



## Review and Update of the World Bank's Environmental and Social Safeguard Policies

### Phase 3

### Feedback Summary

**Date:** December 8, 2015

**Location:** Mexico City

**Audience:** Multi-stakeholder

During the event FUNDAR, a civil society organization, submitted a statement on behalf of several civil society organizations from Latin America and the Caribbean. In that statement they express their views on the second draft of the proposed Environmental and Social Framework. The [statement](#) can be found on the World Bank's dedicated consultation website (<http://consultations.worldbank.org/consultation/review-and-update-world-bank-safeguard-policies>).

ESF	Issue	Items	Feedback
Vision	Human Rights	1. Approach to human rights in the ESF	<ul style="list-style-type: none"> <li>Participants welcomed the inclusion of Human Rights in the proposed framework and stated that references to human rights should be included beyond the vision statement.</li> <li>Participants stated that additional mentions to human rights were particularly important given that, out of all international organizations, governments pay most attention to international financial institutions.</li> <li>Participants stated that the proposed Framework should include definitions of human rights and transparency, otherwise they will be left open to interpretation.</li> </ul>

			<ul style="list-style-type: none"> <li>Participants highlighted that the proposed ESF should include references to international human rights frameworks.</li> </ul>
ESP/ ESS1	Non-discrimination and vulnerable groups	<ol style="list-style-type: none"> <li>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)</li> <li>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</li> </ol>	
	Use of Borrower's Environmental and Social Framework	<ol style="list-style-type: none"> <li>Role of Borrower frameworks in the management and assessment of environmental and social (E&amp;S) risks and impacts where these will allow projects to achieve objectives materially consistent with Environmental and Social Standards (ESSs)</li> <li>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</li> <li>Role of Borrower frameworks in high and substantial risk projects</li> </ol>	<ul style="list-style-type: none"> <li>Participants inquired what would happen in cases where Borrower Frameworks do not require public consultations and asked if consultations would still take place. Participants also asked at what stage of the project-cycle they would be undertaken?</li> </ul>
	Co-financing/ common approach	<ol style="list-style-type: none"> <li>Arrangements on E&amp;S standards in co-financing situations where the co-financier's standards are different from those of the Bank</li> </ol>	
	Adaptive risk management	<ol style="list-style-type: none"> <li>Approach to monitoring E&amp;S compliance and changes to the project during implementation</li> </ol>	
	Risk classification	<ol style="list-style-type: none"> <li>Approach to determining and reviewing the risk level of a project</li> </ol>	
ESS1	Assessment and management of environmental and	<ol style="list-style-type: none"> <li>Assessment and nature of cumulative and indirect impacts to be taken into account</li> <li>Treatment of cumulative and indirect impacts when</li> </ol>	

	social risks and impacts	<p>identified in the assessment of the project</p> <p>12. Establishing project boundaries and the applicability of the ESSs to Associated Facilities, contractors, primary suppliers, FI subprojects and directly funded sub-projects</p> <p>13. Circumstances under which the Bank will determine whether the Borrower will be required to retain independent third party specialists</p>	
	Environmental and Social Commitment Plan (ESCP)	14. Legal standing of the ESCP and implications of changes to the ESCP as part of the legal agreement	<ul style="list-style-type: none"> <li>Participants asked when and how the World Bank would ensure that Environmental and Social Assessments (ESAs) were prepared, and inquired if ESAs would be included as part of the ESCP.</li> </ul>
ESS2	Labor and working conditions	<p>15. Definition and necessity of and requirements for managing labor employed by certain third parties (brokers, agents and intermediaries)</p> <p>16. Application and implementation impacts of certain labor requirements to contractors, community and voluntary labor and primary suppliers</p> <p>17. Constraints in making grievance mechanisms available to all project workers</p> <p>18. Referencing national law in the objective of supporting freedom of association and collective bargaining</p> <p>19. Operationalization of an alternative mechanism relating to freedom of association and collective bargaining where national law does not recognize such rights</p> <p>20. Issues in operationalizing the Occupational Health and Safety (OHS) provisions/standards</p>	
ESS3	Climate change and GHG emissions	<p>21. The relation between provisions on climate change in the ESF and broader climate change commitments, specifically UNFCCC</p> <p>22. 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,</p>	

		<p>duration, frequency and economic and financial feasibility of such estimation and monitoring</p> <p>23. Implications required for the Borrower of estimating and reducing GHG emissions for Bank projects, in line with the proposed standard</p>	
ESS5	Land acquisition and involuntary resettlement	<p>24. Treatment and rights of informal occupants and approach to forced evictions in situations unrelated to land acquisitions</p> <p>25. Interpretation of the concept of resettlement as a “development opportunity” in different project circumstances</p>	
ESS6	Biodiversity	<p>26. Operationalization of the provisions on primary suppliers and ecosystem services, especially in situation with low capacity</p> <p>27. Role of national law with regard to protecting and conserving natural and critical habitats</p> <p>28. Criteria for biodiversity offsets, including consideration of project benefits</p> <p>29. Definition and application of net gains for biodiversity</p>	<ul style="list-style-type: none"> <li>• Participants stated that current projects do not properly assess impacts on biodiversity.</li> <li>• Participants stated that the ESF should have clearer language regarding circumstances where critical habitats are part of lands occupied by indigenous peoples.</li> </ul>
ESS7	Indigenous Peoples	<p>30. Implementation of the Indigenous Peoples standard in complex political and cultural contexts</p> <p>31. Implementation of ESS7 in countries where the constitution does not acknowledge Indigenous Peoples or only recognizes certain groups as indigenous</p> <p>32. Possible approaches to reflect alternative terminologies used in different countries to describe Indigenous Peoples</p> <p>33. 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</p> <p>34. Criteria for establishing and implementation of Free, Prior and Informed Consent (FPIC)</p> <p>35. Comparison of proposed FPIC with existing requirements on consultation</p> <p>36. Application of FPIC to impacts on Indigenous</p>	<ul style="list-style-type: none"> <li>• Participants supported the inclusion of FPIC in the proposed standard.</li> <li>• Participants expressed concern that, even if there may be no consent (FPIC) given by Indigenous Peoples to a given project, the Indigenous Peoples’ component may be dropped but the overall project may go ahead.</li> <li>• Participants stated that the proposed ESF should include references to ILO Convention 169, as well as the United Nations Declaration on the Rights of Indigenous Peoples.</li> </ul>

		Peoples' cultural heritage	
ESS8	Cultural Heritage	37. Treatment of intangible cultural heritage 38. Application of intangible cultural heritage when the project intends to commercialize such heritage 39. Application of cultural heritage requirements when cultural heritage has not been legally protected or previously identified or disturbed	
ESS9	Financial Intermediaries	40. Application of standard to FI subprojects and resource implications depending on risk 41. Harmonization of approach with IFC and Equator Banks	
ESS10	Stakeholder engagement	42. Definition and identification of project stakeholders and nature of engagement 43. Role of borrowing countries or implementing agencies in identifying project stakeholders	<ul style="list-style-type: none"> <li>• Participants considered that there is a lack of diversity in the people that are consulted in Mexico. They stated that consultations are sometimes poorly targeted, citing examples where only landowners are consulted and consequently only adult men provide feedback on a project. Participants mentioned that the World Bank has to improve its consultations of marginalized groups.</li> <li>• Participants highlighted that while the government's framework for consultations is satisfactory, its implementation is not. They stated that consultations need to be undertaken during project design because they often start at implementation, and only after large government investments have been made. This leaves little to no room for project modifications.</li> <li>• Participants mentioned that in many large infrastructure projects there is no direct benefit for the populations where the infrastructure is being built.</li> <li>• Participants expressed that to avoid biases, consultations required an ombudsman.</li> </ul>

			<ul style="list-style-type: none"> <li>Participants underscored the importance of the World Bank's transparency and access to information protocols and stated that project documents need to be disclosed at an early stage in the project-cycle.</li> </ul>
General	EHSG and GIIP	44. 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	
	Feasibility and resources for implementation	45. 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 46. Mitigation of additional burden and cost and options for improving implementation efficiency while maintaining effectiveness	
	Client capacity building and implementation support	47. Funding for client capacity building 48. Approaches and areas of focus 49. Approach to implementing the ESF in situations with capacity constraints, e.g., FCS, small states and emergency situations	<ul style="list-style-type: none"> <li>Participants highlighted that there is a large discrepancy between the Mexican legal and regulatory framework, which is good, and its implementation. They stated that while the Mexican government has the capacity to properly implement its Framework, it often does not do so due to corruption. Participants stated that the World Bank should help the government overcome that challenge.</li> <li>Participants stated that the World Bank should help improve the government's capacity guarantee equal benefit-sharing, and ensure that it happens in a transparent manner.</li> </ul>
	Disclosure	50. Timing of the preparation and disclosure of specific environmental and social impact assessment documents (related to ESS1 and ESS10)	
	Implementation of the	51. Bank internal capacity building, resourcing, and	<ul style="list-style-type: none"> <li>Participants inquired how the Bank would ensure</li> </ul>

	ESF	behavioral change in order to successfully implement the ESF 52. Ways of reaching mutual understanding between Borrower and Bank on issues of difficult interpretation	that its staff have the capacity to implement of the proposed Framework.
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**Other issues**

- Participants mentioned that language that denotes flexibility in the proposed Framework (i.e., “as needed”, “as appropriate”, “acceptable to the Bank”, etc.) lowers standards. Participants stated that stricter language on requirements and timelines was needed, especially for consultations and the public disclosure of documents.
- Participants stated that there is a lack of proper environmental and social analysis for DPLs.
- Participants manifested concern that case-studies were only discussed with government officials and not with civil society organizations (CSOs).
- Participants asked how the comments of CSO would be taken into account and if there were means of following up with the final draft of the proposed ESF.
- Participants expressed concern that invitations were not sent out in a timely manner, or to sufficient CSOs.