



Resource-Efficient Land Use –
Towards A Global Sustainable Land
Use Standard
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The World Bank Safeguard Policies – Chance or risk for global sustainable land use?

GLOBALANDS Discussion Paper

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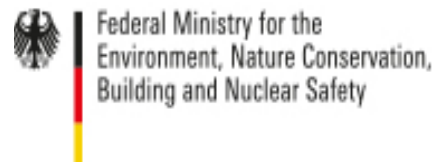
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Introduction

The World Bank Group is presumed to be the largest development organization in the world. In 2013 alone, the Bank spent more than 65 billion Dollars (approx. 51 billion Euros) on projects in developing countries. The World Bank Group consists of five institutions with different objectives and clients. The World Bank itself consists of the International Bank for Reconstruction and Development (IBRD) and the International Development Association (IDA). Among the three remaining intuitions, the International Financial Cooperation (IFC) is probably the most important one for the purpose of this paper. It is the largest global development institution focusing exclusively on the private sector, while clients of the IBRD and IDA are mostly governments of developing countries.

In July 2014 the World Bank has launched a two years consultation process for the review of the new Environmental and Social Framework (ESF).¹

The new framework, entitled as “A vision for sustainable development”, contains a new social and environmental policy for the World Bank as well as revised Performance Standards for projects funded by the World Bank.

The new framework should enable the World Bank to respond to new developments and challenges of the last decades. The main objective is to distinguish more clearly between political elements, principles and procedures and to avoid overlaps and redundancies.

In more detail, the Framework comprises:²

- A ***Vision for Sustainable Development***, which sets out the Bank’s aspirations regarding environmental and social sustainability;
- The ***World Bank Environmental and Social Policy***, which sets out the mandatory requirements that apply to the Bank;
- The ***Environmental and Social Standards***, together with their Annexes, which set out the mandatory requirements that apply to the Borrower and projects;
- The ***Environmental and Social Procedures***, which set out requirements mandatory for both the Bank and the Borrower on how to implement the Policy and the Standards; and
- Non-mandatory ***guidance and information tools***, to support Bank and Borrower implementation of the Policy and the Standards.

¹ <http://consultations.worldbank.org/consultation/review-and-update-world-bank-safeguard-policies>

² *ibid.*

The main goals of the World Bank are to end extreme poverty and promote shared prosperity in a sustainable manner in all its partner countries. The New Framework should deliver efficiently on the two goals while also supporting more sustainable use of resources, promoting social inclusion, discouraging discrimination, and being mindful of the economic burdens development can place on future generations.³

A stronger focus on the risks for and impacts on people and the environment by moving towards a risk-based classification of projects should enhance the operational efficiency of the World Bank.

While presented as the policy for the entire World Bank, it has to be noted that this New Framework apply for IBRD and IDA, thus covering public sector investment and about two thirds of the overall World Bank spending. IFC activities, which often leverage a great amount of (private) investment from third parties, fall under different rules.⁴

Yet, standards developed and promoted by the World Bank have a strong representative role in international development and are often used as a benchmark for national governments as well as development banks and other investing organizations when creating their own standards.⁵

The World Bank safeguards in the context of land use

The increasing international awareness on investments in land and agriculture has also shed a particular light on the new World Bank safeguards framework. In previous non-public consultations, civil society organizations have demanded that the new framework should strongly build on human rights and consider the provisions of the Voluntary Guidelines on Land Tenure (VGGT) when tackling land investments.

³ Background Paper to the Review and Update of the World Bank's Safeguard Policies: http://consultations.worldbank.org/Data/hub/files/consultation-template/review-and-update-world-bank-safeguard-policies/en/documents/code_background_paper_september_2014.pdf

⁴ Well known and widely applied as the „IFC Performance Standards“, which have a strong overlap to the new Environmental and Social Standards, for details see: http://www.ifc.org/wps/wcm/connect/115482804a0255db96fbffd1a5d13d27/PS_English_2012_Full-Document.pdf?MOD=AJPERES

⁵ as it is the case with the Environmental and Social Policy (ESP) of the European Bank for Reconstruction and Development (EBRD), see: <http://www.ebrd.com/news/publications/policies/environmental-and-social-policy-esp.html>

Roughly calculated, about half of all World Bank donations in 2014 went into sectors that have a direct impact on land and land use (agriculture, fishing and forestry; energy and mining; transportation; water, sanitation and flood protection).⁶

Hence, the World Bank Safeguards Policies and the current review and consultation process are also important with respect to global sustainable land use. Building on a broad international governance screening, the GLOBALANDS project aims to identify windows of opportunities for the promotion of a global sustainable land use in ongoing policy processes. Given its relevance and wide scope, the World Bank Safeguards could potentially offer an opportunity to implement meaningful standards for investments in land and for land use, which would be valid for a wide geographic scale and affect millions of people.

In total, the New Framework encompasses 10 social and environmental standards. The standards with particular relevance for the land use issue are the following:

Standard 1: Assessment and Management of Environmental and Social Risks and Impacts

This is the overarching standard of the Framework and lays out the process for an integrated social and environmental assessment of projects. The proposed framework outlines how borrowers will need to identify any potential environmental and social risks and impacts that could arise during the project, design studies to analyze these challenges, and propose mitigation measures. It has to be noted that the borrower conducts these assessments only with the support of the World Bank advisors. Thus, the World Bank has a reviewing and assisting role and do not, strictly speaking, enforce and implement their own provisions.

Standard 5: Land Acquisition, Restrictions on Land Use and Involuntary Resettlement

The core of this standard is to protect local populations from displacements from their land. National governments and other “borrowers” have to make

⁶ The World Bank (2014): Annual Report 2014

sure that transparent consultation processes with affected populations take place when resettlement is required in a project (e.g. in constructions of dams and other large-scale infrastructure projects). This does not explicitly include instruments such as the ‘free and prior informed consent’ (FPIC; cf. Standard 7).

Furthermore, legal and financial support should be given to people affected by resettlement, ensuring that living standards and livelihoods are re-established in the areas they have to move to. Remarkably, this standard does not aim for the prevention of resettlements and their impacts on people and environment in the first place, but rather provides for the appropriate compensation measures and procedures.

Standard 6: Biodiversity Conservation and Sustainable Management of Living Natural Resources

Meeting requirements for preventing damage and loss of biodiversity and natural resources is strongly related to the impact assessment further outlined in Standard 1. The impact assessment to be conducted before the start of a project should identify any risks for biodiversity and natural resources the project might evoke. Based on this assessment, borrowers are obliged to develop a management plan for the sustainable use of natural resources that demonstrates how risks are tackled in the project. The World Bank approves the impact assessment and acts as a supervisor for the implementation of the management plan.

Standard 7: Indigenous Peoples

Indigenous peoples and other communities are often affected by displacements from their traditional lands with severe effects on their livelihoods and incomes. Standard 7 strongly builds on the Free Prior Informed Consent (FPIC), an international rule for the imperative involvement of indigenous peoples in decisions and their processes, which affect their rights and livelihoods as well as the land on which they live. While on the one hand the standard requires that the FPIC is complied with in projects that affect indigenous peoples, borrowers can also propose their own approach for the consideration of indigenous peoples’ rights.

Critical reaction from Civil Society Organisations (CSO)

Harsh critique was raised by several civil society organizations after the publishing of the draft New Framework. One particular issue of concern is that the New Framework imposes too much responsibility on the borrower giving governments of developing countries a lot of room for interpretation and adjustments of the general requirements to their own (presumed) capacities and capabilities. In this context, the 'opt-out' possibility stressed under standard 7 has raised particular criticism by several civil society organizations.

In the context of land rights and food security a paper from over 120 CSOs⁷ highlighted that the New Framework insufficiently considered the provisions from the Voluntary Guidelines on Land Tenure (VGGT). For example, obvious links to legal obligations of international law (e.g. to human rights) are missing in the Framework, detailed descriptions on procedural requirements for meaningful participation in decisions on land are neither taken up from the VGGT nor referenced, and preventive measures against corruption are not considered. In total, the CSO paper stated that the New Framework represents a deterioration of land rights rather than an improvement.

Other critique refers to a wide range of unspecific issues in the New Framework which have already been identified and distinguished in the VGGT. For example, capturing the complexity of governance in land tenure, the VGGT distinguish between land registration, land transfers and land administration, which all deserve specific attention and measures. Such distinction is missing in the New Framework, which can be seen as a setback behind already agreed provisions and rules at international level.

Standard 5, among others, is dealing with resettlement of people due to the implementation of World Bank projects. CSOs are missing a clear obligation that such projects serve public purposes rather than private ones. Moreover, while the VGGT aim for secure land tenure before resettlement implying participation even before a project is designed, the New Framework only guarantees secure land tenure after the resettlement.

⁷ See: <http://www.inclusivedevelopment.net/joint-statement-world-banks-draft-safeguards-fail-to-protect-land-rights-and-prevent-impooverishment-major-revisions-required/>

In this context, the CSO paper states that large-scale land transfers are regarded as positive events from the World Bank perspective and the new standards will fail in preventing from the numerous harmful impacts from land grabbing in the respective countries.

An expert from a watchdog organizations commented on these and other perceived drawbacks of the New Framework in the following way: *“I think there’s a strong undercurrent of realpolitik that is motivating these changes. The bank’s management is clearly worried about losing market share to China and the BRICS bank and becoming irrelevant, so it is trying to make itself more attractive to borrowers by cutting what is seen by some as red tape.”*⁸

Recommendations

Based on this critique the most obvious recommendation in order to ensure food security, protect land rights and foster a sustainable land use in World Bank projects is a much stronger alignment of the New Framework with the provisions of the VGGT. This refers in particular, but not exclusively, to the following issues:

- A clear distinction of land tenure related issues and respective requirements between land registration, transfers and administration;
- An ex-ante assessment and establishment of secure land tenure before resettlement is tackled;
- A much stronger reference to legal obligation set by international law, most importantly to human rights, anti-corruption and food security but also to other international frameworks such as to the UN Guiding Principles on Business and Human Rights.⁹

Taking into consideration that after adoption of the VGGT many international activities and initiatives seek to implement the VGGT in both developing and developed countries at various levels, it is also a concern of lacking consistency

⁸ This statement is from David Pred from the organisation “Inclusive Development International”, see: <http://www.mintpressnews.com/world-bank-accused-transferring-safeguards-responsibility-borrowers/195453/>

⁹ <http://business-humanrights.org/en/un-guiding-principles>

when standards developed by the World Bank significantly fall behind the VGGT standards.

In many developing countries, governments do not have the capacity or even the willingness to conduct rigorous social and environmental impact and risk assessments. And even if they do, it is not guaranteed that agreed measures to alleviate impacts and risks are really implemented, enforced and monitored on the ground.

The opt-out possibility for governments in applying the FPIC for the participation of indigenous people give an indication that the World Bank assign a huge amount of responsibility to national governments as the borrowers. Not only with respect to land issues it seems absolutely crucial that sufficient (control) mechanisms are established by the World Bank, which ensure a meaningful participation of affected people (both indigenous and local communities in general) right from the beginning of the process, guarantee for appropriate time and financial resources to conduct the impact assessment and provide for effective feedback loops with affected population and stakeholders throughout the project duration. In general, the design of a project needs to be flexible enough in order to react to such feedback properly and potentially alter project objectives and implementing measures.

The new World Bank Standards do not contain any specific requirements or an overall strategy for a sustainable land use, neither are any land use practices excluded from World Bank projects as being “unsustainable”. Instead, impact assessments define individually for each project whether land use practices or resettlements bear any social or environmental risks and how these can be dealt with.

Since sustainable land use is not an explicit issue within the New Framework,¹⁰ the question is which criteria and indicators with regard to a sustainable land use to apply within the individual impact and risk assessments? In order to reduce arbitrariness and inconsistency the World Bank could give requirements or general standards for land use that borrowers would have to adhere to,

¹⁰ which is consistent in the sense that other environmental issues such as water, biodiversity, air pollution etc. are not further specified either.

possibly adjusted to their regional conditions. Such standards could be developed by the World Bank itself and used as an Annex to the New Framework. Alternatively, the World Bank could refer to existing standards and objectives that have been developed e.g. in the context of sustainable biomass production (GBEP, RSB etc.) or that are under discussion within the SDG framework.

The consultation process officially continues until the 1st March 2015. It remains to be seen when the second draft of the Framework will be published (date still to be determined), if the World Bank takes the critique and the various recommendations to better align the New Framework to the VGGT and to human rights provisions seriously. Only then, the New Framework bears the potential to enhance sustainable land use in developing countries and beyond.