

**Brief of statement made by Mr. Subhash Chandra Garg, Executive Director
for Bangladesh, Bhutan, India and Sri Lanka, at the Committee on
Development Effectiveness on 24 June and 1 July, 2015 on ESF**

The second draft of the Environment and Social Framework is a disappointment for the borrowers and other developing country clients as the proposed environment and social standards (ESS) make doing business with the Bank more and more difficult and costly for the borrowers.

A statement by seven chairs, representing the clients, was issued which highlighted a number of areas, especially where the second draft moves away from the first, and which make many provisions more complex with likelihood of creating difficulties for the clients. The first of these issues relates to the use of national frameworks. The second draft moves away from the use of national frameworks: even if such frameworks are substantially compliant with the standards, adoption of borrower frameworks is left to the discretion of the Bank. We believe that the national system should be preferred as long as they are substantially in accordance with the ESS. Imposing or bringing another system even when the national systems are substantially compliant, is not a good idea; such an approach will increase the burden on the country concerned.

The new Framework makes it mandatory to account for all direct, indirect and cumulative environmental and social risks and impacts, including future impacts, when environmental and social impact assessment is carried out. This expands the impacts and risks that we need to take into account, thus increasing cost of complexity of development projects: the feasibility and implementability of such framework is doubtful.

Several of the labor standard introduced in the Framework will face implementation challenges. The ESF applies formal labor standards to community and voluntary labor: this is unrealistic. Voluntary or community labor, whose services are often offered in lieu of community contribution to the project, cannot deal with standards 9 to 16 of ESS 2. The employment guarantee programs and some rural development programs in India, for example, are implemented through community and voluntary labor. Such programs will not get implemented under standards similar to the labor standards proposed in the new ESF.

The draft extends the Framework to a large number of parties involved with the Bank in the name of third parties—agents, intermediaries, small suppliers. The borrower would be obliged not only to evaluate the management practices of such third parties but also to ensure compliance. This extension of application of standards beyond primary contracts and the primary suppliers would expand the burden of monitoring and reporting on the borrowers.

The standard dealing with alternative mechanism to address labor grievances, does not define “alternative frameworks.” Moreover, if the alternative frameworks are not in line with the national laws, the standards will come in conflict with national legislations and such conflicts are not desirable.

Similarly, cultural heritage has been defined expansively to include “Intangible Heritage” which is extremely difficult to define and which is likely to create problems to the borrowers in implementation of projects.

The standard on land acquisition and resettlement does not recognize the legitimacy of evictions of illegal occupants or squatters in accordance with national laws in situations not involving land acquisition. The standards also seem to create disincentives to negotiated settlements, by applying the detailed standards even in cases where through negotiated settlements the land owners have been fully compensated.

While we are committed to protecting the rights of vulnerable and marginalized groups affected by projects, the concept of ‘Free, Prior & Informed Consent’ is likely to create insurmountable hurdles to development. We have always supported free, prior and informed consultation, but the requirement of consent will create hold out problem depriving a larger number of people from the benefits of development. Such unrealistic provisions should be modified and ‘consent’ should be replaced with ‘consultation.’

The standards on monitoring the emission of greenhouse gasses should not impose commitments on borrowers which go beyond the agreements reached by parties at the UNFCCC.

So we have an enormous expanse of areas with poorly defined standards making it difficult for borrowers to comply. Our objective is sustainable development, which means the concept of sustainability should go beyond environmental and social sustainability and must include economic sustainability. The Bank is fundamentally in the business of development and we cannot compromise with the primacy of the development objective.

These issues must be taken into account during the third phase of consultation.

As the standards will apply to the investment project lending and will impact borrowers directly, borrowers are the primary stakeholders in investment project financing. The second draft Environment & Social Framework, presented to the Committee on Development Effectiveness does not address the borrowers' concerns.

Many of the outstanding issues with the second draft ESF are not just implementation issues; they are substantive and they need to be addressed keeping in view the need to make the investment projects efficient and effective.

Our primary position is that we should proceed with the consultation on a draft that reflects borrower issues in some detail. A template or an addendum which brings up all the issues of the borrowers would be needed to go into the phase 3 of consultation.

In conclusion, it is re-iterated that the Bank's primary reason for existence is to assist the developing countries in undertaking development projects. If we go ahead with this kind of imposition of standards, the Bank is likely to go out of business. The intention should not be to shrink the Bank's engagement in delivering development assistance to countries and to reduce it to a knowledge provider. The intension should be to expand Bank's engagement with development. Incidentally, even knowledge delivered as technical assistance will be subject to these standards. Therefore, it is requested that we either amend the document to reflect the issues that we have raised, or at least find a way to bring them up in a template as an integral part of this document for the borrow-focused consultations.
