

Mr. Kyle Peters  
Vice President – Operations Policy and Country Services  
World Bank  
1818 H Street  
Washington, DC 20433

Dear Mr. Peters,

It is our pleasure to share the following submission with you in response to the consultation process that your organisation has undertaken as part of the review of its environmental and social framework (or safeguards). The submission represents a synthesis of Transparency International's recommendations to the World Bank on how to improve its procurement policies and procedures.

Transparency International (TI) welcomes the consultation process. TI has been an active participant in this initial round of consultations, participating in various fora organized by the World Bank since it launched the first phase of its safeguards review in July of 2012 and conducted consultations through March of 2014. TI also has been involved in the second phase of this review, which began in July of 2014 and is expected to run through early 2015. As part of this process, representatives of the Transparency International movement have attended various consultation meetings organized by the World Bank around the world.

Transparency International looks forward to its continued engagement and exchange of ideas in order to ensure that the resulting framework promotes transparency, anti-corruption, people engagement, and good governance.

Sincerely,



Miklos Marschall

## **Transparency International's Comment on Proposed Reforms to the World Bank's Environmental and Social Framework<sup>1</sup>**

### **Introduction**

The World Bank's environmental and social framework is divided into ten distinct environmental and social standards. Each standard deals with a particular group of issues—labor and working conditions, community health and safety, and indigenous peoples are but three examples. Transparency International focuses on issues relating to transparency, anti-corruption, people engagement, and good governance. While we are of course sensitive to the issues addressed by the first nine environmental and social standards, the focus of this comment paper will be limited to environmental and social standard 10 which addresses information disclosure and stakeholder engagement, subjects which speak to our primary area of concern and expertise. Having said that, we note that ESS10 is a “cross-cutting” standard in that it impacts all of the other environmental and social standards.

A robust Environmental and Social Standard for information disclosure and stakeholder engagement, by ensuring an open and transparent process with plentiful opportunities for meaningful stakeholder engagement, will facilitate the prevention and detection of corruption in Bank-financed projects. It will also serve to increase the accountability of the process.

We believe that ESS10 can be strengthened in five key respects.

- First, the stakeholder engagement process should be co-extensive with the project design process.
- Second, the Borrower should not be exclusively charged with identifying the stakeholders to be engaged.
- Third, the Borrower should not be charged with unilaterally developing and implementing the Stakeholder Engagement Plan (SEP).
- Fourth, the Bank should develop metrics to measure whether the stakeholder engagement process has been meaningful.
- Fifth, the Bank should require that Borrowers inform all stakeholders of all grievance options and any complainants should have the option of submitting their grievances directly to the Bank rather than through the Borrower.

### **I. The Stakeholder Engagement Process Should Begin With Project Design**

ESS 10, as currently written, states that “Borrowers will consult with stakeholders to identify issues and concerns in order to inform the environmental and social assessment and the design and implementation of the project.”<sup>2</sup> However, immediately below this language is other language which states, “If communities may be affected by environmental or social impacts from the project, the Borrower will provide them with access to the following information: (a) The purpose, nature and scale of the project.” This second language is in tension with the first statement in that it appears to place stakeholders before a fait accompli—stakeholders will be informed of the purpose, nature, and scale of the project rather than having actively participated in its design, as appears to be contemplated by the first statement.

We believe that ESS10 must unambiguously provide for stakeholder engagement throughout the project design process. It is imperative that project design take into account not just the desires of the Borrower,

<sup>1</sup> Prepared by Transparency International – USA

<sup>2</sup> See, First Draft for Consultation, July 30, 2014, pg. 93.

but also input from civil society. This is particularly true in an era of shrinking space for civil society organizations.<sup>3</sup> By including civil society and other stakeholders throughout the project design process, the Bank can help ensure that the projects it finances correspond to not just the desires of governing elites, but to the needs of the broader population. Including civil society and other stakeholders throughout the project design process would also serve to make the overall process far more transparent. Moreover, the inclusion of civil society in the project design process is an important lever for opening up additional space for civil society in countries where this space is limited or has been shrinking. The Bank has itself deepened its engagement with civil society through the creation of programs like the Global Partnership for Social Accountability (GPSA), and a clear commitment to include civil society and other stakeholders throughout the project life cycle would serve to reinforce the Bank's commitment to promoting a vibrant civil society.

## **II. Stakeholder Identification Should Not Be the Exclusive Purview of the Borrower**

ESS10 proposes that Borrowers identify relevant stakeholders for participation in the SEP.<sup>4</sup> This is particularly problematic as it would potentially allow borrowers to handpick CSOs and other stakeholders who are not representative of relevant communities. In some countries, truly independent CSOs are scarce and most are government-affiliated.<sup>5</sup> Rather than charge Borrowers with the task of identifying relevant stakeholders, ESS10 should provide for an open participation process, in which all interested stakeholders may participate, not just those identified by Borrowers. The Bank has itself created an open consultation process in which all interested stakeholders may participate; the same should be true of the SEP.

## **III. The SEP Should Be a Joint Effort Between the Borrower and Interested Stakeholders**

ESS10 proposes that Borrowers develop an SEP for each project.<sup>6</sup> According to ESS10, the SEP should establish the timeline and modalities of engagement with relevant stakeholders and should be calibrated to the overall impact of the project on relevant stakeholders.<sup>7</sup> We believe that the SEP should be *jointly* developed by the Borrower and relevant stakeholders. Consistent with Part I of this paper, the SEP should cover the entire lifecycle of a project, from design through implementation and evaluation, and should allow for innovate forms of stakeholder engagement such as monitoring of the tendering process and project construction/implementation. By including relevant stakeholders in the development of the SEP, the Bank can ensure that the SEP is well tailored to consider all of the interests of both the relevant stakeholders and the Borrower as well as define appropriate engagement mechanisms.

## **IV. The Bank Should Develop Metrics to Measure Whether Consultations Have Been Meaningful**

In ESS10, the Bank pledges that the consultation process will be “meaningful,” and it lays out seven characteristics of a meaningful consultation process.<sup>8</sup> In addition to these seven characteristics, we

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<sup>3</sup> See, Closing Space: Democracy and Human Rights Support Under Fire, February 2014, Carnegie Endowment for International Peace, available at [http://carnegieendowment.org/files/closing\\_space.pdf](http://carnegieendowment.org/files/closing_space.pdf).

<sup>4</sup> See, First Draft for Consultation, July 30, 2014, pg. 94.

<sup>5</sup> For a more complete discussion of this phenomenon, see The International Center for Not-for-Profit Law's NGO Law Monitor, which contains reports on 48 different countries, available at <http://www.icnl.org/research/monitor/>.

<sup>6</sup> See, First Draft for Consultation, July 30, 2014, pg. 94.

<sup>7</sup> See, *id.*

<sup>8</sup> See, *id.* at 95-6.

believe that ESS10 should impose a requirement that all relevant materials be disclosed a certain minimum period of time prior to any scheduled consultation meetings in order to provide all interested stakeholders sufficient time to review and study said materials. The Bank already provides relevant materials on its consultations website well in advance of actual consultations, and a similar commitment to providing relevant materials in a timely manner should also be included in ESS10. We also believe that ESS10 should require that consultation meetings take place in a culturally accepted place that is within a reasonable distance from relevant stakeholders and is conveniently accessible to them.

Beyond these two suggestions, we believe that it is critical that the Bank establish metrics to actually measure whether the consultations held under the SEP established by ESS10 are meaningful. From the point of view of CSOs and other interested stakeholders, a consultation process can only be meaningful if it has a realistic chance of influencing the project design and the environmental and social assessment. Stakeholder engagement must not simply become a box-checking exercise, and the only way to judge whether stakeholder engagement is meaningful is to develop metrics to measure whether or not stakeholder input is actually influencing project designs and environmental and social assessments. ESS10 already states that one key characteristic of a “meaningful” consultation is that it is one that will “incorporate feedback, where appropriate.”<sup>9</sup> We urge the Bank to gather and track data on the number of projects where stakeholder feedback is incorporated into project design and/or the environmental and social assessment. By so doing, both the Bank and all stakeholders will learn how effective the stakeholder engagement process actually is at incorporating stakeholder feedback into project design and the environmental and social assessment. Should the process reveal itself to be less than effective at incorporating stakeholder input, the Bank will then be in a position to adjust the process to make it more effective. The Bank should also consider conducting anonymous surveys of stakeholders who have participated in an SEP to learn how responsive they found the process and how free of manipulation, interference, coercion, or intimidation it was. The Bank and Borrowers should also be required to provide their reasoning for not incorporating stakeholder recommendations in the project design and/or environmental and social assessment.

#### **V. Borrowers Should Inform Stakeholders of All Grievance Options**

In addition to the Borrower-operated grievance mechanism required by ESS10, Borrowers should be required to inform all stakeholders that they may also submit their grievances through the Bank’s mechanisms. This is particularly important in countries where stakeholders may have legitimate reasons to fear government retaliation should they report their complaints. The Bank’s own anti-corruption policies promote whistle-blowing and have established Bank-operated grievance mechanisms, and ESS10 should be aligned with the Bank’s anti-corruption policies in requiring that stakeholders be informed of Bank-operated grievance mechanisms.

#### **Conclusion**

The Bank’s mission of promoting economic and human development in the service of ending extreme poverty depends in large part on its success in designing and implementing carefully-targeted projects that are tailored to the needs of the people of Borrower countries. However, in order to develop such projects, the Bank must ensure a stakeholder engagement process that lasts the length of the project lifecycle, that is open to all, that is a joint effort between stakeholders and Borrowers, is effective at incorporating stakeholder feedback, and offers stakeholders appropriate grievance mechanisms. Rather than being

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<sup>9</sup> See, id. at 96.

seen as another box to check off, or as a potential obstacle, the stakeholder engagement process should be seen as a mechanism to improve project design and outcome, and as an avenue by which the Bank can strengthen civil society in repressive nations. The stakeholder engagement process should also be seen as part of the Bank's larger commitment to improving transparency and accountability and to preventing and detecting corruption in Bank-funded projects.