WP2: Legislative Review

REPORT

PROJECT: OSW in Colombia - Develop a community benefit and social engagement framework and guidelines, adapted to the local context (COL-0002)

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Executive summary

This report reviews the legislative and institutional context for the design and implementation of community benefit and social engagement frameworks (CBSEFs) in Colombia's emerging offshore wind (OSW) sector.

To anchor the study, we use the International Finance Corporation (IFC) reference framework on community benefits in OSW[1]. By this definition:

- Community Benefits (CB) are **non-compensatory and developmental** contributions to the host communities.
- Social Engagement (SE) is an **ongoing, inclusive, trust-based** process.

The regulatory framework shows that the Colombian legal system includes provisions that partially align with the principles of the IFC Community Benefits and Stakeholder Engagement Framework (CBSEF). However, these elements are currently dispersed and do not yet constitute an integrated or systematic approach to community benefits.

The strongest example of this is the existing legal instrument '**1% New Transfer**' (established by means of article 289 of Law 1955 of 2019) which currently requires non-conventional renewable energy projects with a nominal power greater than 10MW to pay a transfer equivalent to 1% of gross sales for their own generation in accordance with the tariff for bulk sales set by the Energy and Gas Regulatory Commission (CREG), with the proceeds then distributed among ethnic populations (60%) and local authorities (40%).

Five potential CBSEF regulatory scenarios are presented for consideration, with practical steps to be developed further in Work Package (WP) 3. They range from maintaining the current status with no intervention, to introducing additional binding regulatory requirements.

Each scenario is assessed based on its advantages, limitations, level of equity, and institutional feasibility. The selection or combination of these approaches will depend on the public policy decisions adopted for current and future competitive processes for offshore wind energy in Colombia.

Scenario	Equity level	Feasibility level	Potential advantages	Potential disadvantages	Carry through to WP3
1. Do nothing (status quo)	Low-medium	Existing baseline	No regulatory changes needed. Developers unfamiliar or not interested in CBSEFs can proceed without adjustments. Those willing to implement them can do it freely without Government intervention.	Inconsistencies between communities and projects. Some communities may feel excluded, risking delays, conflict, or cancellations. Information / education gaps lead to unrealised potential.	✗ (unambitious)
2. Implement voluntary measures (e.g. guidance and information rollout, training, pilot projects)	Medium - high	High	Provides tools and references for developers. Builds community awareness and capacity. It requires a coordinating governmental role to ensure territorial engagement and effective risk management.	Uptake may be inconsistent across projects. Some developers may choose not to participate, which may affect community expectations.	✓ (low risk, high potential impact)
3. Include CBSEF in binding OSW competitive process Non-Price	Medium - high	Medium	Competition rewards innovative benefit proposals. Greater likelihood of tangible outcomes for communities.	Perhaps not strategic for first competitive process. Some developers may view NPC as adding risk.	✓ (consider for future competitive processes)

Scenario	Equity level	Feasibility level	Potential advantages	Potential disadvantages	Carry through to WP3
Criteria (NPC) for site award[a]					
4. Review existing '1% New Transfer' mechanism (binding)	High	High	Makes use of existing mechanism with targeted amendments. Protection for legally recognised ethnic minorities is structured in.	Equity outcomes are possibly limited by the fixed percentage targeted to recognised ethnic minorities. Does not capture direct interventions such as investments in skills and supply chain.	✓ (builds on current law)
5. Introduce new legally binding CBSEF rules	High	Low	Mandates predictable and equitable benefits.	It requires legal reforms with gradual implementation and high political complexity. It may discourage developer participation if perceived as costly or overly rigid. It may limit flexibility to adapt projects to local contexts and conditions.	✗ (heavy legal lift, duplicative with 1% New Transfer)

The document presents different CBSEF models for offshore wind (OSW) and their potential application in Colombia. The study focuses on the Colombian Caribbean coast, specifically the departments of Atlántico, Bolívar, and Magdalena, where the country's first offshore wind energy competitive process is currently under way.

[a] A variation discussed in Section 6.3 is to examine use of the Contract for Difference (CfD) mechanism to incentivise exemplary CBSEF practice.

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1 Introduction & methodology

1.1 Overview

Colombia has set ambitious targets for its energy transition, positioning offshore wind (OSW) as a strategic pillar for both energy matrix diversification and the decarbonisation of the electricity sector. The government's OSW program is designed to attract investment and position Colombia as a regional leader in renewable energy. However, the introduction of OSW raises new challenges in terms of social acceptance. These challenges are particularly sensitive in Colombia, given its diverse social fabric, constitutional protections for ethnic and Afro-descendant communities, and historical experiences of conflict linked to resources and development.

Community benefit and social engagement frameworks (CBSEFs) in OSW are presented by the International Finance Corporation (IFC) as a toolkit to aid alignment of local groups in the area of influence with the long-term success of OSW projects. This enables both the enrichment (e.g. economic, educational, environmental, cultural etc) of local communities and the 'social license' for OSW projects to proceed.

This report presents a framework to support the design of CBSEF, tailored to the Colombian context, and identifies the relevant institutions, regulatory framework, and existing practical precedents in the country. It also incorporates comparative lessons drawn from international experience in offshore wind energy.

Together with the results from the Work Package (WP) 1 fieldwork (focused on the community baseline in the Central Caribbean Coast region), this WP2 legislative review (focused on the Colombian legal context for CBSEFs), will feed into consolidated recommendations (to follow in WP3).

2 Definitions

The following section presents suggested definitions of CBSEF, solely for the purpose of facilitating understanding and use of these terms within the context of this report. These definitions are based on the IFC[1] document "The Strategic Value of Community Benefits in Offshore Wind Development", which constitutes the main reference for this study and will hereinafter be referred to as ESMAP (2024).

2.1 Defining community benefits and social engagement according to the IFC

When discussing community benefits and social engagement, it is important to recognise that these are evolving concepts and terms that are still in the process of being defined and developed.

In a broad sense, they develop from the shared-value strategy designed to create business solutions to social problems, where companies become intentional about addressing areas of unmet social needs together with financial returns. Such concepts also relate to the substantial discussions around corporate purpose and the extent to which businesses (private and/or publicly traded) should limit the pursuit of financial returns by simply avoiding doing harm, or whether corporations should go further and take interest in producing intentional positive societal impacts together with financial return (from Corporate Social Responsibility (CSR) to Environmental Social and Governance (ESG) to Impact).

However, for the purposes of this document, regarding community benefits and social engagement we will refer specifically in the sense addressed by the IFC in ESMAP (2024) [1]:

Community Benefits (CB) can be defined as non-compensatory and developmental contributions to the host communities of OSW energy projects. They are distinct from compensations and are instead collective, voluntary or policy-driven contributions intended to foster local wellbeing, services, employment, or environmental resilience. These benefits may take the form of infrastructure, education and skills programs, environmental conservation, health services, or other initiatives that align with local priorities.

Social Engagement (SE) can be defined as the ongoing, inclusive, trust-based process of ensuring that all stakeholders (particularly those marginalised) are meaningfully involved in project design, implementation, and monitoring. Engagement must be sustained throughout the project lifecycle, not a one-off exercise.

These early-stage definitions provide a foundation to distinguish CBSEFs from royalties, taxes, licensing fees, legal compensation, and other instruments, which may not fall into the CBSEF class. Key principles are that benefits must go beyond mitigation and compensation. They must be designed around participatory, developmental, and project-specific principles to ensure legitimacy, impact, and community support.

Below are detailed descriptions of each of these three pillars[1]:

i) Participatory elements

Community benefits should be co-designed with communities through meaningful and ongoing participation, neither unilaterally imposed nor a one-time consultation process.

Key elements:

- **Early and continuous engagement**: Host communities should be engaged from project design and throughout the lifecycle.
- **Representative structures**: Legitimate host community representatives should be used, including local councils, ethnic authorities, or other self-governance structures.
- **Transparent decision-making**: Host communities must have access to information and a role in benefit governance (e.g. planning boards or oversight committees).

Examples of implementation tools by developers:

- Host community liaison officers
- Host community advisory committees
- Participatory needs assessments
- Public disclosure and feedback mechanisms

ii) Developmental elements

CBSEFs should generate long-term, inclusive, and transformative outcomes, aligned with community development priorities and rights — not simply compensation for harm.

Key elements:

- **Alignment with local development goals**: Projects should make a good faith effort to support existing regional development plans or address key host community needs (e.g. education, health, infrastructure). Ideally projects should aim to align their community benefit programs with regional development plans.
- **Focus on inclusion**: Beneficiaries can include underserved or disenfranchised communities and any groups that may have vulnerabilities such as youth, women, climate vulnerable community members, but also the general civic and business population. The focus should be on a representative array of the different stakeholders in host communities.
- **Sustainability**: Benefits must have a lasting impact beyond the construction phase, with local capacity-building and empowerment.

Examples of implementation tools:

- Skills and workforce training programs
- Scholarships and education infrastructure
- Health and social services delivery
- Support for local enterprises and co-operatives

iii) Project-specific elements

CBSEFs should be tailored to the context of each project—its location, scale, local social structure, and cultural dynamics.

Key elements:

- **Geographic tailoring**: Benefits must correspond to the specific communities hosting the project, especially those in the immediate area.
- **Local context**: Programs must align with cultural traditions, governance forms, and local values.
- **Scalability with project size and impact**: Larger or longer-term projects should have proportionately larger and more sophisticated benefit mechanisms within budgetary constraints.
- **Clear linkage to project success**: Projects should ensure that community benefits are a reflection of the scale and the value created by the project, building rapport, and compromising from the host communities towards the outcomes of the projects.

Examples of implementation tools:

- Locally administered benefit funds or trusts
- Infrastructure built in or around the project zone
- Project-linked training, employment, and procurement

2.1.1 One rule of thumb

When approaching community benefits and social engagement measures or interventions, a central distinction must be made between **compensatory** and **developmental** actions. Compensatory actions are those legally mandated to compensate or avoid harm — such as environmental compensation, resettlement obligations, or financial disbursements dictated by licensing frameworks or loan covenants. Developmental actions, by contrast, are forward looking and reflect commitment to local development.

Community benefits are developmental and collective in nature. They may be voluntary or policy-induced, but their defining features are that they are designed with the community, target long-term wellbeing, and are not simply restitution for damage.

This distinction is especially important for Colombia, where many social interventions are compensatory in nature.

Insight for Colombia:
A CBSEF, when designed and implemented in line with international best practice, creates a positive 'win–win' outcome for both developers and communities.

For the developer, it helps de-risk the social license of the project (avoiding potential delays in the permitting, construction and operation phases), and opens the possibility of access to impact capital and concessional finance, improving the investment case.

For the communities, it enables identification of the benefits and direction of resources that best support local prosperity.

3 Institutional landscape in Colombia's energy sector

This chapter examines the alignment of Colombia's institutional landscape with CBSEFs. This includes key entities involved in the OSW and energy sector, their roles, and potential relevance to community benefit frameworks. Additionally, we examine the key legislative bodies considered relevant towards CBSEFs for Colombia's emerging OSW sector, and provide an analysis of Colombian laws, institutional arrangements, and sectoral experiences.

The aim is to assess the degree to which Colombian law and policy incorporate CBSEFs, to identify gaps and to outline how a framework should be adapted to Colombian realities. This context also serves as the normative baseline for evaluating international practice and tailoring future recommendations for OSW in Colombia.

3.1 Regulatory frameworks for community benefit and social engagement

Colombia's legal and regulatory frameworks for the energy sector incorporate various tools mostly aimed at environmental protection, social consultation, and public investment. However, they do not yet constitute a formal framework for community benefits as defined in ESMAP (2024) [1] i.e. mechanisms that are developmental (not compensatory), participatory, and project linked.

3.1.1 Key legal instruments and mechanisms

Table 1 presents the Colombian instruments that most closely resemble CBSEFs as envisioned by the IFC.

Table 1 – Colombian instruments closest aligned to IFC CBSEF definitions

Instrument	Legal basis	Institutional actors	Purpose and scope	IFC alignment	Limitations
SGR[b]	Legislative Act 5 of 2011 and Law 2056 of 2020	DNP[c], Ministry of Finance, SGR Collegiate Bodies, OCADs[d], Territorial Entities.	Institutional framework to manage royalty revenues for development Redistribution of revenues from extractive activities to territories.	Partial	Applies only to mining, oil & gas. Not participatory.
1% New Transfer	Article 289 of Law 1955 of 2019 and Decree 1302 of 2022 (pioneer norm referring to CB term)	Planning and Monitoring Committee composed of representatives from the electricity producers and the Indigenous beneficiary communities.	Transfers 1% of gross revenue in >10MW projects; 60% to Indigenous beneficiary communities and 40% to local authorities.	Partial	Participatory elements but unclear rules, limited to ethnic communities recognised by the DANCP[e] (other disfranchised communities excluded). Project linkage present, not fully co-designed.

The **General System of Royalties** (SGR), rooted in Legislative Act 5 of 2011 and restructured by Law 2056 of 2020, is the primary mechanism through which revenues from mining, oil, and gas activities are redistributed to territories. Its central purpose is to ensure that extractive wealth supports local and regional development, representing an acknowledgment that communities should benefit from resource exploitation.

[b] SGR: Sistema General de Regalías (*General System of Royalties*)

[c] DNP: Departamento Nacional de Planeación (*National Planning Department*)

[d] OCAD: Órgano Colegiado de Administración y Decisión (*Collegiate Body for Administration and Decision*)

[e] DANCP: Dirección de la Autoridad Nacional de Consulta Previa (*National Authority for Prior Consultation*)

However, the system has important limitations. It applies only to hydrocarbons and mining, excluding electricity and renewable energy projects, and it does not grant local communities meaningful influence over the allocation of funds. Decision-making authority lies predominantly with centralised state institutions such as the National Planning Department, the Ministry of Finance, and the OCADs. For this reason, the SGR demonstrates only partial alignment with the IFC definition: it has a developmental orientation and redistributive intent, but it is neither participatory nor project-specific and therefore, falls short of embodying the principles of a true CBSEF.

The SGR has been completely introduced by constitutional reform and congress law, and there is substantial cross-sectorial collaboration between DNP, MME, Ministry of Finance, Congressmen and Governors, and Mayors. Even though the government holds the ownership rights of the subsoil and that the SGR is explicitly related to markets under the MME domain, the framework is run by a commission integrated by different public bodies and representatives.

The **1% New Transfer** was introduced by Article 289 of Law 1955 of 2019 and later regulated by Decree 1302 of 2022. This latter norm is notable for being Colombia's first legal provision to explicitly reference "community benefits", requiring energy producers to transfer 1% of their gross revenue, of which 60% is to be allocated to local ethnic communities and 40% to local authorities.

Importantly, it introduces project linkage, as the transfer is tied to the revenues of energy projects themselves. It also includes participatory elements through the establishment of a Planning and Monitoring Committee, where both energy producers and Indigenous representatives take part.

However, the current configuration of the mechanism provides a foundation upon which the scope of benefits can be progressively expanded beyond communities subject to prior consultation, in order to include other groups in Colombia's Central Caribbean region that may be directly affected by the development of offshore wind energy (OSW) projects. There is also an opportunity to strengthen governance arrangements and deepen participation mechanisms, moving towards modalities that enable greater co-design and direct community participation.

The Environmental and Sustainability Ministry's[f] **Manual de compensaciones del componente biotico** [g] was highlighted as a relevant example for this project. On review of the associated law, we find that it is grounded in compensating residual impacts to biodiversity through equivalence-based offsets. It emphasises no net loss (NNL), ecological equivalence, and restoration of affected ecosystems. It does not adopt the language or framework of net positive impact (NPI), which would imply going beyond compensation to deliver measurable biodiversity improvements.

Insight for Colombia: While Colombia has instruments that approximate the IFC definitions of CBSEF—including the 1% transfer mechanism applicable to non-conventional renewable energy (FNCER) projects—neither the General Royalties System (SGR) nor the 1% transfer is currently designed specifically for offshore wind energy. In practice, these instruments primarily reflect approaches associated with extractive sectors and with ethnic communities formally recognised by the DANCP, respectively.
In this context, an offshore wind–specific CBSEF could be developed by building on these existing instruments; however, it would require regulatory adjustments, greater clarity in implementation rules, and a broader and more robust participatory governance framework in order to fully align with international CBSEF standards.

[f] MADS: Ministerio de Ambiente y Desarrollo Sostenible

[g] (*Biotic compensation manual*)

Other legal instruments and mechanisms of interest are presented in Table 2, grouped separately as they are considered within a broader spectrum of social or community related instruments:

Table 2 - Broader social or community-related instruments

Instrument	Legal basis	Institutional actors	Purpose and scope	IFC alignment	Limitations
Consulta Previa	ILO[h] 169, Law 21/1991	Ministry of Interior (DANCP)	Exercise the ethnic groups right to participate in authority decision-making processes that may directly affect them.	Misaligned	An instrument of a primarily informative and procedural nature, linked to the State's decision-making process rather than to the direct execution of projects. Its legal framework does not specifically regulate community benefit mechanisms associated with offshore wind energy projects.
Environmental Licensing	Law 99/1993, Decree 2041/2014, 1076/2015	ANLA, CARs[i], MinAmb	Manage environmental impacts.	Misaligned	Mostly harm-oriented. Limited developmental provision.
FENOGE[j]	Law 1715/2014	MME, FENOGE Fund	Fund clean energy and efficiency projects.	Misaligned	Not structured for benefit-sharing, community co-design nor participatory governance.
Obras por Impuestos[k]	Law 1819/2016	DIAN[l], ART, DNP Territorial Entities, sectorial Ministries	Redirect part of Income tax to development in conflict zones.	Misaligned	Doesn't include community co-design nor participatory governance.
FAER[m], FAZNI[n], PRONE[o]	Various sectoral laws	MME	Expand energy access in rural zones.	Misaligned	State-led; not community-designed; not project-specific.

Prior Consultation, grounded in ILO Convention 169 and Law 21 of 1991, guarantees the right of ethnic groups to be consulted on State decisions that may directly affect them. Although this mechanism is essential from the perspective of collective rights, its alignment with the IFC definition of CBSEF is only partial, as it seeks to inform communities about decisions rather than to generate development outcomes or project-linked benefits.

A similar pattern can be observed in the Environmental Licensing process, established under Law 99 of 1993 and further developed through subsequent regulations. Depending on the nature, scope, and scale of projects, the competent environmental authority responsible for granting the licence may be the National Environmental Licensing Authority (ANLA) or the corresponding Regional Autonomous Corporation (CAR), under the coordination of the Ministry of Environment and Sustainable Development. This instrument constitutes a central component of the country's environmental governance framework and is aimed at assessing, preventing,

[h] ILO: International Labour Organisation

[i] CARs: Corporaciones Autónomas Regionales (Regional Autonomous Corporations)

[j] FENOGE: Fondo de Energías No Convencionales y Gestión Eficiente de la Energía (*Fund for Non-Conventional Energy and Efficient Energy Management*). FENOGE is regulated by the MME.

[k] (*Tax-funded public works*)

[l] DIAN: Dirección de Impuestos y Aduanas Nacionales (*National Tax and Customs Authority*)

[m] FAER: Fondo de Apoyo Financiero para la Energización de las Zonas Rurales (*Financial Support Fund for Electrification of Rural Areas*)

[n] FAZNI: Fondo de Apoyo para la Energización de Zonas No Interconectadas (*Support Fund for the Electrification of Non-Interconnected Areas*)

[o] PRONE: Programa de Normalización de Redes Eléctricas (*Electrical Network Standardisation Programme*)

mitigating, or compensating for the environmental impacts of infrastructure projects, with a strong emphasis on ecosystem protection.

In relation to CBSEF, Environmental Licensing primarily contributes to the management of environmental impacts, while the structuring of community benefits, voluntary benefit-sharing, and participatory co-design arrangements could be developed in a complementary manner through other instruments or institutional arrangements. At present, the environmental licensing regulatory framework does not establish a requirement to incorporate positive impact outcomes or CBSEF schemes within environmental impact assessments.

The **FENOGE** Fund, created under Law 1715 of 2014, provides resources to support alternative energy and efficiency projects. While development-oriented in principle, FENOGE operates in a top-down manner, allocating funds through state institutions without structured community participation.

The **Obras por Impuestos** mechanism, introduced under Law 1819 of 2016, redirects a portion of corporate income tax towards development projects in conflict-affected areas. It is an innovative financing instrument that incorporates a territorial approach, as projects are derived from needs identified by ZOMAC communities and consolidated by the Agency for Territorial Renewal (ART). However, community participation is primarily concentrated in the identification and prioritisation stages, while opportunities for co-design and direct involvement in project implementation remain more limited.

Rural electrification programs such as **FAER, FAZNI, and PRONE** expand energy access in underserved areas. These schemes respond to important equity goals but remain centrally planned, without project-specific or community-led governance.

Table 2 highlights that a range of social and development-oriented instruments, but none of them are designed as true CBSEFs. They are either compensatory (aimed at mitigating harm), state-driven (delivering public goods from above), or purely financial redistribution schemes.

3.1.2 Gaps in the local normative context relative to the IFC framework for community benefits

The differences between Colombia's legal context and the definitions of ESMAP (2024) are listed in Table 3.

Table 3 - Gap analysis of current Colombian regulation vs ESMAP (2024) definitions[1]

IFC Community benefit element	Status in Colombia
Developmental (not compensatory) intent	Most instruments are compensatory or impact-based.
Community co-design and participation	Very limited or absent in current instruments.
Project-specific value-sharing mechanisms	Present in Decree 1302 of 2022, but without mechanisms for direct participation and applicable only to ethnic communities.
Legal recognition of community benefit plans	Not part of licensing, first competitive process, or tax structure.
Use-of-proceeds frameworks for communities	Present in SGR but without direct participation.

When assessed against the IFC benchmarks, Colombian instruments fall short. Most are compensatory in nature: they exist to mitigate harm, redistribute fiscal revenues, or fulfil procedural requirements, but they do not actively create developmental outcomes tailored to community needs. Participation is another critical gap. Genuine community co-design is largely absent, with existing frameworks either excluding communities entirely or offering only limited consultation, as in the case of the '1% New Transfer'. Project-specific mechanisms are extremely rare. Decree 1302 of 2022 does represent a first attempt at linking benefit-sharing directly to projects, but its coverage is narrow, applying only to recognised ethnic groups and lacking robust participatory governance.

Legal recognition of community benefit plans is also missing. Unlike in IFC-aligned systems, Colombian energy licensing, auctions, and taxation frameworks do not formally require developers to design or negotiate CBSEFs.

Where there are rules for the use of proceeds, as in the General System of Royalties, they do not include community decision-making power, which diminishes both legitimacy and effectiveness.

Current instruments are fragmented, harm-focused, and state-led. Aligning with IFC standards would require institutionalizing benefit-sharing, expanding participation to include diverse stakeholders, and distinguishing compensatory tools from those that deliver lasting, co-designed value.

At the same time, however, it is important to recognize that simply adding new layers of regulation without recalibrating the existing framework carries significant risks.

Colombia's energy sector operates within a solid and well-developed regulatory framework, which has provided certainty and predictability for investors. In this context, the design of CBSEF requires particular care to ensure proper alignment with existing instruments. Failure to achieve such alignment could result in additional requirements being perceived as overlapping or overly complex, potentially affecting regulatory clarity and investment decision-making in clean energy and infrastructure projects, such as offshore wind energy.

3.1.3 Draft for new legislation regarding environmental license for wind power (LAEólica)

Through LAEólica[p], the country is promoting an environmental model with the promise to make the licensing process more rational and strengthen biodiversity protection. The draft decree is announced to streamline the environmental licensing process for power generation projects with capacities between 10 and 100 MW. It also includes a social criterion required to access this "fast-track" licensing process: the Social Management Strategy, aiming at the promotion of the economic, social, and environmental development of the regions where they are implemented, based on early, continuous, and transparent dialogue with the communities located in the project's area of influence. Such features align with some elements of CBSEF as discussed in this report.

The initiative is being developed by the ANLA in coordination with the Ministry of Environment and Sustainable Development and the Humboldt Institute.[q]

3.1.4 Colombia's first competitive process for OSW

Colombia's first offshore wind energy competitive process was carried out in accordance with Resolution No. 40284 of 2022 and its subsequent amendments. As of 2026, the process has completed the evaluation, award, and formalisation stages and is currently in the final phase of issuance and notification of Temporary Occupation Permits by the General Maritime Directorate (DIMAR), in line with the updated schedule.

There is a potential opportunity for CBSEFs in the regulation of the OSW Auction led by the MME and DIMAR[r], given that such process creates a natural policy window where requirements and evaluation criteria could evolve to better reflect international best practices on community benefit-sharing.

Colombia's first offshore wind energy competitive process takes place at an early stage of sector development, primarily focused on assessing the technical feasibility of projects. Within this framework, the process provides for the granting of temporary occupation permits over designated maritime areas, enabling the conduct of exploratory and preliminary studies, without yet authorising the construction of electricity generation assets. Consistent with this scope, the most recent version of the Terms of Reference (ToR), contained in Addendum No. 10, prioritises demonstrated experience as the central evaluation and award criterion, without including price as a selection factor. This approach is aligned with the exploratory nature of the permits and their disconnection from revenue generation or electricity production.

At the same time, the Terms of Reference incorporate relevant social elements as post-award obligations, notably including a Technical Capacity Transfer Programme and commitments related to local hiring. These instruments represent initial steps towards community benefit arrangements aimed at strengthening

[p] LAEólica: Licencia Ambiental Eólica con Diseño Optimizado (*Environmental licence with optimised design for wind projects*)

[q] LAEólica was published for commentary after the initial drafting of this report. It is not enacted as of the date of this report.

[r] DIMAR: Dirección General Marítima (*Maritime Authority*)

institutional and territorial capacities, although they do not operate as differentiating factors during the competitive stage.

In this context, the experience of the first competitive process offers valuable lessons that can inform the design of future rounds, particularly as the sector progresses towards more advanced stages of maturity and project execution. This opens the possibility of gradually exploring the inclusion of non-economic criteria—such as structured community benefits or broader participation schemes—aligned with CBSEF principles and international best practice.

Insight for Colombia: There is an opportunity to develop on provisions in competitive processes by introducing additional NPC tied to community benefits. This could allow Colombia's OSW authorities to factor the strongest community value propositions into award via NPC.

3.2 Relevant authorities and institutions within the MME

Colombia has an extensive institutional and regulatory framework governing the energy sector, primarily centralised at the policymaking level within the MME and followed by different public bodies focused on energy entrusted with specific mandates and responsibilities.

This section outlines the current institutional landscape, including an assessment of institutional gaps relative to CBSEFs and suggestions for how to bridge them.

Table 4 outlines the primary relevant authorities and institutions within the Colombian energy sector, their core roles, and their potential relevance to OSW community benefit initiatives:

Table 4 - Primary authorities and institutions of Colombia's energy sector. Each is affiliated to the MME.

Entity	Core role	Possible relevance to community benefit in OSW
Ministry of Mines and Energy (MME)		
MME	National energy policy authority	May mandate CB requirements and integrate them into competitive processes or national energy plans.
UPME (Unidad de Planeación Minero Energética)	Energy and mining planning	Could align interconnection access and grid expansion with electricity auctions and community benefit funds in OSW.
SSPD (Superintendencia de Servicios Públicos Domiciliarios)	Utility oversight	May play a role in suggesting community benefit funds in OSW related to access or reliability standards, and later monitoring / implementing compliance and enforceability.
IPSE (Instituto de Planificación y Promoción de Soluciones Energéticas)	Energy access for off-grid areas (ZNI[s])	May implement community benefit funds in off-grid remote and underserved areas, e.g. OSW locations; potential partner for deploying/implementing local benefit mechanisms.
FENOGE (Fondo Nacional de Energías)	Fund for non-conventional energy and energy efficiency	A potential vehicle for benefit-sharing but not participatory by design.

[s] ZNI: Zonas No Interconectadas (*Non-Interconnected Zones*)

Entity	Core role	Possible relevance to community benefit in OSW
XM Expertos en Mercados S.A. E.S.P.	Wholesale energy market administrator	May align operative and technical aspects with electricity auctions and community benefit funds in OSW.
ANH (Agencia Nacional de Hidrocarburos)	Hydrocarbons exploring and exploitation agency and regulator	In charge of conducting the first competitive process.

3.2.1 Institutional jurisdiction and implications for community benefit frameworks in OSW

The MME is mandated to formulate, adopt, direct, and coordinate national policy across several energy domains. For the extractive sectors—including hydrocarbons and minerals—this mandate covers exploration, exploitation, transport, refining, processing, transformation, distribution, and benefit. In the electricity sector, it extends to generation, transmission, distribution, and trading.[t]

However, when considering community benefit frameworks, it is essential to distinguish between the legal regimes that apply to extractive industries (mining and oil & gas) and those that apply to the electricity sector (in which , by extension, OSW development is included).

3.2.2 . Extractives vs. electricity: constitutional ownership vs. market regulation

In the extractive industries, the Colombian State retains constitutional ownership over the subsoil and all non-renewable natural resources, including hydrocarbons and minerals[u]. Private investors interested in participating in this market must abide by the government's permission and conditions. This ownership provides the Colombian State with a more robust legal and political foundation for defining, promoting and even enforcing benefit-sharing mechanisms, often through redistributive frameworks such as the royalties system, developed through constitutional reform via the Legislative Act 5 of 2011, evidencing the relevance and high profile of the matter and as a reflection of the subsoil ownership rights of the government.

By contrast, electricity is classified as a public utility governed by a free-entry market legal regime under Law 142 of 1994. The State does not own the resources (e.g. atmospheric wind or the electricity generated), and investors do not require permission or contract from the government to enter the electricity market. Instead, it assumes the role of regulator, tasked with ensuring universal coverage, competition, service quality, cost efficiency, and consumer protection.

For the case of OSW in Colombia, the maritime space required for infrastructure deployment is legally classified as public-use property, a category distinct from the state ownership of subsoil resources. Under the current regulatory framework, DIMAR is vested with the authority to regulate, authorize, and oversee concessions and permits in waters, intertidal zones, beaches, and other public-use assets within its jurisdiction — including the Central Caribbean area designated for OSW development. However, while DIMAR's mandate clearly encompasses the administration of maritime areas, this does not in itself confer upon the entity — nor upon the government more broadly — the power to establish CBSEFs for the OSW industry, at least not on the basis of a "resource ownership" rationale.

The differences and nuances between these regimes must be carefully considered, and any attempt to equate maritime space with subsoil resources would be inaccurate and therefore inadvisable.

[t] Numerals 2 and 3 of Article 2 of Decree 381 of 2012

[u] Article 332 of the Colombian Constitution of 1991

Insight for Colombia: The structural difference between extractive industry and electricity regulation carries significant implications for the design, legitimacy, and institutionalization of CBSEFs in OSW. In sectors where the State owns the resource, it has a clear constitutional and legal basis for requiring or promoting benefit-sharing as a condition of access.

In electricity markets — especially in OSW, where private investors carry all the risk and capital costs are high — any community benefit initiative must be carefully designed to avoid regulatory overreach, legal uncertainty, or disincentives to private investment.

3.2.3 The need for interinstitutional coordination

Given the lack of property rights of the government towards electricity and the currently free-entry electricity market in Colombia, it is unclear that the MME currently holds adequate powers of authority to lead the design and implementation of a CBSEF in OSW, at least in a manner independent from other public bodies with broader and more specific policy authority on e.g. social development and poverty reduction.

For example, the DPS[v] is specifically entrusted with social inclusion, poverty reduction, and territorial development. Its statutory mandate includes formulating and implementing public policies, programs, and projects aimed at overcoming poverty, repairing and reintegrating victims of violence, supporting vulnerable groups, and promoting inclusive development.[w]

Similarly, the DNP[x] is known as the national think tank, responsible for planning the country's development through the coordination, design, and support in the formulation of public policies and the planning of the investment budget.[y]

All of these are objectives that align directly with the intended outcomes of CBSEFs as defined by the IFC[1], especially with respect to long-term, non-compensatory benefits for host communities.

Insight for Colombia: Consulting and including public institutions outside the usual energy agencies (for example DNP, DPS and DIMAR) is potentially a valuable route when considering which body or bodies should assume the mandate for OSW CBSEF. The creation of new entities may also be explored, depending on the soft law to hard law spectrum under consideration.

3.2.4 Expanding institutional roles

Although the Ministry of Mines and Energy (MME) retains authority over energy policy, its mandate has specific limitations that may constrain its ability to independently design and enforce CBSEF with an explicit development focus, even when such schemes are confined to the offshore wind energy sector. These considerations are primarily related to the need for institutional legitimacy and specialised administrative

[v] DPS: Departamento Administrativo para la Prosperidad Social (*Social prosperity department*). DPS is technically a Presidency-affiliated administrative department, not under a traditional ministry, but it leads the Sector Administrativo de Inclusión Social y Reconciliación (*Administrative Sector for Social Inclusion and Reconciliation*).

[w] Noting that the DPS is not usually a direct stakeholder for private-sector developers.

[x] DNP does not fall under any traditional ministry — it is a Presidency-affiliated administrative department. Specifically, it is the head of the Sector Administrativo de Planeación, reporting directly to the President of Colombia.

[y] Note that, for project developers, co-ordination is often at the local level (Mayor's offices, Governor's offices) rather than at the national level.

capacity, as CBSEF seek to promote territorial development processes in host communities and to contribute to the management of challenges associated with the social licence to operate.

The alignment and coordination of multiple entities—such as DPS, the National Planning Department (DNP), and local governments—are essential to ensure that CBSEF for offshore wind (OSW) are not only legally sound but also socially effective and appropriately targeted. In this regard, Colombia already has a social targeting system (SISBÉN), administered by the DNP and implemented by municipal authorities, which may serve as a supporting—though not exclusive—tool for identifying potential beneficiaries and monitoring outcomes. It may therefore be more efficient for the Ministry of Mines and Energy (MME) and developers to leverage these existing institutional mechanisms, rather than allocating resources to establish parallel structures for identification and engagement.

Colombia's first competitive process for OSW

A useful precedent for cross-sectoral collaboration in respect of OSW is the joint launch of Colombia's first competitive process, coordinated by the MME and DIMAR. This experience demonstrates that interinstitutional mechanisms are feasible and necessary in a sector as complex and novel as OSW.

A similar model could be used for design and incorporation of legally unfamiliar categories in Colombia such as CBSEF initiatives.

3.3 Relevant authorities and institutions outside the MME

Table 5 outlines the public bodies that may be considered for properly developing a CBSEF in OSW. These are outside of the energy sector but within the broader institutional landscape in Colombia.

Table 5 - Authorities and institutions outside the MME which may be relevant to OSW community benefit frameworks

Entity	Core role	Possible relevance to CBSEFs in OSW
Independent branch (Legislative)		
Congress	National legislature	Can create (within constitutional boundaries) the legal framework for benefit-sharing instruments, which can play a significative role in defining an institutional agenda regarding CBSEFs for OSW across all the executive branch, independently to political interests and turnovers.
Ministry of Environment and Sustainable Development		
MinAmb (Ministerio de Ambiente y Desarrollo Sostenible)	Environmental policy and licensing	Owner of Environmental Impact Assessment (EIA) policy. May be interested in CBSEF elements.
ANLA (Autoridad Nacional de Licencias Ambientales)	Environmental licensing	Analysis of EIA in Colombia is intended towards and limited to compensatory measures. The impact management measures are not designed to benefit specific nor individualised persons or groups, but to ensure the protection of the public interest and collective rights, especially the constitutional right to a healthy environment (Article 79 of the Constitution). Thus, environmental regulation context in Colombia is not deemed a suitable context to deliver community benefit plans in OSW .
CARs (Corporaciones Autónomas Regionales)	Regional environmental management and licensing	Could potentially provide territorial data to support CBSEFs.
INVEMAR (Instituto de Investigaciones Marinas y Costeras)	Marine and coastal research	May support CBSEF design with ecological baselines and monitoring.
Ministry of National Defense		
DIMAR	Maritime concession, activity and traffic controller	Oversees OSW sitting and may enforce CBSEF-related maritime spatial planning.

Entity	Core role	Possible relevance to CBSEFs in OSW
(Dirección General Marítima)		
Ministry of Science, Technology and Innovation		
MinCiencias (Ministerio de Ciencia, Tecnología e Innovación)	Science and innovation policy	May fund CBSEF-related research and innovation.
Administrative departments (Presidency-affiliated)		
DPS (Departamento Administrativo para la Prosperidad Social)	Social development and inclusion of disenfranchised and vulnerable population	By means of Colombian legal architecture, this should be one of the leading entities for any CBSEFs initiative. Works should be articulated with the respective industry ministry, for example, the MME in the case of OSW. Together with DNP (to follow) it could co-lead on host community identification and study, and suggest, monitor and possibly enforce community benefit KPIs.
DNP (Departamento Nacional de Planeación)	National Development Planning	Oversees territorial equity strategies, Obras por Impuestos, and public investment planning. It also designs and runs the SISBEN which can facilitate eligibility and identification of target communities and integrate Key Performance Indicators (KPIs) for measuring performance.
Ministry of Finance and Public Credit		
Ministerio de Hacienda y Crédito Público	Fiscal and budgetary policy	May allocate public funds or incentives for CBSEF implementation.
DIAN (Dirección de Impuestos y Aduanas Nacionales)	National tax and customs authority	Manages fiscal mechanisms and may support future tax-based benefit-sharing schemes.
Ministry of Labour		
Ministerio de Trabajo	Labor policy and employment regulation	Could support CBSEFs through local employment and skills development mandates.
Ministry of the Interior		
Ministerio del Interior	Governance and territorial coordination	May facilitate CBSEF alignment with ethnic and local community engagement
DANCP (Dirección de la Autoridad Nacional de Consulta Previa)	Prior Consultation (PC)	Similarly to the environmental normative context, Prior Consultation is highly limited in scope for OSW CBSEF application. It mainly tracks participation by certain groups, which might be different from the groups affected by OSW development. For example, local fishers would be excluded unless they are part of a group entitled to PC. In addition, PC focuses on participation, not direct benefit. Perhaps as participation relates potentially to engagement some connections may be tied with PC but again applying only to certain groups. For these reasons we consider PC inadequate to deploy CBSEFs for OSW in its current form.
Local governments (Departments & Municipalities)	Territorial governance and service delivery	Administer or support benefit projects at the local level; could co-manage funds or monitor agreements. Local governments are also entrusted with deploying focus groups and polls through SISBEN which can improve the task of identifying potential beneficiaries of CBSEFs at the desired OSW areas and also tracking performance, outcomes and results.
Ethnic/cultural local authorities	Autonomous governance for ethnic communities[z]	Essential actors for co-designing culturally appropriate community benefits, identifying potential beneficiaries of CBSEFs at the desired OSW areas and also tracking performance, outcomes and results.
Ministry of Agriculture and Rural Development		
Ministerio de Agricultura y Desarrollo Rural	Formulates and coordinates policies for agriculture, fisheries, forestry, and rural development	May support CBSEFs through rural inclusion, food security, and co-management of marine resources (e.g. fishing zones).

[z] Also falls under the Ministry of Culture.

Entity	Core role	Possible relevance to CBSEFs in OSW
AUNAP (Autoridad Nacional de Acuicultura y Pesca)	National authority for fisheries and aquaculture	Regulates fishing zones, licenses, and sustainability standards; key for CBSEF alignment with marine livelihoods.
Commercial Fishing Associations[aa]	Represent industrial and export-oriented fishing interests	May negotiate CBSEF terms related to access, compensation, or co-use of maritime space.
Artisanal Fishing Associations	Represent small-scale, community-based fisher	Key stakeholder for equitable CBSEF design in coastal and ethnic territories
Ministry of Commerce, Industry and Tourism		
MinCIT (Ministerio de Comercio, Industria y Turismo)	Promotes trade, industrial development, and tourism	May align CBSEFs with coastal tourism strategies, support local economic diversification, and promote OSW-linked ecotourism.
ProColombia	Promotes international tourism, foreign investment, and non-traditional exports	May support CBSEF visibility, attract sustainable investment, and promote OSW-linked territorial branding.
Artesanías de Colombia (Artisans of Colombia)	Strengthens and commercializes Colombia's artisanal sector and cultural heritage	May integrate CBSEFs with local crafts, cultural tourism, and income generation for coastal communities.

[aa] Acknowledging that this is not a government entity.

4 Analysis of community equity ownership in OSW projects in Colombia

This chapter aims to present only the fundamental features considered necessary for community equity ownership in OSW having a real option to succeed. This chapter does not address issues such as:

- How equity stake would be acquired (either purchased, gifted, or otherwise subsidised)
- The amount of capital share
- Governance of community equity mechanisms

By the same token, this chapter does not refer to other financial alternatives such as bonds, royalties or others. The analysis is presented as applicable only to current the Colombian context (not other jurisdictions) and relates exclusively to equity share ownership.

4.1 Community equity participation in OSW

Community equity ownership refers to the direct participation of local communities or representative entities in the capital structure of OSW energy projects through equity shares. The model typically aims to promote local empowerment, economic returns, and long-term engagement.

In more established European markets, community equity participation is increasingly regarded as one of the strongest levers for local positive impact, as communities a) stand to gain in proportion to project financial success and b) may feel additional ownership and agency. Some indicative international examples of community equity participation in OSW are given in Appendix A2.

4.2 Analysis in the Colombian context

Several features to consider in relation to community equity participation in OSW are:

- **Equity:** Certain demographics may lack the money to consider investing in community equity schemes (if stakes are to be purchased). This risks excluding people who might otherwise like to participate.

- **Risk exposure:** Communities may become exposed to commercial and financial risks they may not be equipped to manage (e.g., cost overruns, market fluctuations).

- **Coordination of co-operatives:** . Co-operatives may serve as an investment vehicle that enables communities in Colombia to own and participate in renewable energy projects. There is already a precedent of community-led renewable energy initiatives in the country, some of them led and supported by FENOGE[bb]. Many energy cooperatives[cc] are focused on decentralization of generation and grid (particularly in the Caribbean region)[3], in areas with weak or non-existent electricity infrastructure.

- To implement such projects at a larger scale—particularly for emerging technologies like OSW—co-operatives could benefit from targeted capacity building and technical training.

- **Governance and legal complexity:** Colombia's prevailing social and educational context does not enable or facilitate collective community ownership of OSW assets. Business law is fundamentally designed to serve businesspeople, structured around their capacity and expectation to assume and manage risk.

[bb] FENOGE is not designed to serve as an intermediary for equity structures.

[cc] Known as 'comunidades energéticas' in Colombia.

With these considerations in mind, there is currently limited enabling context for collective equity ownership by rural or ethnic communities in OSW. This limitation does not stem from legal restrictions, but rather from the absence of the necessary social, educational, and institutional conditions. There are no specific legal barriers preventing community members in Colombia from purchasing equity in a company, provided this complies with standard antitrust, corporate, and governance requirements, and that existing shareholders agree to sell.

Insight for Colombia: Factors aiding effective community equity participation in OSW include (i) local financial means and literacy, (ii) community investment vehicles with professional stewardship and safeguards, (iii) rule-of-law and enforcement reliability, and (iv) stable revenue support reducing volatility risk for minority holders.

The experience of existing co-ops in the Caribbean region (working on decentralised energy projects) would be useful to explore further. Due to the scale of OSW, an eventual solution would probably need to be an over-arching platform to co-ordinate co-op participation (as with SeaCoop in Belgium, for example).

5 Legal and economic barriers to effective community benefit and social engagement mechanisms in Colombian OSW

The following possible barriers were identified, noting that barriers may only apply to certain CBSEF proposals and structures, particularly those requiring regulatory changes or introductions. An expansion of these is given in Appendix B.

The corresponding opportunities are developed further in Chapter 6.

5.1 Legal Barriers

Lack of legal foundation: The Colombian electricity sector has a specific regulatory framework currently evolving, which incorporates provisions aimed at community benefits within the context of the energy transition. Unlike the extractive sector—whose mechanisms have consolidated through a longer historical and institutional trajectory—offshore wind operates within a competitive market regime and remains at an early stage of implementation, where community benefit schemes continue to undergo processes of strengthening and refinement.

- ***Opportunity**: potential reform of the "1% New Transfer" mechanism (see Scenario 4).*

Institutional coordination under development: Within the scope of existing public sector mandates, there is currently no specific body with a cross-cutting mandate to coordinate CBSEF across the energy, maritime, and social development sectors. This situation highlights the need to strengthen inter-institutional coordination mechanisms and to clarify roles and responsibilities.

- ***Opportunity**:* Assess the assignment of CBSEF leadership to an existing entity, or to a coordinated inter-institutional arrangement, leveraging already established institutional capacities.

Governance fragmentation: No single institution holds a comprehensive mandate to coordinate CBSEFs across energy, marine, and social development domains. This results in overlapping responsibilities and weak accountability.

- ***Opportunity**: consider assigning CBSEF leadership to the mandate of an existing agency, or combination of agencies.*

'Rule of law' deficits: Public trust and effective enforcement of the legal framework are central to institutional legitimacy. Consistent implementation is essential to ensure that CBSEF are effective and broadly accepted.

- ***Opportunity**: continued strengthening of the rule of law offers wide-ranging societal benefits, reinforcing institutional legitimacy across sectors—not only in the context of offshore wind (OSW).*

5.2 Economic and Financial Barriers

Limited public capacity: Agencies such as DPS, DNP, and local governments may face resource constraints that limit their ability to own CBSEF scope for OSW.

- ***Opportunity**: developers may be able to pick up the administration of CBSEF models, relieving already stretched government agencies. This also potentially means a more direct link between developers and communities.*

Absence of market incentives: The first competitive process does not include NPC that would encourage developers to incorporate community benefit commitments. Technical Capacity Transfer Programs are required but not competitively evaluated.

- ***Opportunity**: NPC could be added to the first or future competitive processes, if strategic to do so. At the time or writing, there has been a single bidder announced, hence perhaps this makes more sense as a future measure when competitive dynamics are improved.*

Regulatory overload: Colombia's energy sector is already subject to complex regulation. Introducing new obligations without streamlining existing ones may increase investor uncertainty.

- ***Opportunity**: aim to work with existing mechanisms rather than introducing new layers. Prioritise developer / community led mechanisms rather than transferring burden to civil servants.*

Equity ownership limitations: Community equity models are considered challenging under current conditions due to financial risk exposure, governance complexity, and limited local capacity.

- ***Opportunity**: study experience of energy co-operatives in the Colombian Caribbean region and identify existing capacity (e.g. technical, financial) and programs (e.g. under FENOGE). Explore pilot projects in onshore renewables. An eventual prospect might be a 'super-co-op' which could unite many distributed groups for the purposes of equity participation in OSW.*

6 Practical steps for implementation of CBSEF scenarios

This section sets out suggested key legislative and regulatory configurations for the enactment of different CBSEF scenarios for OSW in Colombia. These scenarios are indicative, and may be mixed or modified to best achieve the intended outcome. This will be developed in WP3.

6.1 Scenario 1: Do nothing (status quo)

Scenario summary:

Under this scenario, the government of Colombia would not introduce any new legal or regulatory requirements for CBSEFs.

Scenario detail:

This scenario assumes that the OSW industry would proceed with full discretion on whether to design and implement CBSEFs or measures aligned to them, on top of existing regulations. CBSEF initiatives would remain voluntary and according to individual company policies and resources.

As a result, no changes to the current legal or regulatory environment are needed, making this the simplest pathway in terms of government intervention.

Indicative implementation actions:

Table 6 - Scenario 1 suggested implementation actions

Action	Detail	Owner	Feasibility	Timescale
Nil	Nil	Nil	Existing baseline	Immediate

Evaluation:

Potential advantages	• This scenario presents low complexity, as it requires no changes to the existing regulatory or institutional framework. • Some developers may view this pathway as the most efficient way to achieve a lower levelised cost of energy. • Developers unfamiliar with or uninterested in CBSEFs can continue without modifying their strategies, business models or internal processes. • The government is not required to intervene in design or monitoring anything further to the existing. • Host communities still receive benefits applicable under current regulations, such as the 1% New Transfer even if such does not fully match as a CBSEF according to the ESMAP (2024).
Potential disadvantages	• Communities may feel excluded from the full potential benefits of OSW development. • There is risk of inconsistency in approach from project to project. This risks reinforcing perceptions of unfairness and undermining social license to operate. International experience shows that unmanaged expectations and uneven benefit sharing can lead to project delays, reputational damage, and, in extreme cases, project cancellation. • Developers who wish to establish community benefits may find it challenging to work in complex and diverse communities without a standardised reference model, guidance or institutional support, • The 40% component of the '1% New Transfer' includes limited participation (i.e. only ethnic communities recognised by the DANCP), possibly disproportionately disadvantaging other key stakeholders such as coastal and fishing communities to share in the benefits of OSW projects.
Overall equity	Low – risks an uneven approach between projects and does not encourage / require developers to go beyond the current legal minimum.
Overall feasibility	High – requires no implementation.

6.2 Scenario 2: Implement voluntary measures

Scenario summary:

Under this scenario, the Colombian government would set an open high-level round table call (MANE[dd]) to identify and coalesce on CBSEFs aligned to the OSW industry and rollout such information among key stakeholders, with the purpose to adequately set expectations of all stakeholders but leaving specifics and adoption to the preferred choice of both developers and host communities.

Scenario detail:

This scenario leaves a relatively free-market structure but introduces voluntary guidance and information resources. Developers retain discretion over whether to design and implement a CBSEF, but they are provided with institutional support and standardised tools such as community baselines, engagement channels, and illustrative case studies to facilitate good practice. Communities also benefit from access to educational packages on OSW, community business models, and available mechanisms, which help build rapport, awareness and capacity without creating additional regulatory obligations.

Possible outcomes of this scenario entail:

- Industry-oriented voluntary guidance to developers – e.g. community baseline, preferred engagement channels, available mechanisms, suggested fund level guidance, impact investment terms of reference, social NPI principle
- Local context-awareness education package for communities and co-operatives – e.g. energy / OSW essentials (including guidance on how electricity bills work), SDGs, community benefit tools, case studies (inc. co-ops), competitive process timeline / next steps

Suggested Indicative implementation actions:

Table 7 - Scenario 2 suggested implementation actions

Action	Detail	Owner	Feasibility	Timescale
Open call for high-level round table (MANE) on CBSEF. Publication of outputs as voluntary guidance.	Invitation to local government, developers, communities, suppliers and other stakeholders to participate in consultation on new voluntary guidance. Government could arrange conferences with individual groups, then arrange a joint conference with all stakeholders represented (this is how it has worked previously).	MME - Office of Environmental and Social Affairs. (MANE[ee] is already in place and owned by the Office of Environmental and Social Affairs in the MME, hence the proposal is to make use of this existing mechanism).	High	Short term (<1 year)
Open information channels to OSW developers	Provide information on local stakeholders (e.g. community champions, cooperatives, community action committees [ff], others) to OSW developers. Present data via geospatial mapping.	Institutional lead to be defined – baseline is MME, consulting DIMAR, DPS and DNP.	High	Short term (<1 year)
Build local CBSEF capacity	Develop and deliver CBSEF training packages for community representatives and local government (including OSW fundamentals).	Institutional lead to be defined – baseline is MME, consulting DIMAR, DPS and DNP.	High	Short term (<1 year)
Run a community equity pilot project	Identify and conduct a local stepping-stone project to test and build capacity in community shared ownership. Ideally, this would be a grid-connected onshore renewables project >10 MW.	Institutional lead to be defined – baseline is MME, consulting DIMAR, DPS and DNP.	High	Medium term (1-2 years)

Evaluation:

[dd] MANE: Mesa de Alto Nivel (*High-level round table*)

[ee] *(Oficina de Asuntos Ambientales y Sociales)*

[ff] (*Juntas de Acción Comunitaria)*

Potential advantages	• Low in complexity as it requires no regulatory or legislative change. • The government's role is confined to developing guidance, hosting consultations, and rolling out information campaigns. Administrative costs for the state would likely to be relatively low compared to a binding framework. • For developers, the voluntary nature preserves flexibility: those who wish to implement CBSEFs gain access to structured references, while those unwilling face no additional compliance burden. • For communities, awareness campaigns and educational materials help strengthen dialogue and clarify expectations.
Potential disadvantages	• Uptake could still be inconsistent across projects. • Some developers may choose not to engage, leaving communities disappointed and possibly compromising social license.
Overall equity	Moderate to high – improves on the status quo, the voluntary approach has been shown to work well in other markets.
Overall feasibility	High – fairly light package for the government to manage, builds local capacity.

6.3 Scenario 3: Include CBSEF in binding competitive process Non-Price Criteria for site award

Scenario summary:

NPC could be added to the first or future competitive processes, if strategic to do so (i.e. gain developer commitments on engagement and benefit strategy).

At the time of writing, there has been a single bidder announced in the first competitive process, hence perhaps this makes more sense as a future measure when competitive dynamics are improved.

Scenario detail:

Developers would be encouraged to include CBSEF strategies as part of their bids, with commitments on community benefits and engagement contributing to the overall evaluation. This creates a structured incentive for developers to integrate CBSEFs into project design while maintaining flexibility in the implementation of these commitments. Transparent and consistent scoring methodologies would be needed.

Use of the CfD mechanism

A variation on this scenario could be to use the CfD mechanism to provide top-up or bonus payments for exceeding pre-determined CBSEF standards. A indirect proxy is the Clean Industry Bonus in the UK, which allocates budget outside the main competitive mechanism for supporting sustainable supply chain investments.[4]

Indicative implementation actions:

Table 8 - Scenario 3 suggested implementation actions

Action	Detail	Owner	Feasibility	Timescale
Modify ToR for the first competitive process OSW – issuing a new addendum	Rebuilding of the current awarding system for the first competitive process, by introducing awarding points to CBSEFs to be included in the bids. It would require prior setting of CBSEF standards or a similar mechanism to guarantee that awarding points are allocated to equivalent or comparable CBSEF offers.	Institutional lead to be defined – baseline is MME, consulting DIMAR, DPS and DNP.	Moderate	Consider for next competitive process

Evaluation:

Potential advantages	• Developers are incentivised to integrate CBSEFs into their project strategies. • Competition can reward innovative and well-structured benefit proposals.

	• Communities may be more likely to see tangible outcomes from OSW development. • By requiring all successful bidders to demonstrate community-benefit commitments, disparities between regions are reduced, and coastal communities gain fairer access to the benefits of OSW development.
Potential disadvantages	• Increase in administrative burden for government authorities. Effective monitoring and enforcement will be essential to ensure equity translates into practice. • Some developers may perceive NPC as adding uncertainty to competitive processes. • Mandatory measures that impact the private capital structure of the projects or detour from the private initiative principles may face litigation and constitutional review, or simply hinder investor interest.
Overall equity	Moderate to high - communities may be more likely to see tangible outcomes across projects rather than uneven or voluntary provision, but only if projects are built.
Overall feasibility	Moderate – probably not strategic for the first competitive process, but potentially a useful lever for future competitive processes, depending on the competitive landscape. May be combined with other CBSEF mechanisms.

6.4 Scenario 4: Review existing '1% New Transfer' mechanism (binding)

Scenario summary:

Under this scenario, the Government of Colombia would consider introducing targeted adjustments to Article 289 of Law 1955 of 2019, Article 233 of Law 2294 of 2023, Decree 1302 of 2022, Decree 421 of 2021, and Decree 1538 of 2024. These adjustments would aim to enhance inclusion of all key stakeholders in host communities, ensuring that the modifications reflect the three CBSEF principles outlined in Chapter 2 — participatory, developmental, and project-specific.

Scenario detail:

Mechanism summary

1% New Transfer currently requires 1% of gross revenue from renewables projects (>10 MW) to be assigned to environmental and social development. This transfer is activated once the project enters commercial operation and is managed by a stakeholders committee responsible for identifying and approving the use of funds and selecting the disbursement mechanism.

The contribution increases to 2% once renewable energy sources reach 20% of the national energy matrix. Under Law 2294 of 2023, projects located in areas with the highest wind speeds (above 9 mph at 33 ft) are subject to a "New Transfer" of up to 6%, with proceeds reserved exclusively for ethnic communities. Only in the absence of ethnic communities will 100% of the funds go to municipalities.

Understanding the scale

1% of gross annual revenue from a typical 1 GW fixed-bottom OSW project in Colombia would be c.US$6.4m[gg], which is compared to international community benefit guidance in the table below (applied to an identical hypothetical project):

Country/mechanism	Basis of contribution	Estimated annual value	% of Gross annual revenue	Notes
Colombia (1% New Transfer)	1% of gross annual revenue	US$6.4 million	1.0%	As per existing mechanism
Ireland (ORESS)[5]	€2/MWh	US$8.6 million	1.3%	Mandatory for OSW under ORESS
England (voluntary)[6]	£5,000/MW/year	US$6.3 million	1.0%	Applies to onshore wind; offshore not yet formalised

[gg] Magenta Renewables analysis.

1% of gross annual revenue is a non-trivial contribution from project owners. Increasing this level beyond 1.5-2% would go beyond current regulation and guidance in Ireland and England respectively and could impose excessive financial pressure on projects[hh].

Analysis of the current mechanism

In terms of ESMAP (2024) alignment, we find that the current mechanism is:

- Developmental: Yes
- Project-specific: Yes
- Participatory: Partially

Under the current framework, only ethnic communities entitled to prior consultation possess a recognised right to participate in the design, implementation, and monitoring of benefit packages. However, host communities for OSW projects will likely encompass a broader range of groups, including fishers, local businesses, and the civic population.

The current approach—allocating a significant share exclusively to ethnic communities—may unintentionally foster social fragmentation and limit engagement across the full community spectrum.

At present, non-ethnic local groups (representing up to 40% of proceeds) lack direct participation rights; their involvement occurs indirectly through municipalities, with spending restricted to priorities already embedded in local development plans.

Recommendations for IFC alignment and investor confidence

- Review the 1% NT framework to consider allowing project-level flexibility in determining the most appropriate allocation split, reflecting the unique socio-economic and cultural composition of each project's area of influence.
- Ensure direct participation mechanisms for all community members, not solely those covered by Prior Consultation rights.

Minimum policy safeguards

Regardless of reform scope, it is advisable to ensure that projects funded under the 60% fraction for ethnic communities also serve broader public interests, particularly where initiatives promote environmental protection, social inclusion, or local infrastructure development. These initiatives should align with development strategies of the respective communities.

Additionally, cooperatives or community action committees could be empowered to manage community benefit funds under the 40% allocation, consistent with Law 2166 and potential adjustments to Decree 421 of 2021. This would strengthen local governance capacity, enhance transparency, and reinforce community ownership of development outcomes.

Suggested Indicative implementation actions:

Table 9 - Scenario 2 suggested implementation actions

Action	Detail	Owner	Feasibility	Timescale
Adjustments to the Article 289 of Law 1955 of 2019 and Decree 1302 of 2022	Deep dive review of the '1% New Transfer' mechanism. Possible changes that might improve alignment with all three CBSEF elements (participatory, developmental and project-specific), and applicability to OSW.	Institutional lead to be defined – baseline is MME, consulting DIMAR, DPS and DNP.	High	Medium term (1-2 years)

[hh] Electricity prices are under high scrutiny and are regulated methodologies. Increasing project costs may interfere with energy price regulation for regulated end-users and/or some auctions with lower-price award criteria, such as reliability charge and daily dispatch-bid.

Evaluation:

Potential advantages	• Applying an existing mechanism is preferable to creating new layers of regulation. • Existing developers will already have this priced into their financial models. • Developers are currently obliged to commit 1% of revenue under this mechanism – reviewing how this budget can best be aligned with IFC CBSEF principles will help improve positive impact.
Potential disadvantages	• If mismanaged, changes risk eroding protections for indigenous / ethnic communities. • Does not capture direct interventions such as investments in skills and supply chain.
Overall equity	Medium – the tool is a national mechanism that doesn't recognise ethnic composition in specific project areas, hence equity outcomes will vary (in it's current form).
Overall feasibility	High – a review carries an administrative cost, but works with an existing mechanism.

6.5 Scenario 5: Introduce new legally binding CBSEF rules

Scenario summary:

The government introduces new mandatory and enforceable CBSEFs prescribing design, implementation, monitoring, and adjustments. CBSEFs depart from being a business solution to social problems and become legal compliance.

This could include measures such as:

- Regulated approaches to design, implementation, and monitoring of CB and SE activity.
- Prescribed minimum contributions from OSW projects to Community Benefit Funds (typically either as a function of installed capacity (MW), electricity generated (MWh) or revenues from sales of electricity (%).

The exact structure is beyond the scope of this study, but topics such as community benefit fund structure, governance and cash flow would need to be decided (there is international precedent available for reference).

Scenario detail:

This scenario introduces binding requirements for developers in respect of CB and SE, making community benefit delivery a formal legal obligation. It would ensure a degree of predictability and fairness across projects. By creating mandatory standards, this scenario aims to guarantee that communities consistently share in the opportunities and benefits of OSW projects.

Indicative implementation actions:

Table 10 - Scenario 5 suggested implementation actions

Action	Detail	Owner	Feasibility	Timescale
Run a comprehensive constitutional review to introduce CB and SE legislation, with such legislation approved by Congress. Most likely it will entail also modifying the Colombian Constitution of 1991 and several laws including Laws 142, 143, 1715 and 2099 and all correspondent policy and regulatory norms.	Specific details will vary according to the particular proposed measures, their soft to hard law perceptions and the consequences faced by the investors.	Government Congress Constitutional Court	Low	Long term (>2 years)
Update to biotic compensation manual	Introduce non-binding explicit reference to environmental NPI as an aspirational principle, helping bring environmental regulation in-line with best practice.	ANLA	High	Short term (<1 year)

Evaluation:

Potential advantages	• Binding regulation guarantees predictable, enforceable, and possibly equitable community benefits across all projects. • Coastal and fishing communities affected by OSW projects would receive fair and consistent benefits. • It ensures that every developer operates under the same rules, providing a level playing field and eliminating the risk of fragmented or inconsistent implementation.

Potential disadvantages	• Developers and investors may consider this to be an additional layer of risk / financial obligation, possibly affecting the attractiveness of the market. • Enforcement mechanisms would need to be developed, creating new administrative demands. • Developing markets are split on the merits of a fully regulated approach. It looks as though the UK is moving towards retention of the voluntary approach following consultation.
Overall equity	Potentially high – assuming that the new legislation is efficient and old / redundant legislation is retired.
Overall feasibility	Low - it would require changes to existing regulations and laws, which could take a significant amount of time and face challenges in securing approval and consensus across political parties. The effectiveness of this scenario is considered potentially high at a more mature stage of the OSW industry, but risky at the current new market stage.

6.6 Next steps

Scenarios 2 (voluntary measures), 3 (leverage of the competitive process) and 4 (1% New Transfer) are carried through for consideration in WP3 analysis, on the basis that they contain elements with feasible potential to improve CBSEF performance.

Scenario 1 is not prioritised, as maintaining the status quo could limit the generation of favourable outcomes for both communities and developers. In turn, Scenario 5—focused on the development of a new binding law on CBSEF—is considered a longer-term implementation alternative, given the timeframes and complexities associated with its adoption, compared with adapting and strengthening existing regulatory mechanisms, such as those provided for under the regulation of the new 1% transfer.

Acronyms

Acronym	English	Spanish
ANH	National Hydrocarbons Agency	**Agencia Nacional de Hidrocarburos**
ANLA	National Environmental Licensing Authority	**Autoridad Nacional de Licencias Ambientales**
AUNAP	National Aquaculture and Fisheries Authority	**Autoridad Nacional de Acuicultura y Pesca**
CB	**Community Benefits**	Beneficios Comunitarios
CBSEF	**Community Benefit and Social Engagement Framework**	Marco de Beneficios Comunitarios y Participación Social
CARs	Regional Autonomous Corporations	**Corporaciones Autónomas Regionales**
CfD	**Contract for Difference**	Contrato por Diferencia
CREG	Energy and Gas Regulatory Commission	**Comisión de Regulación de Energía y Gas**
DANCP	National Authority for Prior Consultation	**Dirección de la Autoridad Nacional de Consulta Previa**
DIAN	National Tax and Customs Authority	**Dirección de Impuestos y Aduanas Nacionales**
DIMAR	Maritime Authority	**Dirección General Marítima**
DNP	National Planning Department	**Departamento Nacional de Planeación**
DPS	Social Prosperity Department	**Departamento Administrativo para la Prosperidad Social**
EIA	**Environmental Impact Assessment**	Evaluación del impacto ambiental
ESG	**Environmental, Social, and Governance**	Ambiental, Social y Gobernanza
ESMAP	**Energy Sector Management Assistance Program**	Programa de Asistencia para la Gestión del Sector Energético
FAER	Financial Support Fund for Rural Electrification	**Fondo de Apoyo Financiero para la Energización de las Zonas Rurales**
FAZNI	Support Fund for Non-Interconnected Zones	**Fondo de Apoyo para la Energización de Zonas No Interconectadas**
FENOGE	Fund for Non-Conventional Energy and Efficient Energy Management	**Fondo de Energías No Convencionales y Gestión Eficiente de la Energía**
IFC	**International Finance Corporation**	Corporación Financiera Internacional
ILO	**International Labour Organization**	Organización Internacional del Trabajo
INVEMAR	Institute of Marine and Coastal Research	**Instituto de Investigaciones Marinas y Costeras**
IPSE	Institute for Planning and Promotion of Energy Solutions	**Instituto de Planificación y Promoción de Soluciones Energéticas**
MANE	High-Level Roundtable	**Mesa de Alto Nivel**
M&E	Monitoring and Evaluation	Monitoreo y Evaluación
MinAmb	Ministry of Environment and Sustainable Development	**Ministerio de Ambiente y Desarrollo Sostenible**
MinCiencias	Ministry of Science, Technology and Innovation	**Ministerio de Ciencia, Tecnología e Innovación**
MinCIT	Ministry of Commerce, Industry and Tourism	**Ministerio de Comercio, Industria y Turismo**
MME	Ministry of Mines and Energy	**Ministerio de Minas y Energía**
NNL	**No Net Loss**	No Pérdida Neta
NPC	**Non-Price Criteria**	Criterios No Económicos
NPI	**Net Positive Impact**	Impacto Positivo Neto

Acronym	English	Spanish
OCAD	Collegiate Body for Administration and Decision	**Órgano Colegiado de Administración y Decisión**
OEP	**Ocean Energy Pathway**	Ocean Energy Pathway
OSW	**Offshore Wind**	Energía Eólica Marina
PCT	Early Citizen Participation	**Participación Ciudadana Temprana**
PRONE	Program for Normalization of Electrical Networks	**Programa de Normalización de Redes Eléctricas**
SGR	General Royalties System	**Sistema General de Regalías**
SE	Social Engagement	**Participación Social**
SISBEN	System for Identifying Potential Beneficiaries of Social Programs	**Sistema de Identificación de Potenciales Beneficiarios de Programas Sociales**
SSPD	Superintendency of Public Utilities	**Superintendencia de Servicios Públicos Domiciliarios**
ToR	**Terms of Reference**	Términos de referencia
UPME	Mining and Energy Planning Unit	**Unidad de Planeación Minero Energética**
XM	Market Experts	**XM Expertos en Mercados S.A. E.S.P.**
WP	**Work Package**	Paquete de Trabajo
ZNI	Non-Interconnected Zones	**Zonas No Interconectadas**

Appendices

A Supporting data

A1 Relevant insight from global jurisdictions on CBSEFs

International experience may be grouped around five different types of CBSEF: Benefit Funds, Payouts, In-kind, Ownership, and Local Economy[7].

- **Benefit funds:** Relatively popular and typically pools resources, lump sum contributions or regular payouts from the renewable energy project operator where proceeds spending is decided and overseen by the community through democratic, transparent, and simple governance structures for the benefit of the whole community on endeavours that align with sustainability goals.
- **Payouts:** Additional to pooling resources, it refers to monetary contributions channelled to those impacted by the renewable energy power plants.
- **In-kind:** Non-monetary contributions can span a variety of measures, ranging from (e.g.) emergency flood defence projects to upgrading sport facilities.
- **Ownership:** perhaps the most complex as it may refer to the capital (equity) structure of corporations and natural reluctancy from developers to cede control over assets.
- **Local economy:** This fifth type consists on engaging local companies and creating jobs to stimulate the local economy, with special focus on creating permanent jobs.

International experience demonstrates that while CBSEFs vary in form, the most widely adopted mechanisms are benefit funds, direct payouts, and in-kind contributions. These models are characterised by their predictability, transparency, and simplicity of administration, making them accessible for both developers and communities. Equity ownership schemes for utility-scale assets are rarer but gaining interest in established markets.

Regional spotlight: Chile

Chile's SEA[ii] provides sector-neutral guidance (updated in 2023) for early participation of citizens in projects subject to environmental impact assessment[8]. The guidance is anchored in Chile's Law No. 19.300 and its environmental regulations. It encourages developers to voluntarily adopt PCT[jj] to improve project legitimacy and reduce conflict, empowers communities to influence project outcomes and sets an expectation that public authorities support the process.

While PCT is not mandatory, the guide positions it as a reputational and procedural advantage—especially in projects with high social or environmental sensitivity. This soft mandate encourages uptake without triggering resistance from developers.

[ii] SEA: Servicio de Evaluación Ambiental (*Environmental Evaluation Service*)

[jj] PCT: Participación Ciudadana Temprana (*Early Citizen Participation*)

A2 Examples of community equity participation in OSW

Though more common in smaller, onshore renewable generation assets, examples demonstrate that with proper organization and funding, it is possible for community counterparties to agree equity deals with OSW project developers (or act as developers themselves).

Denmark: Middelgrunden Wind Turbine Co-operative[9]

Middelgrunden was an early OSW project, commissioned in 2001 with a capacity of just 40 MW. Developed as a 40 MW project with 20 turbines, it was structured as a 50/50 joint venture between the municipal utility Copenhagen Energy and the Middelgrunden Wind Turbine Co-operative—an association of over 8,000 local citizens. Through direct investment, co-operative members gained partial ownership of the wind farm and received dividends based on energy production.

Germany: Butendiek OSW Farm[10]

The Butendiek OSW Farm, commissioned in 2015 in Germany's North Sea, exemplifies a hybrid model of community equity participation within large-scale renewable infrastructure. With an installed capacity of 288 MW across 80 turbines, the project was initially conceived as a citizen-led initiative and later evolved into a multi-stakeholder venture. Through the involvement of the Bürgerbeteiligungsgesellschaft (citizen investment group), local residents and co-operatives were invited to invest directly in the project during the project's conception in the early 2000's. The exact capital structure of the citizen investment group is unknown, but over 8000 individuals participated (potentially some or all via co-operative groups).

It appears that divestment of community ownership occurred in 2007, when the project was sold to Airtricity/SSE. The Bürgerbeteiligungsgesellschaft was formally dissolved in 2015[11] when the wind farm became operational, and citizen investors may have received buyouts or equity conversions depending on their original terms.

Belgium: SeaCoop[12]

SeaCoop is a co-operative social enterprise launched in 2022 by 34 Belgian citizen energy co-operatives, aiming to embed community equity participation into the country's OSW sector. Its model proposes acquiring up to 20% ownership in future North Sea wind farms, enabling citizens to co-invest and directly access the electricity produced. SeaCoop works alongside co-operative suppliers like Ecopower and Cociter to distribute energy, helping ensure price stability and local benefit.

The initiative is backed by the Belgian federal government; in April 2023, the Belgian government became the first in Europe to commit to allocating points in future OSW tenders for citizen participation[13].

The 'Our Energy' platform[14] was launched in February 2025, which facilitates Belgian citizen participation (starting from c.€ 250) in OSW farms, via one of the 34 member co-operatives. SeaCoop has secured a 10% stake in Aspiravi Offshore, which owns 70% of the Northwind OSW farm. This translates into indirect ownership of ~15 MW of operational OSW capacity.

SeaCoop is pursuing a stake in the Princess Elisabeth Zone I, Belgium's next major OSW development. It is participating in the Haddock Wind consortium alongside Eneco, Ocean Winds, and Otary, targeting 20% ownership of future wind farms in this zone.

Energy4All (UK)

Energy4All is a non-profit distributing organisation (originally set up for onshore projects), owned by energy co-operatives (33 to date) that is has helped found.[15]

It is working on community financing and benefit integration in UK OSW through its partnerships with commercial developers in the ScotWind leasing round. Working alongside Nadara, Ørsted, and BlueFloat Energy, Energy4All is tasked with designing and implementing shared ownership frameworks that enable citizens to invest directly in large-scale floating wind farms, including the Bellrock, Broadshore, and Stromar projects.

Having raised over £80 million from 17,000 members for onshore renewables, Energy4All structures co-operative investment vehicles and facilitates democratic governance, ensuring that local communities not only have the option to co-own but also benefit from OSW developments.

The commercial developer partners have committed to community benefit models as part of their broader social value strategy[16]. Total projected community benefit fund contributions from renewable energy project owners across Scotland are expected to exceed £60 million annually by 2030[17].

The deal between Energy4All and the developers includes a formal agreement to offer shared ownership to communities, with Energy4All acting as the community energy partner responsible for outreach, structuring, and long-term stewardship[18].

Energy4All does not currently hold formal governance authority over the community benefit funds committed by its commercial OSW partners, but it plays a strategic advisory and facilitation role in shaping how those funds are deployed[19].

B Objectives and methodology

B1 Objectives

The objectives of this legislative review include:

1. Mapping key organizations, governing authorities and institutions relevant to community benefits and social engagement in Colombia's energy sector.
2. Analysing Colombia's current regulatory frameworks for community benefits and social engagement in Colombia's energy sector.
3. Reviewing case studies of community agreements in Colombia specific to communities within the study area (as applicable).
4. Identifying legal and economic policy gaps to effective community benefit and social engagement mechanisms, focusing on challenges specific to Colombian OSW and using lessons learned from other jurisdictions (using the supplied inputs from Ocean Energy Pathway (OEP) along with wider industry experience).
5. Providing clear, actionable, legally compliant recommendations to support the design and implementation of a community benefits and engagement plan tailored to Colombia's OSW sector.

The drafting of legislation is not included in the scope of this report.

B2 Methodology

The analysis presented in this document is grounded in the definitions and approach laid out in the IFC and World Bank Energy Sector Management Assistance Program (ESMAP)'s 2024 paper 'The strategic value of community benefits in OSW development[1] and adapted to Colombia's context.

- **Legislative and regulatory review:** Analysis of Colombian laws, decrees, and regulatory guidelines and frameworks for community benefits and social engagement in the energy sector. Such analysis included the review of the General Environmental Law (Law 99 of 1993), the Renewable Energy Promotion Law (Law 1715 of 2014), and the Energy Transition Law (Law 2099 of 2021), and other normative pieces considered relevant.
- **Institutional mapping:** Identification of ministries, agencies, and regional bodies with mandates over CBSEFs relative to OSW energy development.
- **Case study analysis:** Review of applicable benefit-sharing experiences in Colombia, focusing on lessons that may be relevant to OSW.
- **International practice:** Analysis of findings from a broad set of global OSW community-benefit reports and guidance.
- **Expert validation:** Incorporation of professional insights from legal and policy experts familiar with the Colombian legal and regulatory environment in the energy sector.

The review is not intended to draft new legislation but to provide evidence-based analysis for practical, legally compliant CBSEF mechanisms for potential integration with Colombia's OSW development.

C Barrier analysis (detailed)

This appendix identifies in detail the possible barriers to effective implementation of a CBSEF, focusing on the specific context of OSW in Colombia. It is emphasised that the following barriers may only apply to certain CBSEF proposals and structures, in particular, those requiring regulatory changes or introductions.

C1 Legal barriers

Absence of a legal base for CBSEFs in OSW

- **Issue:** Colombia lacks an explicit legal framework for community benefit-sharing in the electricity sector. Unlike extractive industries, where constitutional provisions on resource ownership provide a foundation for benefit-sharing, electricity (and therefore OSW) has no such mandate. The main precedent is **Decree 1302 of 2022**, which regulates the '1% New Transfer' mechanism created by Article 289 of Law 1955 of 2019.

- **Implication:** While Decree 1302 of 2022 introduces project linkage and some participatory features, it is narrow in scope, prioritizes legally recognised ethnic minorities (potentially at the expense of e.g. coastal and fishing groups), and lacks robust governance provisions. Its vague allocation rules create legal uncertainty and do not incentivize developers to co-design benefits. Consequently, Decree 1302 cannot currently serve as a predictable or sufficient legal base for OSW CBSEFs.

Misalignment between social development, environmental licensing and Prior Consultation

- **Issue:** Environmental licensing (by ANLA and CARs) and Prior Consultation (by DANCP) focuses on harm mitigation, not long-term developmental benefits. Notably, the developmental component of Prior Consultation lacks a formal legal foundation and has instead relied heavily on judicial interpretation and enforcement. Existing instruments—such as environmental licensing, Prior Consultation, and compensatory payments—are primarily harm-based or compensatory mechanisms. They were designed to offset specific social or environmental impacts rather than to promote long-term, project-linked community development.

- **Implication:** These instruments already impose significant burdens and legal uncertainty on project developers. They often result in procedural delays, fragmented compliance pathways, and negotiation fatigue among stakeholders. These mechanisms are unsuitable as CBSEFs because they do not create developmental benefits, do not extend to non-ethnic or broader coastal communities, and often generate conflict through adversarial negotiation processes. Attempting to repurpose them for CBSEFs would risk reinforcing mistrust and failing to deliver developmental outcomes. Introducing Community Benefit Frameworks into this already complex regulatory environment—without clear legal and operational distinction—could exacerbate institutional overlap and reduce the effectiveness of both sets of instruments.

Gaps in sectorial governance (energy, marine / offshore, social development)

- **Issue:** Colombia's energy sector, maritime activity and social development are governed by a patchwork of different public bodies, laws and regulations. CBSEF governance is fragmented across institutions including MME, DPS, DNP and DIMAR. No single coordinating body has the mandate to integrate social development, marine spatial planning, and energy regulation.

- **Implication:** No single authority ensures cohesive regulation of energy and marine spatial planning with community inclusion in mind. This institutional fragmentation creates overlaps, conflicting mandates, and accountability gaps. In the absence of a designated lead agency, CBSEFs risk inconsistent design, weak monitoring, and reduced credibility among both investors and communities.

Declining institutional legitimacy and rule of law

- **Issue:** Colombia is experiencing declining levels of citizen trust in government and judicial institutions, coupled with deteriorating performance in civil and criminal justice. Indicators such as unreasonable delays, ineffective correctional systems, and weak enforcement capacity highlight deep deficits in the rule of law.

  Implication: Without strengthened rule of law and effective enforcement policies, CBSEFs will lack credibility and durability. Even well-designed frameworks risk failure if institutions cannot enforce agreements or guarantee accountability. Strengthening the rule of law is therefore a **precondition** for any effective CBSEF.

C2 Economic and financial barriers

Limited public capacity for co-governance

- **Issue:** Colombian authorities often struggle to manage their core responsibilities already incorporated into their budgets and organizational capacity — a good example being the interconnection backlog at the UPME and multiple environmental licensing process before ANLA and CARs[kk]. While DPS and DNP are better suited than MME to lead CBSEFs, they face major constraints in technical expertise, staffing, and financial resources. Local governments, which are essential for implementation, often lack administrative and monitoring capacity. Another related issue is that existing social and community-related mechanisms in Colombia—including royalties, compensations, and even the Technical Capacity Transfer Program—suffer from weak or absent monitoring and evaluation systems. There are no clear indicators, standardised methodologies, or independent oversight structures to ensure that commitments are fulfilled or that benefits reach target communities. Monitoring & Evaluation (M&E) is critical in CBSEFs because without it, even a well-designed framework risks failure due to lack of accountability, transparency, and adaptive learning.

- **Implication:** Even if developers wish to invest in community benefits, the institutional architecture to support them is weak. Capacity limitations restrict the ability to design, negotiate, and oversee CBSEFs in line with IFC standards. Weak oversight risks capture by elites, misallocation of benefits, and community disillusionment with the framework. Without robust M&E, CBSEFs risk being undermined by poor implementation, lack of transparency, and community distrust. The absence of systematic evaluation also prevents policymakers from learning and improving frameworks over time. Unless M&E is embedded as a core element, CBSEFs will replicate the shortcomings of past compensatory mechanisms.

No market-based incentives for benefit delivery

- **Issue:** The first competitive process for OSW does not yet include CBSEFs in NPC. It requires developers to submit a **Technical Capacity Transfer Program** as part of their bids. This program is intended to promote knowledge transfer, training, and the development of local supply chains. While it represents a step toward aligning projects with broader social and developmental goals, it is narrowly focused on technical capacity building and does not encompass the broader community benefit objectives of CBSEFs. As a result, developers are evaluated with no incentives to compete with incorporation of community benefit commitments into their bids.

- **Implication:** Because the Technical Capacity Transfer Program is not evaluated as a competitive NPC, developers face no structured incentive to go beyond minimal compliance. Moreover, its narrow scope

[kk] 47% of renewable energy companies were unable to finalize their investments in 2024. They attribute this outcome to three main causes: (i) delays in obtaining environmental and technical permits, (ii) delays in the allocation of connection points, and (iii) uncertainty regarding legal security and regulatory stability. Source: SER Colombia. (2025). *Non-Conventional Renewable Energy Sources (FNCER) in 2025*.

excludes critical aspects of community development, participation, and benefit-sharing. As a result, CBSEFs risk being sidelined, treated as secondary measures rather than as integral to OSW project design. Unless ToRs explicitly include CBSEF-related criteria alongside technical capacity transfer, Colombia risks missing the opportunity to ensure predictable, transparent, and IFC-aligned community benefits from OSW development.

Over-regulation and investor uncertainty

- **Issue:** Colombia's energy sector already operates within a dense and complex regulatory environment. Adding new community benefit requirements without rationalizing existing obligations risks duplication and regulatory overload.

- **Implication:** Poorly designed CBSEF rules could create uncertainty, increase transaction costs, and deter investment in OSW. To remain competitive, Colombia must streamline existing compensatory schemes while introducing clear, simple, and predictable CBSEF mechanisms.

Readiness for equity ownership models in Colombia

- **Issue:** International experience shows that CBSEFs may include equity participation, community funds, in-kind contributions, or payouts. However, equity ownership models require high levels of financial literacy, governance capacity, and risk tolerance—conditions not always present in Colombian coastal communities.

- **Implication:** Community equity schemes will be challenging in the near term. Attempting to adopt them prematurely might expose communities to undue financial risks and create barriers for investors. Instead, more predictable, transparent, and community-managed mechanisms—such as funds, in-kind benefits, or direct payouts—may be better suited to Colombia's institutional and social capacities.

Additional references

Colombian law

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- Law 21 of 1991, Congress of the Republic of Colombia
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- Law 142 of 1994, Congress of the Republic of Colombia
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- Decree 381 of 2012 issued by the President of the Republic of Colombia
- Decree 2041 of 2014, issued by the Ministry of Environment and Sustainable Development
- Decree 1076 of 2015, issued by the Ministry of Environment and Sustainable Development
- Presidential Directive 008 of 2020, issued by the President of the Republic of Colombia
- Decree 1302 of 2022, issued by the Ministry of Mines and Energy, Colombia
- Joint Resolution No. 40284 of 2022, issued by the Ministry of Mines and Energy and the National Maritime Direction, Colombia
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Endnotes

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Disclaimer: The CBSEFs discussed in this report should be understood solely as part of a Theory of Change aimed at aligning OSW industry development with the Colombian local context, where social licence presents challenges for advancing the just energy transition and ensuring that the required energy infrastructure is built and operational. This approach is grounded in the notion that a proximate cause of these challenges is the lack of mutual understanding and trust between host communities and projects; therefore, delivering clearer benefits and promoting meaningful social engagement may be key to overcoming current obstacles.

However, interference with infrastructure development and operation may stem from many other proximate and/or root causes, the analysis of which falls outside the scope of this report. Accordingly, this report does not present CBSEFs as a solution to those other causes, which are themselves recommended for further identification and analysis in relation to the difficulties facing energy infrastructure. Neither should this report be interpreted as a recommendation to adopt any specific intervention.

This report is intended solely as an input of relevant information for policymakers engaged in policy design and decision-making, within the limitations set out above.


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