Recommendations regarding the World Bank’s proposed Environmental and Social Standard 10

This submission seeks to summarize the Bank Information Center’s key recommendations regarding the second draft of the World Bank’s proposed Environmental and Social Standard 10, Stakeholder Engagement and Information Disclosure (ESS10).

This submission builds on BIC’s previous submission dated March 1, 2104 regarding ESS10. Many recommendations contained in the previous submission are still applicable to the second draft, and this submission seeks to provide additional detail that will further clarify recommendations contained in that submission. The below points will outline recommendations relating to preliminary systems assessments, disclosure, consultations, the Stakeholder Engagement Plan, the Project Level Grievance Mechanism, and local monitoring mechanisms.

Preliminary assessments:
Under the new draft ESF, the Bank proposes to conduct a country-level assessment of Borrowers’ Environmental and Social (ES) Frameworks which will evaluate whether using the Borrowers’ ES Framework can achieve objectives consistent with the ESF by looking at the institutional framework, laws and procedures, and implementation track record of the country. During the Washington, DC consultation that took place February 22-24, 2016, it was clarified that this assessment will take place as part of the Systematic Country Diagnostic (SCD) and Country Partnership Framework (CPF) process. We recommend the following edits to the draft ESF in order to prevent discrimination, exclusion, or retaliation against groups or individuals who might face systematic persecution in certain country environments:

1. **As part of the upstream assessment of Borrowers’ ES Framework, the environment for citizen/civic engagement in the country (including the environment for freedoms of expression, assembly, and association, access to information, and the realization of other rights critical to development) should be assessed.** Based on this assessment, a minimum threshold should be included in the ESF below which the Bank should be the party responsible for contracting with independent, 3rd party specialists to conduct the stakeholder analysis and identification exercise (per ESS10 paragraph 12), and in which case the Bank will deem it necessary to support the Borrower to carry out early and continuing engagement/consultation with stakeholders (per the ESP paragraph 2b).

2. An independent third party expert should be contracted to conduct the stakeholder identification and monitor the engagement process for all High and Substantial risk projects.

3. In all High and Substantial risk projects, the Bank should be required to support the Borrower to carry out early and continuing engagement and meaningful consultation with stakeholders, in particular affected communities, and in providing project-based grievance mechanisms.

Disclosure
Accessible, understandable information is an essential prerequisite to stakeholders’ ability to engage meaningfully in order to fulfill Borrower commitments in ESS10. We recommend that:

1. The Borrower’s documented record of stakeholder engagement (as referenced in ESS10, Paragraph 9) should be provided to the Bank and disclosed to the public and on the Bank’s website.
2. The log of complaints received by the project level grievance mechanism (as referenced in ESS10, Annex 1, paragraph 2b) should be provided to the Bank and disclosed to the public and on the Bank’s website, in a manner sensitive to the potentially confidential nature of complaints.

3. Per the Environmental and Social Policy (Section F, paragraph 48), the Bank is required to apply the World Bank Policy on Access to Information with regard to all documents provided to it by the Borrower. Further clarification is required as to the specific documents that will be written and disclosed as part of the development of the Stakeholder Engagement Plan, and the timing of each document’s disclosure in relation to the project cycle.

Consultations
Consultations must not be reduced to a box-checking exercise, but rather minimum standards should be outlined in order to ensure that consultations are accessible and meaningful. In addition, we recommend the following more specific adjustments to the draft language:

1. The phrase “early in the project process” (as referenced in ESS10 paragraph 22) must be more specifically defined in relation to key moments in the project cycle, for example, in relation to development of key documents such as Terms of Reference for the Environmental and Social Impact Assessment (ESIA), the draft ESIA, final ESIA, draft ESCPs, and draft assessments of borrower frameworks.

2. Seeking the views of stakeholders during the preparation and development of the Stakeholder Engagement Plan (SEP) should be clarified to include a consultation with stakeholders at this phase (ESS10 Para. 13).

Stakeholder Engagement Plan
1. The ESF should clarify the timing of the Stakeholder Engagement Plan (SEP)’s development, specifically stating that it must be completed and disclosed before the ESCP and ESIA are developed.

2. If new risks are identified during project implementation, the SEP should be revised to reflect the new risks, and the stakeholder identification process should be revisited to ensure that any additional stakeholders or project affected persons are incorporated into the revised SEP. This revised SEP should be disclosed in addition to the updated ESCP (ESS10 Para. 25).

3. When the SEP is developed in the format of a framework approach (before the specific location is identified, for example), the framework approach should include specific, time-bound plans to be replaced/modified with a fully detailed SEP specific to the project location and resultant risks once the location and details are known (ESS10 Para. 18).

4. The stakeholder identification process and SEP should consider stakeholders who might be impacted by cumulative impacts as well as individual project impacts, for example when a project includes a number of subprojects.

Project Level Grievance Mechanism
Regarding project-level grievance mechanisms (PLGMs), we recommend the following:

1. Many sources, including the Office of the Compliance Advisor/Ombudsman advisory note, A Guide to Designing and Implementing Grievance Mechanisms for Development Projects, find that involving the community in the design of the grievance mechanism to identify key factors was one core
marker of an effective, credible grievance mechanism.\(^1\) ESS10 should include minimum standards for how stakeholders will be included and consulted during the design of the PLGM to identify issues that could cause the PLGM to be less effective and inclusive, such as the kind of disputes that could arise during the project cycle, the availability of local resources to resolve conflicts, and the methods in which people in the community actually want to raise concerns.

2. PLGMs should be required to disclose the existence of the Inspection Panel to stakeholders and the public.

3. The PLGM should not be presented to stakeholders as the only option for recourse, nor should it be presented as the first level in a recourse hierarchy.

4. The budget for the implementation and operation of PLGM should be included in the Environmental Social Commitment Plan.

**Local monitoring mechanism:**

ESS10 should include clear requirements for stakeholder engagement during project implementation by incorporating a mechanism for local monitoring of the implementation of the project mitigation plans and programs, including the ESCP. The objectives of ESS10 include language for enabling stakeholders to be involved in the environmental and social performance of the projects. This objective should be expanded on through the incorporation of a mechanism for formal local monitoring. We recommend the following additions to the text:

1. In ESS10, paragraph 8 and paragraph 24 should include reference to local monitoring to allow stakeholder engagement during implementation.

2. The Stakeholder Engagement Plan should specifically include local monitoring as a way of direct engagement with project stakeholders during implementation.

3. A third annex to ESS10 should be added to incorporate guidance on establishing a local monitoring mechanism:

   a. The annex should explain that the scope for a local monitoring mechanism will be proportionate to the nature and scale of the potential risks and impacts of the project.

   b. High and substantive risk projects should include a mandatory local monitoring mechanism.

   c. The local monitoring mechanism will include the following:

      - A structure that will allow organized stakeholders to perform monitoring activities of the implementation of project mitigation programs and plans according to agreed-upon qualitative and/or quantitative indicators based on the different mitigation plans and the ESCP.

      - A mechanism that will allow the implementing agency and the Bank to receive, record and address standard monitoring reports from the local monitors, and to disclose these monitoring reports to the public.

      - Transparency about the monitoring procedures and governing structure of the mechanism.

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