



Review and Update of the World Bank’s Environmental and Social Safeguard Policies
Phase 3
Feedback Summary

Date: 18 December 2015

Location: Abuja, Nigeria

Audience: Non-Government Stakeholders

ESF	Issue	Items	Feedback
Vision	Human Rights	1. Approach to human rights in the ESF	<ul style="list-style-type: none"> • Why does the Bank shy away from the use of the word human rights when there is an international convention on this issue and ratified by many nations? • Instead of just saying the Bank shares in the aspirations of human rights, I suggest that the Bank recognizes in the ESF vision that the Bank is a member of International Community and is therefore bound by the international conventions, and use the ESF as a position to anchor Human Rights due diligence in its projects. • The language “human right” should appear in the policy itself, not just in the guidance notes being expected. • The ESF fails to address human rights and/or lack robustness in addressing it. There is need to uphold and respect human rights in Bank projects.

ESP/ ESS1	Non-discrimination and vulnerable groups	<ol style="list-style-type: none"> 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"> • Disability inclusive monitoring checklist should be used as an annex to ensure implementation in Bank projects.
	Use of Borrower's Environmental and Social Framework	<ol style="list-style-type: none"> 4. Role of Borrower frameworks in the management and assessment of environmental and social (E&S) risks and impacts where these will allow projects to achieve objectives materially consistent with Environmental and Social Standards (ESSs) 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 	<ul style="list-style-type: none"> • I am concerned about using the borrower's framework which I believe would at best lead to delays of project implementation. • While the move towards use of Borrower's framework is good, there's need for the Bank to recognize that its Safeguards policies have been a driving force for improving national policies and practices – WB should not give up this role. • Where does the Bank's discretion start and stop? • Borrower's framework – information provided to the WB with which it determines such discretions, should not come just from government sources only; independent third parties including civil society should also be consulted, particularly with respect to government's track record of weak implementation and enforcement of policies.

		<p>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"> World Bank should not delegate its due diligence responsibilities to Borrowers. Requirements regarding independent third party verification and due diligence requirements should be in the legally binding main text of ESF, not only in guidance notes.
	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	
	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"> Sometimes assessments are done and impacts clearly stated but no measures put in place because it is argued that the project is for national development.
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>	

		13. Circumstances under which the Bank will determine whether the Borrower will be required to retain independent third party specialists	
	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"> • Will ESCP be disclosed locally and in local language? • At what points in time (relative to the project) will monitoring of ESCP implementation begin and end?
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>	<ul style="list-style-type: none"> • Speaker commended the Bank for incorporating several inputs made by CSOs on the second draft but worried that some questions were not answered such as inclusive practices under labor and working conditions. What are the specific outline in ensuring diversity in labor particularly for PLWDs? • Primary suppliers: WB should get independent verification of any information the Borrower provides regarding whether primary suppliers meet standard international requirements. • The Bank should use a stricter clause here to state that it will not go on with a project where a primary borrower is in non-compliance. • Need more clarity on how inclusion/non-discrimination requirements will be implemented (e.g. in relation to work environments)

		20. Issues in operationalizing the Occupational Health and Safety (OHS) provisions/standards	
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>	
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</p>	<ul style="list-style-type: none"> • If involuntary resettlement is a development issue, then this document should look into it critically so as to state clearly what happens when borrower does not adhere to the standards. Current consequences for non-compliance are insufficient (as is evidenced by the frequent occurrence of non-compliance) • How does the document ensure that involuntary resettlement estimates and cost sharing are factored in at the onset of project preparation?

		different project circumstances	<ul style="list-style-type: none"> • When will RAP preparation take place under the ESF, before or after Board approval of the project? • In the Badia people's case – there was no RAP prepared in advance. • ESF should state that forced eviction is prohibited, not simply that it should be avoided; and what are the consequences when forced eviction occurs like in the Badia case? • WB needs to look closely at the problem of long delays before compensations are paid to individuals affected by evictions.
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"> • It is good to note that ecosystem services has been included in this draft of the ESF.
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</p>	

		<p>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 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>	

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"> • Stakeholder engagement should also consider the inclusion of PLWD • Public participation is very important – need concrete guidance and a monitoring checklist. • What is the community’s contribution to ensuring project sustainability? • How does this document ensure that stakeholders’ involvement in implementation is achieved without stating clearly how effective communication will be used? • The Bank should engage with CSOs for project implementation at the Grassroots level. Strategic and Partnership framework of engagement on projects is important such as in the Nigeria Erosion and Watershed Management Project (NEWMAP).
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	<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>	
Client capacity building and implementation support	<p>47. Funding for client capacity building</p> <p>48. Approaches and areas of focus</p> <p>49. Approach to implementing the ESF in situations with capacity constraints, e.g., FCS, small states and emergency situations</p>	<ul style="list-style-type: none"> • Capacity building at the country level is needed and very important to the successful implementation of the ESF. • Capacity building for CSOs and contractors should also be considered.
Disclosure	<p>50. Timing of the preparation and disclosure of specific environmental and social impact assessment documents (related to ESS1 and ESS10)</p>	<ul style="list-style-type: none"> • This document seems to weaken Disclosure and Access to Information which at the moment is required before approval in the existing policies. • There is need for a stakeholder checklist to ensure local ideas are inputted in the ESF. • Is the ESF document available to the public? How comprehensive are the plans?
Implementation of the ESF	<p>51. Bank internal capacity building, resourcing, and behavioral change in order to successfully implement the ESF</p>	<ul style="list-style-type: none"> • At what point does the monitoring of the plan begin and end? I also need clarification on the monitoring of the ESF commitment in the project cycle.

		52. Ways of reaching mutual understanding between Borrower and Bank on issues of difficult interpretation	
Other issues			<ul style="list-style-type: none"> • Why were there 2 days for government consultation and only one day for CSO consultation? • The ESF seems to spell out long gestation periods that would result in long extension of time between the Bank and the borrower/project implementation. • We commend the Bank for reviewing its policies after 30 years of use but the Bank waited this long to be reviewing the policies, the ESF when adopted should not take this long to be reviewed. • The ESF should be piloted and M&E done rather than implement across the board before the implementability is tested. • Expansion of the social dimension in the ESF is good but it should be noted that in Nigeria, assessment focuses on bio-physical aspects to the detriment of the social aspect. • Ecological health services introduction in the ESF is good. • Conflict and lack of clarity of the roles and responsibilities between implementing government agencies. • Why are supply chain requirements restricted to ESS2 and ESS6? • Someone commented that independent monitoring of Bank projects – is open to CSOs that are interested. • The Bank should help the country develop its own safeguards framework.

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| | <ul style="list-style-type: none">• Why did the Bank not consult with Government and CSOs together?• A CSO noted that the Vice Present African Region, Makhtar Diop met with African CSOs in Lima and would like to get their feedback on the ESF consultations. |
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