

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

Phase 3

Feedback Summary

Date: November 9, 2015

Location (City, Country): Dhaka, Bangladesh

Audience (Government, Implementing agencies, Multi-stakeholder, etc.): Government and implementing agencies

| ESF | Issue | Items | Feedback |
|--------------|--|--|---|
| Vision | Human Rights | 1. Approach to human rights in the ESF | |
| ESP/ ESS1 | Non-discrimination and vulnerable groups | 2. 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) 3. 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"> • The proposed non-discrimination principle is inconsistent with national framework. • While the country has environmental standards, social standards need to be developed. Social issues that have political aspects need further consultation in the country. • Clarification was sought on whether equity among project beneficiaries was required under the non-discrimination principle. |
| | Use of Borrower’s Environmental and Social Framework | 4. Role of Borrower frameworks in the management and assessment of environmental and social (E&S) risks and impacts where these will | <ul style="list-style-type: none"> • Bangladesh has its own development strategy and environmental and social laws and regulations to be implemented by its Department of Environment. The Bank should take into account that the ESF is not aligned with the country framework and differences between them exist. |

| ESF | Issue | Items | Feedback |
|-----|----------------------------------|--|--|
| | | <p>allow projects to achieve objectives materially consistent with Environmental and Social Standards (ESSs)</p> <p>5. 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</p> <p>6. Role of Borrower frameworks in high and substantial risk projects</p> | <ul style="list-style-type: none"> • In the proposed ESF, it is unclear how and when the project is expected to apply the national laws and regulations. • The sequence of project processing needs to be more clearly defined. • It takes as long as three to six months to satisfy the Bank's requirements, including public consultations and preparation of an environmental and social assessment. This is very time and resource consuming. Under the National Environmental Act, it is necessary to obtain the site clearance as a first step, and then the environmental clearance is based on the terms of reference for the environmental impact assessment (EIA). The sequence under the national system is different from the Bank's system. The Bank should find ways to synchronize with the national system. • The country has very good policy frameworks on environmental protection. It would be good to blend the country framework and ESF requirements to produce a single EIA report. |
| | Co-financing/ common approach | 7. 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"> • Many donors, including the Bank and ADB, are involved in Bangladesh, for example in the water sector. Recognizing that implementation capacity of the country is weak, the policies and guidelines of such donors should be harmonized. |
| | Adaptive risk management | 8. Approach to monitoring E&S compliance and changes to the project during implementation | |
| | Risk classification | 9. Approach to determining and reviewing the risk level of a project | <ul style="list-style-type: none"> • It should be clarified when an EIA needs to be conducted for high risk projects under the proposed ESF. • It is unclear how the new risk classification is comparable to the current ABC categorization. The country also has its categorization system. The Bank should synchronize with the national system. • The modes of defining the risk rating need to be clarified, including who will rate the risk. It appears to be subjective. |

| ESF | Issue | Items | Feedback |
|------|---|---|---|
| ESS1 | Assessment and management of environmental and social risks and impacts | <p>10. Assessment and nature of cumulative and indirect impacts to be taken into account</p> <p>11. Treatment of cumulative and indirect impacts when 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> | <ul style="list-style-type: none"> The Bank should provide some guidance or procedure to scientifically or objectively determine the “proportionality” that has been introduced in the ESF. |
| | 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"> Clarification was sought on the consequence of the ESCP being legally binding. It is unclear why it needs to be legally binding, how often it will be revised, and the consequences when it is not properly implanted. It is unclear who will prepare the ESCP. There is no such expertise currently both at implementing agency and ministry levels. The introduction of the ESCP appeared to some to be another conditionality. Agricultural projects in the country are motivational and many donors, including the Bank and national programs, are being conducted in the same location, complementing one another. In such circumstances, it is difficult and inappropriate to require an ESCP, and therefore, it is unclear what would be legally binding for the country. It should be clarified how to prepare an ESCP applicable to a nationwide project. |

| ESF | Issue | Items | Feedback |
|------|------------------------------|---|--|
| | | | <ul style="list-style-type: none"> • If a project has potential impacts on lower riparian or co-riparian countries, the ESCP should include a commitment that the project would not harm lower riparian or co-riparian countries in terms of water quality, quantity, biodiversity ecosystem and environment. |
| 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> | <ul style="list-style-type: none"> • The country has very detailed national law on workers' health and safety. The Bank should take this into consideration in implementing the ESF. • How to address workers' freedom of association and collective bargaining at an individual project level should be clarified. • Addressing child labor in Bangladesh is very difficult. Entire families of poor and marginal farmers, including children, work to survive. This is particularly so in the case of "workers in community labor" that were discussed in the consultation. The Bank should clarify this point in the ESF. • The country has a very good law on child labor. But child labor remains a big concern for the government because of the lack of a monitoring mechanism. If serious issues of child labor were found in a project like the case study of the agriculture sector, the Bank and the country would have to consider initiating another project, such as in the education sector. • The minimum age of 14 for child labor is questionable and should be reconsidered. • Definition of "core function" for third parties should be more specific. • The Borrower has very limited control when the project relies on outsourcing to the private sector. There is no tool for the Borrower to manage such private sector operators. • A typical issue related to occupational health and safety in the agricultural sector is that workers do not always comply with safety measures, such as wearing masks or gloves when using pesticide. It is difficult for the Borrower to monitor such lack of compliance. It should be clarified how the Borrower is required to monitor such individual cases. |

| ESF | Issue | Items | Feedback |
|------|---|--|---|
| 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, 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> | <ul style="list-style-type: none"> • The ESF appears to be weak on climate change adaptation and management of disaster risks, which are closely related to livelihood. This should be strengthened in the ESF. The Bank is requested to consider how to reduce the burden on the Borrower on climate change issues. • There is a system to collect data on GHG emissions under the UNFCCC process. Bangladesh has an economic development plan with a goal of becoming a middle income country by 2021. Mitigation of GHG emissions should be coordinated with such a national economic plan. • The country needs a mechanism to reduce GHG emissions, including in the water sector. • Gas leaks (mainly CH4) influence emissions of GHG. Therefore, it should be made mandatory to include hydrocarbon in the environmental test parameters in addition to the usual NOx, Sox, SPM, PM2.5, PM10 etc. in the ambient air quality test. |
| 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> | <ul style="list-style-type: none"> • In Bangladesh, land is very precious, and there are national laws on land acquisition. However, the Bank’s policy requires payment to illegal occupants on public land. This should be reconsidered in the ESF. • We suggest that the Bank include in the ESF mandatory video recording of the project location to identify the type of crops, existing structures, etc. and to discourage illegal structures developed after cut-off dates. The video recording date may be also considered as the cut-off date. |

| ESF | Issue | Items | Feedback |
|------|--------------------|--|---|
| 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"> • Bangladesh has is no framework to monetize the impact on ecosystem services, which causes their depletion. Clarification was sought whether the ESF proposes any provision to address such a concern. • The parameters to be measured for ecosystem services are unclear in the ESF. • Ecosystems are very delicate and may not come back once they are lost. • Management of catchment areas is essential for sound ecosystems. |
| 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</p> | <ul style="list-style-type: none"> • FPIC is a very complex, political and sensitive issue in many countries. |

| ESF | Issue | Items | Feedback |
|-------|--------------------------|--|---|
| | | <p>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 Peoples' cultural heritage</p> | |
| ESS8 | Cultural Heritage | <p>37. Treatment of intangible cultural heritage</p> <p>38. Application of intangible cultural heritage when the project intends to commercialize such heritage</p> <p>39. Application of cultural heritage requirements when cultural heritage has not been legally protected or previously identified or disturbed</p> | <ul style="list-style-type: none"> • The impact on cultural sites should be carefully assessed, including climate change impact. |
| ESS9 | Financial Intermediaries | <p>40. Application of standard to FI subprojects and resource implications depending on risk</p> <p>41. Harmonization of approach with IFC and Equator Banks</p> | <ul style="list-style-type: none"> • In the case of FI operations, it is unclear when the project data needs to be collected, including economic viability and ES issues. |
| ESS10 | Stakeholder engagement | <p>42. Definition and identification of project stakeholders and nature of engagement</p> <p>43. Role of borrowing countries or implementing agencies in</p> | <ul style="list-style-type: none"> • Clarification was sought on how to deal with political issues in the proposed stakeholder engagement process. In some projects, for example in the energy sector, CSO and local community mobilization is organized. • Preparation of a stakeholder engagement plan (SEP) will have a time implication for the project. Also, the sequencing of the SEP in project |

| ESF | Issue | Items | Feedback |
|---------|--|--|---|
| | | identifying project stakeholders | <p>processing is unclear. The baseline should be clarified, including the frequency and timing of stakeholder engagement. “Engage stakeholders throughout the project life-cycle” does not provide sufficient guidance.</p> <ul style="list-style-type: none"> • The ESF should more clearly define what should be done for stakeholder engagement during project implementation. • Handling procedures for addressing grievances should be in compliance with project conditions. |
| General | EHS&G and GIIP | 44. Application of the Environmental, Health and Safety Guidelines (EHS&Gs) 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 | <p>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</p> <p>46. Mitigation of additional burden and cost and options for improving implementation efficiency while maintaining effectiveness</p> | <ul style="list-style-type: none"> • More details on the process of implementation are needed. This is unclear in the proposed ESF. • It should be clarified who will bear the cost of introducing the new framework in the country. • There is lack of capacity in the country for implementing the proposed ESF. For example, ESS2 is a good standard and Bangladesh also has national labor laws, but it is difficult for the country to bear the additional cost of technical aspects and monitoring. Also, there is no technical or financial capacity for GHG emissions estimation, water use and management, etc. Funds will be needed for capacity development. • Clarification was sought on whether the Bank has conducted any analysis of national laws and policies on ES issues of member countries. Clarification was sought on the implication of the introduction of ESF for such national laws and policies. |

| ESF | Issue | Items | Feedback |
|-----|---|---|--|
| | | | <ul style="list-style-type: none"> • The World Bank should immediately start assessing the current country framework and find the gaps with the proposed WB framework. WB should work on strengthening the country system including the capacity building relevant agencies and ministries. • The Bank should consider the implementability of the ESF for small scale projects. These are different from large infrastructure projects. Flexibility should be introduced. |
| | 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"> • Capacity building is needed, particularly for the enhanced requirement on social assessment. Currently, there is no such expertise. • Issues addressed in the ESF are cross-cutting and are inter-linked and inter-dependent. Thus building capacity across relevant departments is important. • Capacity should be strengthened for project design so that ES issues are correctly reflected in the project in an implementable manner. ES issues need to be managed within the framework of project objectives, and not override the latter. • The Bank should promote institutionalization of ES management in the country context. • The current level of capacity in the country needs to be assessed and then an action plan should be prepared to support both human resource development and institutional capacity development. The latter is important to maintain institutional memory. |
| | Disclosure | 50. Timing of the preparation and disclosure of specific environmental and social impact assessment documents (related to ESS1 and ESS10) | |
| | Implementation of the ESF | 51. Bank internal capacity building, resourcing, and behavioral change in order to successfully implement the ESF | |

| ESF | Issue | Items | Feedback |
|--------------|-------|---|---|
| | | 52. Ways of reaching mutual understanding between Borrower and Bank on issues of difficult interpretation | |
| Other issues | | | <ul style="list-style-type: none"> • More time is needed to prepare our feedback on the proposed ESF. Today’s consultation provides an opportunity to understand the ESF. An inter-ministerial meeting will be held consolidated comments prepared. • Environmental and social protection is central to government policy. The prime minister is the champion of this challenge. None of the issues in the ESF is new to Bangladesh. Almost all issues are addressed in national laws and policies. Also, the country already has many international agreements and instruments with which to comply. There is a concern that the ESF will have additional time and cost implications for project implementation. • A comparison table highlighting the main differences between each of the Environmental and Social Standards and the corresponding Operational Policy safeguard would be helpful. • While this is the second safeguard review consultation in Bangladesh, the Bank should pay attention to consistency and continuity. • The Bank should make the proposed ESF more user-friendly. • ESS1 to 10 will involve serious legal issues. • The methodology for the country case study, particularly on the calculation of incremental effort, needs further clarification. • The methodology used in the country suggests the use of secondary data. But primary data should be collected as it is more reliable. • Clarification was sought on whether the Bank will strive to have the ESF adopted by other MDBs for harmonization. • The Bank policy on international waterways should also be reviewed. The country’s agriculture and food security depends on the availability of quality irrigation water. Recently Bangladesh has been facing crucial and dangerous trends resulting from the water management practice of upstream countries, which significantly affects the availability of water in the country. |

| ESF | Issue | Items | Feedback |
|-----|-------|-------|---|
| | | | <ul style="list-style-type: none"> • Indicators for ES issues must be put in place before initiating a project. • Forests and agricultural lands are decreasing as the country strives for further development. Impacts on the environment and involuntary resettlement should be minimized. • Species of thick-leaved, moderately tall plants along the periphery of gas and power industry projects substantially absorb noise, vibration, sound and air pollutants generated in the plants. Their use should be incorporated in the ESF. • The ESF should include a recommended Table of Content (TOC) and content of the report for a formal monitoring procedure, such as that provided by the Department of Environment for IEE, EIA and EMP reports. |