

# World Bank Environmental & Social Framework review: Comments from The Biodiversity Consultancy

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**Contact:** Leon Bennun, [leon.bennun@thebiodiversityconsultancy.com](mailto:leon.bennun@thebiodiversityconsultancy.com) (+44 7500 667404)

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General comments on the framework follow after specific comments on ESS6.

## A. Comments on ESS6

### A1. Divergence of terminology and scope between ESS6 (World Bank) and PS6 (IFC) risks confusion and could undermine implementation

- i. Each of the major Multilateral Financial Institutions has its own safeguard framework for biodiversity. With revisions in recent years there has been increasing convergence of approaches, although many differences in detail and in terminology remain.
- ii. Of these frameworks, IFC's PS6 is the best established and most widely influential by far. PS6 is not perfect, but there is increasing experience in how to apply it, and on what constitutes good practice in dealing with problematic issues or inadequately defined concepts.
- iii. There is a strong argument for encouraging harmonisation of biodiversity safeguards across institutions in the World Bank group – especially as IFC and the World Bank are now often co-lending or operating in the same environment.
- iv. It appears that the draft World Bank ESS6 may have attempted to remove or improve some potentially confusing concepts in PS6, such as 'modified habitat'. In doing so, however, the draft has (in our view) created new problems of its own.

- v. There is a real risk that a divergent approach within the World Bank group could confuse both clients and stakeholders, and potentially undermine recent progress in biodiversity management.
- vi. TBC recommends that the World Bank should adopt concepts and terminology in ESS6 consistent with those used in IFC PS6, rather than creating a similar but confusingly divergent set of its own.

## A2. Criteria for 'Critical Habitat' need bolstering

- i. Despite the differing terminology, the criteria for identifying 'Critical Habitat' in ESS6 are largely consistent with those in PS6, but there are some important omissions
- ii. Compared to PS6, the ESS6 definition of Critical Habitat omits reference to (i) 'unique' ecosystems, (ii) 'endemic' species (though geographically restricted species are covered), and (iii) key evolutionary processes.
- iii. Unlike PS6, ESS refers only to 'highly threatened' but not 'unique' ecosystems. 'Unique' is interpreted in the guidance note to PS6 as "with a small spatial extent and/or containing unique assemblages of species including assemblages or concentrations of biome-restricted species".
- iv. Many 'unique' habitats may also be highly threatened – though that is not necessarily the case. Although an IUCN Red List of Ecosystems is in preparation, is it not expected to be finalised for another 10 years. In the meantime, the 'highly threatened' criterion will be hard to apply, leaving ESS6 with no effective consideration of ecosystems within its Critical Habitat definition. TBC recommends that reference to 'unique' ecosystems – with a gloss explaining what this means, as per PS6 – should be included in ESS6.
- v. ESS6 includes 'geographically restricted' species but not 'endemic' species in its Critical Habitat definition (PS6 includes both). 'Geographically restricted' is a clearer term than 'endemic', which is interpreted in PS6 as a species that has  $\geq 95$  percent of its global range inside the country or region of analysis. 'Endemic' is problematic when interpreted in relation to national boundaries, as countries vary greatly in size – a species endemic to Brazil could have a far larger range than one endemic to Panama! However, this term has proved helpful in PS6 when dealing with poorly-known taxa, such as some plants, which may have so few locality records that the range size cannot be determined. TBC

recommends that ESS6 should either reinstate this term, in alignment with PS6, or provide guidance on how to deal with poorly-surveyed taxa (i.e., when can it be assumed that such taxa will qualify as 'restricted range?').

- vi. 'Key evolutionary processes' are not included in the ESS6 CH definition. Applying this criterion in PS6 has proved problematic, as these processes are hard to define and identify. Its absence in ESS6 may therefore not have much impact on how CH is defined in practice. However, for consistency, we suggest it would be preferable for ESS6 and PS6 to align on this point too.

### A3. Clear guidance is needed in relation to 'Priority biodiversity features'

- i. TBC considers that despite the different terminology the focus on 'priority biodiversity features' in ESS6 will likely will give similar results to the focus on 'natural habitats' in PS6.
- ii. The definition in ESS6 is more restrictive than its analogue in PS6: some 'natural habitats' as defined by PS6 would not qualify as 'priority biodiversity features' in ESS6.
- iii. On the other hand, the requirements for developments affecting priority biodiversity features in ESS6 are slightly more stringent than for natural habitat in PS6. Under ESS6 developers must "ensure no net loss and preferably a net gain of priority biodiversity features over the long term", under PS6 they must put in place mitigation measures "designed to achieve no net loss where feasible".
- iv. In practice, these differences in wording may be less important than how the safeguards are actually implemented. Under PS6, attention has usually been focused on Critical Habitat, and Natural Habitat has been largely overlooked.
- v. If ESS6 maintains the concept of 'priority biodiversity features', rather than reverting to 'natural habitat', clear guidance will be needed on how to identify these features and on accounting approaches to determine no net loss or net gain.

### A4. Within ESS6, inconsistent terminology needs addressing

- i. In defining Critical Habitat, ESS6 refers to 'biodiversity features important for maintaining the viability' of CH-qualifying biodiversity features. In defining priority biodiversity features,

ESS refers to 'ecological structures and functions needed to maintain the viability of these priority biodiversity features'. It would be clearer if the one term 'ecological structures and functions' was used in both cases.

- ii. TBC considers that this new concept (of ecological structures and functions needed to maintain the viability of priority biodiversity features, which does not appear in PS6) is likely to prove useful. However, it would help to provide some additional explanation of what it means – for instance, in a guidance note.

## A5. Ecosystem services should be considered in ESS6 and/or elsewhere in the ESF

- i. Ecosystem services appear not to be considered in ESS6, or anywhere else in the draft ESF.
- ii. This is a discrepancy with IFC safeguards, where ecosystem services are considered in PS6 and in a number of other performance standards – and in TBC's view a deficiency.
- iii. There are strong practical reasons why development projects should consider and mitigate the impacts on ecosystem services. There are numerous examples of the difficulties that projects can encounter (including delays and expense caused by social opposition) when these impacts are ignored.
- iv. This risk may be perceived differently by Governments than by business, but it is still a risk and should be addressed in the framework.

## A6. Guidance is needed for implementing ESS6

- i. TBC strongly recommends development of a guidance note for ESS6 (and for other ESS), so as to explain and better define a number of potentially unclear or confusing points.
- ii. If ESS6 does not adopt the concepts and terminology of PS6, explanation of how the two standards align and can be applied in congruence will be particularly important to include in a guidance note.

## B. General comments on the ESF

- B1. The new framework has many positive features. In TBC's focal area, biodiversity, the draft ESS6 largely brings the World Bank in line with best international practice. However, some concerns remain and there is scope for further improvement. In some cases, clarification of the intent and the approach to implementation may be all that is required: TBC believes that a guidance note to sit alongside the framework could be very helpful. In other cases, the framework itself would benefit from some revision.
- B2. The new framework moves towards what has been termed 'open-ended compliance', where the bank has greater discretion on deciding when compliance is met and by what standard. This may be a pragmatic response to the challenges of effective implementation and in TBC's view will not necessarily weaken Bank supervision. However, this is a less transparent process than where clear rules are set and followed. It may thus make scrutiny of implementation by civil society less easy and effective. Civil society scrutiny is important to ensure that the framework does meet its aims in practice, not just on paper, so the bank should consider carefully any changes in approach that might undermine it.
- B3. Related to this concern, the requirements on disclosure and information-sharing (ESS10) appear vague and unsatisfactory. We suggest they should be clarified and strengthened.
- B4. P. 12. "The Bank will classify all projects (including intermediated financing projects) into one of four classifications: *High Risk*, *Substantial Risk*, *Moderate Risk* or *Low Risk*." A number of factors are listed that the bank will take into account, but there are no indications of how these will be used to determine the classification, nor how consistency in approach will be ensured. The classification clearly matters, as there are a number of specific requirements that result when projects are classified as 'High Risk' – but none for projects classified as 'Substantial Risk' or lower. Considering biodiversity, it is not clear whether projects potentially having significant impacts on Critical Habitat will always be classified as 'High Risk' (in TBC's view, they should be, for precautionary reasons).
- B5. P. 24. Use of borrower's ES frameworks. Moving to use borrowers' own frameworks brings opportunities and risks. It potentially provides a welcome stimulus to raise the bar and improve national frameworks to standards of international best practice. On the

negative side, there are real risks that paper frameworks will not be matched by implementation. In practice, it is a common experience that national environment bodies are compromised by inadequate capacity, authority and independence. The ESF makes the bank responsible for assessing national capacity and supervising as necessary. However, what will happen in practice, and how will failings actually be addressed?

- B6. P. 29. The ESF proposes that borrowers' frameworks would generally apply to 'subprojects'. Only 'high risk' subprojects (classified by the borrower, not the bank) must align with the ESS. The rest are merely required to meet national regulatory requirements, whether these are adequate to meet ESF standards or not. However, it is very unclear from the framework what will be classed as a subproject. The concerns in (4) apply, as frequently borrowers' frameworks appear adequate on paper but are far from satisfactory in practice.
- B7. The importance of addressing cumulative impacts, rather than just focusing on the impacts of individual projects in a piecemeal fashion, is increasingly being recognised. This issue is dealt with by the IFC Performance Standards in some depth, but is not addressed by the draft World Bank ESF. This is a surprising omission that needs attention to bring the ESF in line with accepted current best practice.
- B8. Similarly, the ESF does not address impacts on ecosystem services – another surprising omission that needs attention (see comments on ESS6, above).