

Responses to List of Issues for Consultation on the Proposed Environmental and Social Framework (ESF)

| ESF | Issue | Items | Responses |
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| Vision | Human Rights | <ul style="list-style-type: none"> • Approach to human rights in the ESF | <ul style="list-style-type: none"> • See Vision statement, para 3 of the Vision |
| ESP/ ESS1 | Non-discrimination and vulnerable groups | <ul style="list-style-type: none"> • Explicit listing of specific vulnerable groups by type/name (age, gender, ethnicity, religion, physical, mental or other disability, social, civic or health status, sexual orientation, gender identity, economic disadvantages or indigenous status, and/or dependence on unique natural resources) • Specific aspects of the non-discrimination principle in complex social and political contexts, including where recognition of certain groups is not in accordance with national law | <ul style="list-style-type: none"> • See Bank Directive on Addressing Risks and Impacts on Disadvantaged or Vulnerable Individuals or Groups |
| | Use of Borrower's Environmental and Social Framework | <ul style="list-style-type: none"> • Role of Borrower frameworks in the management and assessment of environmental and social (E&S) risks and impacts where these will allow projects to achieve objectives materially consistent with Environmental and Social Standards (ESSs) • Approach for making decision on the use of Borrower frameworks, including the methodology for assessing where frameworks will allow projects to achieve objectives materially consistent with the ESSs, and the exercise of Bank discretion | <ul style="list-style-type: none"> • See Policy, paras 23-29 • See ESS1, paras 19-22 • See Information Note on Assessing the Borrower's Environmental and Social Framework |

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| | | <ul style="list-style-type: none"> • Role of Borrower frameworks in high and substantial risk projects | <ul style="list-style-type: none"> • Management proposes not to limit the potential use of all or parts of a Borrower’s E&S framework to projects with a specific risk rating because risk ratings may change over time and because some Borrower frameworks may be deemed adequate for all risk categories. |
| | Co-financing/ common approach | <ul style="list-style-type: none"> • Arrangements on E&S standards in co-financing situations where the co-financier’s standards are different from those of the Bank | <ul style="list-style-type: none"> • See Policy, paras 9, 12a, footnotes 16, 40 • See ESS1, para 9, 12a, 38, footnote 10 |
| | Adaptive risk management | <ul style="list-style-type: none"> • Approach to monitoring E&S compliance and changes to the project during implementation | <ul style="list-style-type: none"> • The ESSs would apply regardless of any changes in the environmental and social risk situation of a project The Bank will monitor all projects in a manner proportionate to the significance of risks and impacts. Where appropriate, third party monitoring and thematic reviews would be carried out. OPCS would maintain oversight over high risk projects during implementation. The recently established Operations Environmental and Social Review Committee would review on a regular basis the overall portfolio risk for each region. The proposed Policy (para 48) clarifies that a process for adaptive risk management will be set out in the (Environment and Social Commitment Plan (ESCP) and that this process will specify how any changes are to be managed and reported. |
| | Risk classification | <ul style="list-style-type: none"> • Approach to determining and reviewing the risk level of a project | <ul style="list-style-type: none"> • See Procedure, Section VI |
| ESS1 | Assessment and management of environmental and social risks and impacts | <ul style="list-style-type: none"> • Assessment and nature of cumulative and indirect impacts to be taken into account • Treatment of cumulative and indirect impacts when identified in the assessment of the project | <ul style="list-style-type: none"> • See ESS1, para 23, footnotes 21-22, Annex 1 (paras 3, 5, 13) • See ESS3, paras 9, 13 • See ESS6, paras 8, 33 • See ESS8, para 8 |

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| | | <ul style="list-style-type: none"> Establishing project boundaries and the applicability of the ESSs to Associated Facilities, contractors, primary suppliers, FI subprojects and directly funded sub-projects | <ul style="list-style-type: none"> For Associated Facilities, see Policy paras 10-12, footnotes 17-18; ESS1, paras 10-12, para 32, footnotes 11-12, Annex 1 (para 16); Glossary For contractors, see ESS1, footnote 1, Annex 3 For primary suppliers, see ESS1, para 34, footnote 34 For FI subprojects, see Policy, paras 13, 20, 40-45; See ESS9 For directly funded subprojects, see Policy, paras 36-39, footnote 29; ESS1, paras 30-31, footnotes 30-31, Annex 1 (para 5) |
| | | <ul style="list-style-type: none"> Circumstances under which the Bank will determine whether the Borrower will be required to retain independent third party specialists | <ul style="list-style-type: none"> See Policy, paras 35, 58 See ESS1, paras 25, 33, 45, footnote 33, Annex 1 (para 8) See ESS4, paras 8, 11, Annex (paras 3, 8) See ESS6, para 17 See ESS7, para 24 See ESS10, para 12 |
| | Environmental and Social Commitment Plan (ESCP) | <ul style="list-style-type: none"> Legal standing of the ESCP and implications of changes to the ESCP as part of the legal agreement | <ul style="list-style-type: none"> See Policy, paras 3(d), 3(e), 17-18, 27-28, 39, 46-48, 52 See ESS1, paras 15(c)-17, 21-22, 31, 36-44, 48, Annex 2 |
| ESS2 | Labor and working conditions | <ul style="list-style-type: none"> Definition and necessity of and requirements for managing labor employed by certain third parties (brokers, agents and intermediaries) | <ul style="list-style-type: none"> See ESS1, Annex 3 See ESS2, paras 3b, 5, 9, 31-33 |
| | | <ul style="list-style-type: none"> Application and implementation impacts of certain labor requirements to contractors, community and voluntary labor and primary suppliers Constraints in making grievance mechanisms available to all project workers | <ul style="list-style-type: none"> For contractors, see ESS2, paras 5, 9, 31-33 For community labor, see ESS2, paras 34-38 For voluntary labor, see ESS 2, para 22, footnote 14 For primary suppliers, see ESS1, para 34; ESS2, paras 39-42 For direct and contracted workers, see ESS2, paras 21-23 For community workers, see ESS2, para 36 See also ESS10, para 27-28, footnote 10 and Annex 1 |

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| | | <ul style="list-style-type: none"> • Referencing national law in the objective of supporting freedom of association and collective bargaining | <ul style="list-style-type: none"> • See ESS2, Objectives. The relevant objective has been rephrased to read “to support the principles of freedom of association and collective bargaining of project workers in a manner consistent with national law.” |
| | | <ul style="list-style-type: none"> • Operationalization of an alternative mechanism relating to freedom of association and collective bargaining where national law does not recognize such rights • Issues in operationalizing the Occupational Health and Safety (OHS) provisions/standards | <ul style="list-style-type: none"> • See ESS2, paras 16, 22 • Further guidance on alternative mechanisms will be proved in Guidance • See ESS2, paras 24 to 30 • For application to community workers, see ESS2, para 35 • For application to primary suppliers, see ESS2, para 41 |
| ESS3 | Climate change and GHG emissions | <ul style="list-style-type: none"> • The relation between provisions on climate change in the ESF and broader climate change commitments, specifically UNFCCC | <ul style="list-style-type: none"> • Upon release of the second draft ESF, some Borrowers were concerned that the ESF could preempt the outcome of UNFCCC COP 21. This agreement was signed in April 2016. The proposed requirement to estimate GHG emissions is made with the intention of improving energy efficiency where technically and financially feasible. |
| | | <ul style="list-style-type: none"> • Proposed approaches to measuring and monitoring greenhouse gas (GHG) emissions in Bank projects and implications thereof, in line with the proposed standard, including determining scope, threshold, duration, frequency and economic and financial feasibility of such estimation and monitoring • Implications required for the Borrower of estimating and reducing GHG emissions for Bank projects, in line with the proposed standard | <ul style="list-style-type: none"> • See ESS3, para 16 and footnotes 13-15 • The purpose of estimating GHG emissions is to inform decisions as to whether GHG emissions, and thus, energy use, can be reduced where technically and financially feasible. This decision will be made by the Bank in consultation with the Borrower. |

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| ESS5 | Land acquisition and involuntary resettlement | <ul style="list-style-type: none"> • Treatment and rights of informal occupants and approach to forced evictions in situations unrelated to land acquisitions • Interpretation of the concept of resettlement as a “development opportunity” in different project circumstances | <ul style="list-style-type: none"> • For informal occupants, see ESS5, paras 4(d), 10(c), paras 30 • For evictions, see ESS5, para 1, footnote 1, second Objective and para 31 • In situations unrelated to land acquisition, see ESS1, para 27(b) • See ESS5, Objectives |
| ESS6 | Biodiversity | <ul style="list-style-type: none"> • Operationalization of the provisions on primary suppliers and ecosystem services, especially in situation with low capacity • Role of national law with regard to protecting and conserving natural and critical habitats | <ul style="list-style-type: none"> • For ecosystem services, see ESS1, para 28(a); ESS4, para 14; ESS6, para 1 • For primary suppliers, see ESS1, para 34; ESS6, para 38-40, footnotes 20-21 • See ESS1, para 19-22 • ESS6, paras 23-26 |
| | | <ul style="list-style-type: none"> • Criteria for biodiversity offsets, including consideration of project benefits • Definition and application of net gains for biodiversity | <ul style="list-style-type: none"> • See ESS6, paras 10, 15-18, 22(b), footnotes 6-10 • See ESS6, para 16, footnote 9 |
| ESS7 | Indigenous Peoples | <ul style="list-style-type: none"> • Implementation of the Indigenous Peoples standard in complex political and cultural contexts • Implementation of ESS7 in countries where the constitution does not acknowledge Indigenous Peoples or only recognizes certain groups as indigenous | <ul style="list-style-type: none"> • See ESS1, para 28(b) • See ESS7, para 5 |

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| | | <ul style="list-style-type: none"> • Possible approaches to reflect alternative terminologies used in different countries to describe Indigenous Peoples • Circumstances (e.g. criteria and timing) in which a waiver may be considered and the information to be provided to the Board to inform its decision • Criteria for establishing and implementation of Free, Prior and Informed Consent (FPIC) • Comparison of proposed FPIC with existing requirements on consultation • Application of FPIC to impacts on Indigenous Peoples' cultural heritage | <ul style="list-style-type: none"> • See ESS7, title, paras 1, 6, 10, footnote 1 • The flexibilities proposed through the revised ESS7 are designed to respond to the concerns of Borrowers who may have sought waivers to accommodate the specific circumstances in their countries. • See ESS7, paras 24-28 • See ESS7, paras 32-33 |
| ESS8 | Cultural Heritage | <ul style="list-style-type: none"> • Treatment of intangible cultural heritage • Application of intangible cultural heritage when the project intends to commercialize such heritage • Application of cultural heritage requirements when cultural heritage has not been legally protected or previously identified or disturbed | <ul style="list-style-type: none"> • See ESS8, paras 4 and 7 • See ESS8, paras 29 and 30 • See ESS8, para 6 |
| ESS9 | Financial Intermediaries | <ul style="list-style-type: none"> • Application of standard to FI subprojects and resource implications depending on risk | <ul style="list-style-type: none"> • For application of standards, see ESS9, para 9, 11, 14, 16(c) • For ESMS, see paras 7, 10, footnote 4 • For FI's own categorization system, see paras 17-18 |

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| | | <ul style="list-style-type: none"> • Harmonization of approach with IFC and Equator Banks | <ul style="list-style-type: none"> • The proposed ESS9 is informed by IFC’s Performance Standards with adjustments to reflect the nature of public sector lending. • See also ESS1, para 9 and ESS9, footnote 5 |
| ESS10 | Stakeholder engagement | <ul style="list-style-type: none"> • Definition and identification of project stakeholders and nature of engagement • Role of borrowing countries or implementing agencies in identifying project stakeholders | <ul style="list-style-type: none"> • For the definition of stakeholders, see ESS10, paras 5, 10-11, footnote 1 • For the nature of the engagement, see paras 6-8, paras 13-16, paras 19-20, para • See ESS10, paras 10-11 |
| General | EHSG and GIIP | <ul style="list-style-type: none"> • Application of the Environmental, Health and Safety Guidelines (EHSGs) and Good International Industry Practice (GIIP), especially when different to national law or where the Borrower has technical or financial constraints and/or in view of project specific circumstances | <ul style="list-style-type: none"> • For general application, see Policy, para 19 and ESS1, paras 18, 26 • See also ESS3, paras 2, 4, 6, 10, 11, 18, 24 • See also ESS4, paras 6, 11, 12, 16, 32, 37 |
| | Feasibility and resources for implementation | <ul style="list-style-type: none"> • Implementation and resource implications for Borrowers, taking into account factors such as the expanded scope of the proposed ESF (e.g., labor standard), different Borrower capacities and adaptive management approach | <ul style="list-style-type: none"> • Implementation and resource implications for Borrowers were at the core of the consultation discussions. To better understand the incremental effort required of the Bank and Borrowers, Bank staff discussed 42 case studies with Borrowers during consultations, comparing the effort needed to implement the requirements of the second draft ESF with the effort needed to implement the current safeguard policies appropriately. Results suggest that the overall additional effort for the average project would not entail overly burdensome requirements and that there are opportunities to achieve operational efficiencies. Incremental effort would be higher for implementing ESS1, ESS2, and ESS10. The road-testing highlights the fact that current practice already accounts for many of the proposed requirements: projects with good environmental |

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| | | | <p>and social planning already take into account, for example, inclusion, stakeholder engagement, or labor risk, among other things. Thus, the proposed ESF, first and foremost, aims to standardize environmental and social risk management performance, make it more consistent across projects, and achieve a common level of high quality in implementation.</p> |
| | | <ul style="list-style-type: none"> • Mitigation of additional burden and cost and options for improving implementation efficiency while maintaining effectiveness | <ul style="list-style-type: none"> • The implications of additional costs for the Borrower will be discussed with shareholders after Board approval of the proposed ESF. The proposed Standards identify specific areas in which the Bank will assist Borrowers in fulfilling their requirements—for instance, with regard to the ESCP (ESS1), GHG emission estimation (ESS3), and the SEP (ESS10). The Bank will work closely with Borrowers to ensure the efficient and effective implementation of the proposed ESF requirements. |
| <p>Client capacity building and implementation support</p> | | <ul style="list-style-type: none"> • Funding for client capacity building • Approaches and areas of focus • Approach to implementing the ESF in situations with capacity constraints, e.g., FCS, small states and emergency situations | <ul style="list-style-type: none"> • Consultation participants widely agreed on the importance of client capacity building as a central element in the Bank’s effort to modernize its approach to environmental and social risk management. The extension of the scope of risk assessment and management and its proposed shift to an outcome-based, adaptive risk management approach will need to be accompanied by increased efforts to strengthen institutions in borrowing countries, especially in the agencies that implement Bank-funded projects and among the professions that assess environmental and social risk. <p>The ESF is designed to strengthen the partnerships between the Bank and its Borrowers, with the specific aim of building capacity in borrowing countries and in other relevant groups. Activities to strengthen borrower capacity will be identified in countries based on evident capacity gaps, the track record of existing programs, current and projected lending volumes, and the need for additional resources. This work would be funded from a variety of sources: borrowing, reimbursable advisory services, donor funding, the Bank’s budget and, in some cases, the country’s own resources. In</p> |

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| | | | <p>addition, Management will seek to establish a multidonor trust fund (MDTF) for situations of FCV and for Borrowers with low capacity.</p> <p>In some cases where the Bank and Borrowers have agreed to use the Borrower's frameworks, capacity building approaches for countries and agencies will be developed on the basis of an assessment of Borrowers' environmental and social frameworks. The assessment will determine the acceptability of part or all of a borrower's frameworks for individual projects and will be used to identify measures to strengthen the relevant frameworks. The approach to capacity building would be based on a needs assessment conducted in collaboration with the Borrower. Capacity building measures would include short-term awareness raising and training on particular aspects of the ESF, especially with regard to the ESSs that Borrowers are required to implement. This training would be delivered in selected countries over a period of 6 months after Board approval of the proposed ESF. Beyond this short-term effort, the Bank would engage in long-term, systematic institution building. This effort would be based on dialogue with governments, linked to the Borrower Framework Assessment process and reflected in the Country Partnership Framework (CPF), as appropriate.</p> |
| Disclosure | <ul style="list-style-type: none"> • Timing of the preparation and disclosure of specific environmental and social impact assessment documents (related to ESS1 and ESS10) | <ul style="list-style-type: none"> • See the Policy, paras 48-51 • Re stakeholders, se ESS10, para 6, 7, 19-20 • Re the ESCP, see ESS1, para 35 and 43 | |
| Implementation of the ESF | <ul style="list-style-type: none"> • Bank internal capacity building, resourcing, and behavioral change in order to successfully implement the ESF | <ul style="list-style-type: none"> • The Bank's capacity to implement the ESF was an important topic for donor shareholders during consultations. The Bank will prepare an implementation approach that will outline the planned approach to internal capacity building, resourcing, and behavior change. | |

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| | | <ul style="list-style-type: none">• Ways of reaching mutual understanding between Borrower and Bank on issues of difficult interpretation | <ul style="list-style-type: none">• The Bank is committed to working closely with Borrowers on addressing implementation issues. In case of different interpretation of the ESF, the Bank and the Borrower will engage in dialogue to reach mutual agreement. |
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