Security
- PS5 – Land Acquisition and Involuntary Resettlement
- PS6 – Biodiversity Conservation and Sustainable Natural Resources Management
- PS7 – Indigenous Peoples
- PS8 – Cultural Heritage

2.6.3.4 World Bank

A Environmental and Social Framework

The World Bank's environmental and social requirements are set out in the World Bank Environmental and Social Framework (2018). The framework includes the following 10 Environmental and Social Standards (ESS):

- ESS1: Assessment and management of environmental and social risks and impacts
- ESS2: Labor and working conditions
- ESS3: Resource efficiency and pollution prevention and management
- ESS4: Community health and safety
- ESS5: Land Acquisition, restrictions on land use and involuntary resettlement
- ESS6: Biodiversity conservation and sustainable management of living natural resources
- ESS7: Indigenous Peoples/sub-saharan African historically underserved traditional local communities
- ESS8: Cultural Heritage
- ESS9: Financial intermediaries
- ESS10: Stakeholder engagement and information disclosure



B Environmental, Health and Safety Guidelines

The World Bank Group's Environmental, Health and Safety (EHS) Guidelines are technical reference documents with general and industry-specific examples of Good International Industry Practice (GIIP). They cover the following categories:

- Environmental
 - Air Emissions and Air Quality
 - Energy Conservation
 - Wastewater and Water Quality
 - Water Conservation
 - Hazardous Materials Management
 - Waste Management
 - Noise
 - Contaminated Land
- Occupational Health and Safety
 - Facility Design and Operation
 - Communication and Training
 - Physical Hazards
 - Chemical Hazards
 - Biological Hazards
 - Radiological Hazards
 - Personal Protective Equipment (PPE)
 - Special Hazardous Materials
 - Disease Prevention
 - Emergency Preparedness and Response
- Construction and decommissioning
 - Environment
 - Occupational Health and Safety
 - Community Health and Safety ESS7
- General Environmental, Health and Safety Guidelines for Electric Power Transmission and Distribution
- General Environmental, Health and Safety Guidelines for Construction Material Extraction

C World Bank Good Practice Notes

The principles in the following Good Practice Notes are applied to the Project:

- Addressing Sexual Exploitation and Abuse and Sexual Harassment in Investment Projects Financing Involving Major Civil Works (2020)
- Addressing Gender-based Violence in Investment Project Financing Involving Major Civil Works (2018).
- Gender (2019)
- Road Safety (2019)
- Assessing and Managing the Risks and Impacts of the Use of Security Personnel (2018).
- Managing the Risks of Adverse Impacts on Communities from Temporary Project-induced Labour Influx (2016).

**D World Bank OP/BP 7.50 Project on International Waterways**

The Bank recognizes that the cooperation and goodwill of riparians is essential for the efficient use and protection of the waterway. Therefore, it attaches great importance to riparians' making appropriate agreements or arrangements for these purposes for the entire waterway or any part thereof. The Bank ensures that the international aspects of a project on an international waterway are dealt with at the earliest possible opportunity. If such a project is proposed, the Bank requires the beneficiary state, if it has not already done so, formally to notify the other riparians of the proposed project and its Project/Program Details. The Bank ascertains whether the riparians have entered into agreements or arrangements or have established any institutional framework for the international waterway concerned.

The Project is developed as a Private-Public Partnership (PPP), the shareholders of REL act as the private component and the *Energie des Grands Lacs* (EGL) acts as the public component. EGL is a specialised body of the Economic Community of the Great lakes Countries (ECGLC)¹ and is the agent for the three Contracting States (Burundi, DRC and Rwanda), which are also the riparian states affected by the Project's impacts on the Ruzizi River. It can therefore be considered that the Ruzizi River riparian states have been informed of the Project. The Lake Tanganyika Riparian States comprise Burundi, DRC, Tanzania and Zambia. The states of Tanzania and Zambia are not included in the PPP and have been informed of the Project by EGL (see 2.6.2.1).

¹ Members comprise Burundi, DRC, Rwanda and Tanzania



Table 2-6 Rationale for Triggering Lenders' Standards and Operational Safeguards

Topic	Lenders' E&S Standard / Operational Safeguard	Triggered		Scoping Rationale
		Yes	No	
Environmental and Social Assessment	<ul style="list-style-type: none"> World Bank. ESS1 – Assessment and Management of Environmental and Social Risks and Impacts IFC. PS1 – Assessment and Management of Environmental and Social Risks and Impacts AfDB. OS1 - Environmental and Social Assessment EIB: ESS1 – Assessment and Management of Environmental and Social Risks and Impacts, ESS4 – EIB Climate-Related Standards, and ESS7 – Rights and Interests of Vulnerable Groups 	■	□	<p>The Project is a Category A project, with transboundary impacts, cumulative impacts, physical and economic resettlement.</p> <p>Full ESIA is required with environmental and social baseline surveys, ESMP, RAP, CIA, EFlow Assessment, CHA, climate resilience and GHG assessment.</p>
Labor and Working Conditions	<ul style="list-style-type: none"> World Bank. ESS2 – Labour and Working Conditions IFC. PS2 – Labour and Working Conditions AfDB. O25 Labour Conditions, health and Safety EIB: ESS8 – Labour Standards 	■	□	<p>Project construction will require 500-1,000 workers, with workers from the region (Burundi, DRC and Rwanda) and workers from other regions or countries. Many of the workers will be unskilled labourers. Construction works will represent high-risk activities for workers' health and safety and a robust system for management of labour and working conditions will be required. The impact assessment scope includes identification of the types of health and safety hazards and potential labour issues. The ESMP scope includes developing measures for managing labour and working conditions.</p>
Resource Efficiency and Pollution Prevention and Management	<ul style="list-style-type: none"> World Bank. ESS3 – Resource Efficiency and Pollution Prevention and Management IFC. PS3 – Resource Efficiency and Pollution Prevention AfDB. OS4 Pollution Prevention and Control, Hazardous EIB: ESS2 – Pollution Prevention and Abatement 	■	□	<p>Project construction activities will require handling and storage of hazardous substances such as fuel for vehicles and power generation, lubricating and hydraulic fluids, chemicals and transformer oils. Hazardous waste will be generated, domestic wastewater and sewage generated by 500-1,000 workers and will need to be managed. During operation, there will be fewer staff and less hazardous substances to manage. The impact assessment scope includes identification of the types of pollution risks during construction and operation, and the ESMP scope includes developing measures for pollution prevention management by the Contractor and Operator during construction and operation respectively.</p>



Topic	Lenders' E&S Standard / Operational Safeguard	Triggered		Scoping Rationale
		Yes	No	
Community Health and Safety	<ul style="list-style-type: none"> World Bank. ESS4 – Community Health and Safety IFC. PS4 – Community Health and Safety and Security AfDB. OS1 - Environmental and Social Assessment EIB: ESS9 – Occupational and Public Health, Safety and Security 	■	□	Community health and safety hazards include the consequences of accidental events such as dam failure and operational hazards such as peak and off peak flows in the river, exposure to EMF, traffic hazards and exposure to communicable diseases and waterborne diseases. The impact assessment scope includes identification of the types of health and safety risk during construction and operation, and the ESMP scope includes developing prevention and protection measures by the Contractor and Operator during construction and operation respectively, including the preparation of an Emergency Response Plan.
Land Acquisition, Restrictions on Land Use, and Involuntary Resettlement	<ul style="list-style-type: none"> World Bank. ESS5 – Land Acquisition, Restrictions on Land Use and Involuntary Resettlement IFC. PS5 – Land Acquisition and Involuntary Resettlement AfDB. OS1 - Environmental and Social Assessment AfDB. OS2 - Involuntary Resettlement: Land Acquisition, Population Displacement and Compensation EIB: ESS6 – Involuntary Resettlement, and ESS7 – Rights and Interests of Vulnerable Groups 	■	□	<p>The project will require land acquisition in Rwanda and DRC resulting in physical and economic displacement. The ESIA will include social surveys, land valuation, development of an entitlement matrix for compensation and preparation of a RAP. Affected communities will be engaged to agree on compensation.</p> <p>50 household (485 people) are affected by physical resettlement and 2,249 households (17,943 people) affected by economic displacement.</p>
Biodiversity Conservation and Sustainable Management of Living Natural Resources	<ul style="list-style-type: none"> World Bank. ESS6 – Biodiversity Conservation and Sustainable Management of Living IFC. PS6 – Biodiversity Conservation and Sustainable Management of Living AfDB. OS3 - Biodiversity, Renewable Resources and Ecosystem Services EIB: ESS3 – EIB Standard on Biodiversity and Standards 	■	□	<p>Much of the terrestrial habitat affected by the Project is modified habitat and is used primarily for agriculture. There are small discrete areas of natural habitat and degraded natural habitat in areas where slopes are too steep for agriculture, along riverbanks and on islands in the river channel. A baseline survey is included in the scope to characterise and map the terrestrial habitat.</p> <p>The aquatic habitat has been affected by the hydropeaking operation of the Ruzizi-I and -II hydropower schemes upstream from Ruzizi-III and which started operation in 1959 and 1989 respectively. However, although the fish present in the river includes several endangered and migratory species. Consequently, the scope of the ESIA includes a Critical Habitat Assessment, and the ESMP includes a framework for a Biodiversity Action Plan. The Critical Habitat Assessment qualifies the Ruzizi River in the Project area as Modified Habitat</p>



Topic	Lenders' E&S Standard / Operational Safeguard	Triggered		Scoping Rationale
		Yes	No	
Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities	<ul style="list-style-type: none"> World Bank. ESS7 – Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities IFC. PS7 – Indigenous Peoples AfDB. OS1 - Environmental and Social Assessment EIB: ESS7 – Rights and Interests of Vulnerable Groups 	■	□	<p>In 2023, an anthropological study conducted for the Project concluded that the 'Twa' social group, known as 'Batwa' in DRC and 'Historically Marginalised People (HMP)' in Rwanda, qualifies as Indigenous according to SP 7, WB ESS 7, AfDB OS 1 and EIB ESS 7. As per the standards, the following criteria are met:</p> <ul style="list-style-type: none"> Self-identification as members of a distinct indigenous social and cultural group and recognition of this identity by others – The communities recognise themselves and are identified as belonging to a social group separate to mainstream society. In Rwanda, identification with ethnic labels is outlawed. However, the community identifies itself and is identified as Historically Marginalised People (HMP), a term coined by the Rwandan administration. Collective attachment to geographically distinct habitats, ancestral territories, or areas of seasonal use or occupation, as well as to the natural resources in these areas – The Batwas and HMP have lost attachment to their ancestral forests after decades of forced displacements. However, attachment to clay quarries and areas for wild plant and honey harvesting remains important. Customary cultural, economic, social, or political institutions that are distinct or separate from those of the mainstream society or culture – The Batwas and HMP both engage in collecting and selling wild products, such as honey, medicinal plants, and straw. HMP specializes in pottery production, while this tradition has been lost in DRC. Both communities live together and do not integrate with mainstream society, maintaining a sense of unity. They face discrimination and derogatory labelling and are identified as living in extreme poverty. They have unique dances and songs, some of which are forgotten, and maintain distinct practices related to birth and death. A distinct language or dialect, often different from the official language or languages of the country or region in which they reside – Although it is reported that the communities have specific words and intonation, the communities are not characterised by a specific language. It is possible that traditional languages got lost due to the communities' displacement and integration into mainstream society. <p>Although the Lenders' standards on indigenous people are triggered, the requirements for Free and Prior Informed Consent (FPIC) are not met for the following reasons:</p> <ul style="list-style-type: none"> The Project will not affect and / or relocate indigenous people from lands and natural resources subject to traditional ownership or under customary use – The Batwas and HMP have been dispossessed of all collective, historical and customary property with forced displacements from ancestral forests. Consequently, both communities do not have any traditional rights over the lands which they use and / or inhabit in the Project area. The Project will not have a significant impact on cultural heritage that is essential to the communities' identity and / or to the cultural, ceremonial or spiritual aspects of the lives of indigenous people – Most of the communities' cultural heritage has been lost due to their forced displacement from ancestral forests. The Project will not impact the communities' remaining cultural heritage, which is limited to a small number of dances and performances. <p>The Project will develop an Historically Marginalized People Development Plan (HMPDP), which will assess and mitigate adverse impacts on the Batwas in DRC and HMP in Rwanda, as well as develop a timebound plan to ensure informed participation and consultation of indigenous people and create positive opportunities for the sustainable development of the communities.</p>



Topic	Lenders' E&S Standard / Operational Safeguard	Triggered		Scoping Rationale
		Yes	No	
Cultural Heritage	<ul style="list-style-type: none">World Bank. ESS8 – Cultural HeritageIFC. PS8 – Cultural HeritageAfDB. OS1 - Environmental and Social AssessmentEIB: ESS5 – Cultural Heritage	■	<input type="checkbox"/>	The scope of the ESIA has included verification of this understanding through interviews with local communities the presence of tangible and intangible cultural heritage in the project area. There is 1 church and 7 graves affected by the Project in DRC, and several intangible cultural heritage sites, comprising 4 baptism sites and 3 prayer sites.
Stakeholder Engagement	<ul style="list-style-type: none">World Bank. ESS10 – Stakeholder Engagement and Information DisclosureIFC. PS1 – Assessment and Management of Environmental and Social Risks and ImpactsAfDB. OS1 - Environmental and Social AssessmentEIB: ESS10 – Stakeholder Engagement	■	<input type="checkbox"/>	With 485 people affected by physical resettlement and 17,943 people affected by economic displacement, stakeholder engagement needs to be undertaken.



Table 2-7 Gap Analysis Between the National Legal Frameworks and Lenders Policies regarding land Acquisition and Involuntary Resettlement

Topics	Provision in Congolese legislation	Provision in Rwandan legislation	World Bank ES5, EIB ESS6 and AfDB OS 2 requirements
Avoidance and minimisation of displacement	No legal requirement to avoid or minimize physical and economic displacement	No legal requirement to avoid or minimize physical and economic displacement	The first objective of these policies is to avoid involuntary resettlement or, when unavoidable, minimize involuntary resettlement
Eligibility	Agricultural Law 11/02 of 24/12/2011 recognizes the customary land rights of each local community exercised collectively or individually on the land; these communities are therefore compensable. Expropriation Law no. 77-001 of 22/02/1977 stipulates that individual and collective rights of enjoyment may be subject to compensation. It states that expropriated landlords must notify tenants. If an identified rightful claimant cannot be reached at the time of expropriation, they will be represented, and their interests defended by an administrator of expropriable property appointed by the Regional Court. The Congolese texts do not mention the case of irregular (untitled and non-customary) occupants.	Law no. 32/2015 on expropriation specifies that persons claiming expropriation rights have to provide proof of their ownership rights. The first land registration campaign in Rwanda was finalized in June 2012, allowing for the legal allocation of all private-status land to title holders or customary occupants. The status of customary occupant is thus formalized by a certificate of registration (most frequently an emphyteutic lease). Rwandan legislation on expropriation does not provide for compensation for untitled occupants, especially since all private plots were in principle allocated in 2012. Law no. 32/2015 specifies that persons claiming expropriation rights have to provide proof of their ownership rights. Rwandan legislation on expropriation does not provide for compensation for untitled occupants, especially since all private plots were in principle allocated in 2012. Law no. 32/2015 specifies that persons claiming expropriation rights have to provide proof of their ownership rights.	Affected persons are those affected by physical displacement (relocation, loss of residential land or loss of shelter), or economic displacement (loss of land, assets or access to assets, leading to loss of income sources or other means of livelihood). Affected persons may be classified as persons: > Who have formal legal rights to land or assets; > Who do not have formal legal rights to land or assets, but have a claim to land or assets that is recognized or recognizable under national law; or > Who have no recognizable legal right or claim to the land or assets they occupy or use. People under the third category are eligible for compensation for loss of assets (but not land) and are entitled to resettlement and livelihood restoration assistance, as the other categories. Tenants are eligible to resettlement and livelihood restoration assistance.
Cut-off date	According to Land Law no. 73-081 of 20/07/1973 and Expropriation Law no. 77-001 of 22/02/1977, the cut-off date is the date on which the public enquiry is launched; this date must be clearly notified at the expropriation site.	According to Law no. 32/2015 on expropriation, it is the start date of the land measurement and property inventory, which is notified via posters at the office of the Project Site Unit, or by messages on the radio or in the press (media with a large audience or readership). If necessary, any other means of communication may be used (Art. 24). This law also specifies that no activity undertaken after the official publication of the expropriation decision shall be subject to compensation (Article 17).	For both ESS n°5 and OS n°2, a cut-off date shall be established for eligibility prior to the assets inventory. Information about the cut-off date should be disseminate throughout the project area of influence in a culturally appropriate and accessible manner, before taking any action on clearing land or restricting local community access to land.
Valuation of compensation	The 2006 Constitution stipulates that expropriation compensation must be fair. Land Law no. 73-081 of 20/07/1973 and Expropriation Law no. 77-001 of 22/02/1977 specify that the compensation due to an expropriated person must be based on the value of the property on the date of the judgement ruling on the legality of the process. Expropriation Law no. 77-001 of 22/02/1977 also specifies that compensation is estimated by surveyors working alongside specialists in the activities carried out in the field (agronomists for agricultural activities, for example). It may be assumed that the amounts of	Law no. 32/2015 of 11 June 2015 on expropriation for reasons of public interest stipulates that expropriated people must receive fair and equitable compensation covering not only the price of the land but also the activities carried out on the expropriated plots such as crops, plantations or buildings, or other activities aimed at improving the productivity of the land. This law specifies that the amount of compensation will be set according to prevailing market prices estimated by the Institute of Real Property Values in Rwanda. The unit prices of land and property thus	PAPs should be compensated at full replacement cost in real terms. The replacement cost is a method of valuation yielding compensation sufficient to replace assets, plus necessary transaction costs associated with asset replacement. Transaction costs include labour cost, administrative charges or registration or title fees, and any similar costs imposed on affected persons. The valuation method used for determining replacement cost should be transparent and documented. Whenever feasible, all PAPs should be offered an informed choice of either compensation in kind (land-



Topics	Provision in Congolese legislation	Provision in Rwandan legislation	World Bank ES5, EIB ESS6 and AfDB OS 2 requirements
	compensation correspond to the nature of the property lost and take into account the investments made and the expected returns. Agricultural Law no. 11/022 provides that “The State, the province and the decentralized territorial entity shall set up information systems on the markets and prices of agricultural products” (Art. 64), but these systems do not appear to be in force at present. However, resettlement studies show that relevant scales are developed on a case-by-case basis.	established are published annually in the Official Gazette (Art. 22). It should be added that the law also provides for compensation for disruption to cover moving expenses. This compensation amounts to 5 % of the amount of property compensation (Art. 28).	for-land; house-for-house; shop-for-shop) or monetary compensation at full replacement cost. Where the PAPs’ livelihood is land-based or the land is collectively owned, land-for-land compensation should be favoured. If this option is not available, sufficient justification needs to be provided as to why this option is not feasible, including justification that livelihoods are not affected by not replacing land.
Timing of the Payment of Compensations	The 2006 Constitution stipulates that expropriation compensation must be paid before dispossession. The date of dispossession shall be notified in the declaration of public utility. Compensation must be paid before the transfer of property, i.e. before the new certificate of registration is drawn up in the name of the State and before annulment of the expropriated person's certificate, and no later than four months (120 days) after the date of the judgement setting the amount of compensation (Expropriation Law no. 77-001 of 22 February 1977).	According to Law no. 32/2015 of 11 June 2015 on expropriation, fair compensation for the expropriated party must be paid before their move. The amount of compensation must be paid within 120 days of approval by the District Council. After receiving fair compensation, the expropriated person shall move out within a period not exceeding 120 days (Art. 35 and 36).	Land plots and related assets should be acquired for the Project only after full payment of compensations and, where applicable, after the displaced people have been resettled and moving allowances have been provided to the displaced persons in addition to compensation.
Resettlement assistance and Livelihood restoration	Apart from compensation for the land and property affected, DRC’s legislation does not provide for any special assistance to displaced persons, regardless of their status.	Support for displaced persons is limited to the payment of compensation for disruption, as provided for by Law no. 32/2015 on expropriation.	Resettlement assistance shall be provided to the affected persons. Requirement to provide assistance to the affected people improve or at least restore their livelihoods and standards of living compared to pre-displacements levels. Transitional assistance should also be provided during the time needed to restore the livelihoods.
Vulnerable people	In DRC, legislation on expropriation does not make special provision for vulnerable groups or disadvantaged individuals or families.	Rwanda’s legislation on expropriation does not make special provision for vulnerable groups or disadvantaged individuals or families.	Vulnerable people must be identified and those who warrant specific assistance must be identified and supported throughout the resettlement compensation process.
Gender	DRC’s legislation does not include any gender-related provisions in its expropriation procedures.	Rwandan legislation does not include any gender-related provision in its expropriation procedures.	The Lenders’ policies require the promoter to ensure that compensation is paid without discrimination on the basis of gender, ethnic group, religion, or disability. When compensation takes the form of new housing, it is recommended that the title deeds be issued in the name of the head of household and his wife, and not in the name of the former alone.



Topics	Provision in Congolese legislation	Provision in Rwandan legislation	World Bank ES5, EIB ESS6 and AfDB OS 2 requirements
Consultation with affected persons	The public enquiry procedure defined by Land Law no. 73-081 of 20/07/1973 and reiterated in Expropriation Law no. 77-001 of 22/02/1977 prescribes poster advertising in the place concerned and a census of the occupants and persons carrying out an activity on the land to be expropriated, along with a hearing of anyone who makes complaints or observations orally.	Law no. 32/2015 on expropriation states that (Art. 11 and 16): the committee responsible for monitoring expropriation projects shall review the appropriateness of the project within a period not exceeding 30 days of receipt of the request and shall hold a consultative meeting with the population who live where the land is situated to discuss the appropriateness of the expropriation project. The decision to expropriate in the public interest shall be announced on at least one radio station with a wide audience and in a newspaper with a wide readership for the attention of the parties concerned. If necessary, other means of communication may be used. The list of registered rights holders for land titles and property incorporated on the land shall be posted in a place accessible to the public in the district, sector, and the unit where the land is located, within a period not exceeding 15 days of the date of approval of expropriation in the public interest.	Resettlement activities shall be planned and implemented with appropriate disclosure of information, meaningful consultation, and the informed participation of those affected.
Grievances management	Expropriation Law no. 77-001 of 22 February 1977 provides for action in the civil court (the 'legal phase' of the procedure) in the event of a disagreement between the expropriating party and the expropriated person(s) on the amount of compensation. The court first verifies the legality of the proceedings and then automatically appoints three experts agreed on by the parties and sets the deadline for their report (maximum 60 days, or 90 days in exceptional cases). Within eight days of the experts' report being filed, the court summons the parties to a hearing, which the experts also attend. Within one month of this hearing, the court rules on the amount of compensation and ancillary costs and, if the expropriated person so requests, the deadline for dispossession.	Law no. 32/2015 of 11 June 2015 on expropriation stipulates that whoever contests the value attributed, shall, at their own expense, hire an appraiser or firm of appraisers approved by the Institute of Real Property Values in Rwanda to provide a counter-assessment. The counter-assessment report must be provided within 10 days of its request. If the disagreement remains after the expropriating party's examination of this report, the expropriated person may take the case to the competent court within a period of 15 days of signature of the report, indicating the areas of disagreement (Articles 33 and 34).	According to the Lenders' policies, the Project shall establish a grievance mechanism to address specific concerns about compensation, relocation or livelihood restoration measures raised by displaced persons (or others) in a timely fashion. The grievance mechanism will be proportionate to the potential risks and impacts of the project and will be accessible and inclusive. Handling of grievances will be done in a culturally appropriate manner and be discreet, objective, sensitive and responsive to the needs and concerns of the project-affected parties. The mechanism will also allow for anonymous complaints to be raised and addressed
Monitoring and evaluation	DRC's legislation on expropriation does not provide for monitoring and evaluation procedures.	Rwandan expropriation legislation does not provide for monitoring and evaluation procedures but the REMA, which is responsible for monitoring impact assessments, is supposed to control social impacts.	As per the Lenders' requirements, The Project shall establish procedures to monitor and evaluate the implementation of the Resettlement Action Plan. The extent of monitoring activities will be proportionate to the project's risks and impacts. These policies require the promoter to provide the resources, staff and procedures necessary to develop a monitoring and evaluation system for the resettlement process.