

Review and Update of the World Bank’s Environmental and Social Safeguard Policies

Phase 3

Feedback Summary

Date: October 26, 2015

Location (City, Country): Beijing, China

Audience (Government, Implementing agencies, Multi-stakeholder, etc.): Multi-stakeholder

ESF	Issue	Items	Feedback
Vision	Human Rights	1. Approach to human rights in the ESF	<ul style="list-style-type: none"> • The Bank’s reference to human rights in the vision statement is welcome, but it is merely aspirational and does not go far enough. • The draft fails to properly respect and integrate human rights across the entire ESF, which should be the governing principle of the entire framework. • For example, the safeguards should prescribe the use of Human Rights Impact Assessments.
ESP/ ESS1	Non-discrimination and vulnerable groups	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	N/A

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	Use of Borrower's Environmental and Social Framework	<p>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)</p> <p>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 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"> • Additional questions remain on what the steps are for dealing with compliance. • Assessment of Borrower Frameworks equivalency should be based on consistency with ESF requirements, not just objectives within each ESS. • When Borrower frameworks are used, the Bank should retain supervision responsibility. • When Borrower frameworks are used, the Bank should retain accountability for the safeguarding of people and the environment. As such, communities should still be able to access the Inspection Panel when they think they have been harmed in a Bank-financed project, regardless of whose systems have been used.
	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	N/A
	Adaptive risk management	8. Approach to monitoring E&S compliance and changes to the project during implementation	N/A
	Risk classification	9. Approach to determining and reviewing the risk level of a project	<ul style="list-style-type: none"> • The definition of each risk level and the methodology of assessing and determining risks should be clearly provided.
ESS1	Assessment and	10. Assessment and nature of	<ul style="list-style-type: none"> • Clarification was sought on whether hotels and restaurants built with a

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	management of environmental and social risks and impacts	<p>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> <p>13. Circumstances under which the Bank will determine whether the Borrower will be required to retain independent third party specialists</p>	<p>railway project are considered as associated facilities.</p> <ul style="list-style-type: none"> • The ESF should provide a clearer definition of associated facilities. • Assessment needs to cover the whole project influence area. For example, in the development of a hydro project, sensitive spots should be identified in the whole river basin, not just follow the requirement of national regulations. • Development of dams at the downstream of a river could also have impacts on the upstream. • Assessment needs to include people at the downstream of a dam. Those people may be affected by the project.
	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	N/A
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>	N/A

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		<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> <p>20. Issues in operationalizing the Occupational Health and Safety (OHS) provisions/standards</p>	
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</p>	<ul style="list-style-type: none"> • It is positive to see that climate-related impacts on ecosystems and communities are now included. • Concern was raised over the removal of the 25,000 ton threshold for project-level Green House Gas accounting.

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		<p>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 different project circumstances</p>	<ul style="list-style-type: none"> • ESS5 contains new approaches, including gender analysis. Consultants need to know how these new approaches will be linked to country requirements. • Impacts associated with hydro-projects are huge, including for vulnerable groups. In implementing Bank projects, for example, local policy, such as the social security system, needs to be reviewed in relation to the elderly. Young people on the other hand, might drop out of school because of the project. Such projects can lead to social instability. ES risks can be assessed using software and a matrix, but it depends on how factors are weighted, and how unexpected incidents are addressed. • Different livelihood impact should be carefully considered. Some people do not have land but rent farming land from local farmers. Others have land but are not residents of their village. There are also cases in which land has been reallocated but with greater distance from home. Guidance is needed on such cases. • Development opportunities: Project authorities should provide more job opportunities for those who lose their farming land or move into new resettlement sites. They will need to be employed in connection with the project. Sub-projects can be carried out by local residents. Materials required for the project should be procured locally. • Ninety percent of the people in Sub-Saharan Africa have no land title. So protection of informal occupants is important. • Concern that those suffering downstream impacts will not be covered in ESS5. Coverage in ESS1 does not guarantee the restoration of lost livelihoods. Concern that those facing displacement as a result of natural resource management programs would not be covered by ESS5.

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ESS6	Biodiversity	26. Operationalization of the provisions on primary suppliers and ecosystem services, especially in situation with low capacity 27. Role of national law with regard to protecting and conserving natural and critical habitats 28. Criteria for biodiversity offsets, including consideration of project benefits 29. Definition and application of net gains for biodiversity	N/A
ESS7	Indigenous Peoples	30. Implementation of the Indigenous Peoples standard in complex political and cultural contexts 31. Implementation of ESS7 in countries where the constitution does not acknowledge Indigenous Peoples or only recognizes certain groups as indigenous 32. Possible approaches to reflect alternative terminologies used in different countries to describe Indigenous Peoples 33. Circumstances (e.g. criteria	<ul style="list-style-type: none"> • China has 56 ethnic minorities officially recognized by the state. There are another 60 ethnic groups who are not legislated as ethnic minorities but not as the Han people either. Also, many indigenous people are nomads, especially in the North. It is good that they are now included. • The new framework does not contain a clear definition of Indigenous Peoples. In some cases, it is difficult to determine who Indigenous Peoples are. • FPIC should be confirmed in writing. • The ESF should align with UNDRIP which recognizes FPIC. • It should be reconsidered whether ESS7 will need to apply to projects that only bring about positive impacts on Indigenous Peoples. • Government officials' understanding about ethnic minorities needs improvement at various levels. Some officials lack understanding of their concerns. • A set of tools and approaches that can be used to carry out work on

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		<p>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>	<p>ethnic minorities is needed, especially at the grassroots level. Many people, including Bank staff, do not know how to carry out this work. Practical tools are needed.</p> <ul style="list-style-type: none"> • The Bank should make it mandatory to employ Indigenous Peoples when projects affect them. In the past, the commitment at the preparation stage to employ them was not kept at the implementation stage. • Community participation of ethnic minorities should be strengthened through clear procedures and objectives.
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>	<ul style="list-style-type: none"> • More clarity is needed regarding how to assess and protect intangible cultural heritage. Some heritage remains only in words. If these are lost, they cannot be replaced. In China we protect them by setting up a museum. • It is emphasized that intangible cultural heritage should be protected. This is very relevant – including the requirements regarding its commercialization – to the national reality in China. This is also important for ethnic minorities.
ESS9	Financial Intermediaries	<p>40. Application of standard to FI subprojects and resource implications depending on risk</p> <p>41. Harmonization of approach with IFC and Equator Banks</p>	<ul style="list-style-type: none"> • IFC's approach to FI projects is not satisfactory. The ESF should have a stronger approach. • The ESSs should be applied to any FI sub-project that involves resettlement. • The Bank should require the disclosure of all FI sub-projects.
ESS10	Stakeholder engagement	<p>42. Definition and identification of project stakeholders and nature of engagement</p>	N/A

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		43. Role of borrowing countries or implementing agencies in identifying project stakeholders	
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	N/A
	Feasibility and resources for implementation	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 46. Mitigation of additional burden and cost and options for improving implementation efficiency while maintaining effectiveness	<ul style="list-style-type: none"> • Taking an integrated approach to environmental and social risks and impacts is a good thing in general. However, the Bank should note these are two different things, and the experts in each field cannot replace each other. • The proposed ESF should not straightjacket Bank projects. However, it should specify what the Borrower is required to do, in particular for high-risk projects, rather than leaving it to case-by-case judgment. • One participant was concerned about implementation. The policies read perfectly, but if implementation is not possible, they are useless.
	Client capacity building and implementation support	47. Funding for client capacity building 48. Approaches and areas of focus 49. Approach to implementing the ESF in situations with capacity constraints, e.g.,	<ul style="list-style-type: none"> • Capacity building is very important at all levels of the project, including the Borrower, project management office, consultants, and Bank staff. Without sufficient capacity, the ESF cannot be implemented. • The Bank should consider having a trust fund in place for capacity building. • The capacity of Bank staff delivering projects needs to be looked at.

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		FCS, small states and emergency situations	<p>With each safeguards staff having many projects to support, they will have no time and capacity to manage a more detailed framework.</p> <ul style="list-style-type: none"> • Capacity building should focus on project areas and improve capacity of vulnerable groups based on their needs. • The ESF should take into account the whole project cycle, from the preparation stage through implementation, monitoring, evaluation to project closure. • There are a number of new management requirements proposed, such as a labor management plan, stakeholder engagement plan and emergency response plan. Implementation of these new requirements is challenging. The Bank should identify clear mechanisms and provide detailed guidance. • For simple projects, simple guidance should be provided. The ESF should not complicate the process. • A mechanism for efficient communication is needed to share information with project stakeholders, including local government and ground-level stakeholders, so that implementation will become more feasible. • Cross-regional planning is important. • Capacity building is an issue at a regional level. At the local, county and township level, people do not know how to manage projects. Focusing capacity training at grassroots level is key. Strengthened policies on capacity building are needed, especially of local vulnerable people. • Preparation at early stages of the project should be enhanced. • Follow-up: Once the project is built, follow-up mechanism should be enhanced also. Participants sought information on whether the Bank has follow-up policies for projects. The Bank should have a long-term accountability system in place. • Regarding para 49 of Consultation Paper, there is a discriminatory word on hydro dams. Hydro projects are not just dams. The Bank documents should be careful about wording and not have any bias.
	Disclosure	50. Timing of the preparation and disclosure of specific	<ul style="list-style-type: none"> • The Resettlement Action Plan (RAP) should be ready before Board approval.

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		environmental and social impact assessment documents (related to ESS1 and ESS10)	<ul style="list-style-type: none"> • The ES assessment of high and substantial risk projects should be ready before Board approval.
	Implementation of the ESF	51. Bank internal capacity building, resourcing, and behavioral change in order to successfully implement the ESF 52. Ways of reaching mutual understanding between Borrower and Bank on issues of difficult interpretation	<ul style="list-style-type: none"> • The Bank should define the minimum number of project site visits that it will do, especially for high and substantial risk projects.
Other issues			<ul style="list-style-type: none"> • It is impossible to develop a framework that satisfies all member countries. Therefore, the ESF should be made succinct rather than too detailed. A too detailed framework would not help deliver projects on the ground. • The ESF is too big. It is not easy to implement such a huge framework. In a hydro-project cited as an example, participants noted that they controlled design change, and limited and controlled the budget. The Bank should have a mechanism for dialogue which will be effective so that problems can be addressed in an effective way. Solving problems needs a step by step approach; it can't be done in a mechanical way. • Covering so many countries with a standardized framework is a mission impossible. The framework should be simple, setting out key principles only. The Bank should not focus on details. The Bank should reduce the requirements, rather than adding more requirements that will not add value to Bank projects. • There are many improvements in the second draft ESF. While the Asian Infrastructure Investment Bank is also following the ESF model, expectations for the World Bank's new framework remain high. • The Bank should give preference to local people in employment in project areas. • Transboundary issues could make potentially significant impacts on

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			upstream and downstream countries. The Bank should have a more detailed policy on how to address transboundary issues.