



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

Date: December 15, 2015

Location (City, Country): NIAMEY

Audience: CSOs/NGOs

Key: C = Comment

Q = Question

ESF	Issue	Items	Feedback
Vision	Human Rights	1. Approach to human rights in the ESF	<p>C: Concerns regarding how Bank will follow up and tackle human rights issues in the ESF.</p> <p>Q: If it was difficult to get some countries' agreement to protect human rights even on paper, what will the reality be?</p> <p>Q: Food security is a human right. Why are the WB and ADB asking to do more studies on environmental and social issues? Is there a concern about the quality of the existing studies or is it due to the new norms that WB want to impose?</p> <p>Q: The Western conception of human rights does not match our culture and traditions. How does the WB guarantee that including the human rights norms is not contradictory with the Bank's development objectives?</p>

			<p>Q: Since the scope of the human rights issues under the ESF is very narrow, wouldn't that mean we are enabling project implementers to transgress the human rights?</p> <p>Q: Can the Bank ensure project developers consider human rights and provide redress where violations take place?</p> <p>Q: If only a small paragraph has been included in the Vision Statement about human rights, how can the Bank ensure that this issue is really addressed and applied during project implementation? How will the Bank monitor these issues in each borrowing country?</p> <p>Q: Human rights issues are not treated appropriately by countries. How to guarantee that the norms are applied in cases of weak national policies and laws?</p> <p>Q: Does this ESF oblige the Government to protect the human rights of pastoralists?</p>
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)	<p>C: Niger is a transit country for Sub-saharan African citizens migrating towards North Africa or Europe. Such movements of people affect our countries and are different from refugee situations. It is suggested that the WB conduct a study on migration and its impact on Niger's economy and social environment.</p> <p>C: LGBT rights are a western concept and have nothing to do with our culture.</p> <p>Q: Discrimination issues are driven by Western perspectives, which contrasts with local views on these matters. Yet, the ESF recognizes local cultural norms. How will the Bank deal with this apparent contradiction?</p>

		<p>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</p>	<p>C: It is well known that slavery still exists in Niger and we are keen that the Bank considers this issue and hope it will include conditionalities when requests are made by the Government for Bank financing.</p> <p>Q: Does the requirement regarding non-discrimination allow the project promoter or government to choose to respect national law, or avoid it?</p> <p>Q: What mechanisms would the Bank set up to ensure that borrowers do their due diligence in general with regard to non-discrimination? How would the Bank be alerted in case of a violation?</p>
	<p>Use of Borrower's Environmental and Social Framework</p>	<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</p>	<p>C: Bank environmental and social safeguards policies need to be more implementable, including the use of waivers to adapt to the environmental and social contexts in borrowing countries.</p> <p>Q: As mentioned before, human rights issues are not treated appropriately by countries. How to guarantee that the norms are applied in cases of weak national policies and laws?</p>

		<p>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>	<p>C: Western countries are far away from our realities; therefore, there is a need for the ESF to be aligned to our national priorities.</p> <p>Q: What can the Bank do when communities don't adhere to a project ESIA but the project is authorized and implementation is going on?</p> <p>Q: There needs to be capacity-building to strengthen Governments' abilities for environmental and social management, as this is crucial for the country frameworks. Serious environmental and social damage can result from the transhumance population. How can the Bank in partnership with borrowing governments facilitate reforms to country systems?</p>
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	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	Q: How does the World Bank ESF become binding, even for multinational companies or co-financiers involved in a project in Niger?
	Adaptive risk management	8. Approach to monitoring E&S compliance and changes to the project during implementation	Q: Risks show up during implementation. How does the ESF manage this?
	Risk classification	9. Approach to determining and reviewing the risk level of a project	
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> <p>13. Circumstances under which the Bank will determine whether the Borrower will be required to retain</p>	<p>C: As a development specialist, my concern is that the ESS's are the most binding constraints for a project's implementation.</p> <p>C: Projects covering large areas using the ESF are challenging to implement even by Government. Therefore, capacity building and environmental and social management tools should be clear to allow implementation in big projects.</p> <p>C: The WB is aware that human trafficking exists in Niger. This is an important issue to be addressed by the ESF. It is important to link human trafficking with child labor, while differentiating it from certain work activities undertaken by children within the family.</p> <p>C: The ESF should include conception and elaboration of the big picture with regard to project design, risk assessment and evaluation as part of standards risk linked to implementation.</p> <p>C: The ESF should link Environmental and Risk assessment for micro project design and take into account capacity building.</p>

		independent third party specialists	<p>C: Too much environmental and social safeguard conditionality could dissuade us to partner with the Bank.</p> <p>C: Environmental Impact Assessment should not be a burden for infrastructure development.</p> <p>Q: What are the steps taken by the World Bank to guarantee the health of rural population, access to water, health services, sanitation, etc.?</p> <p>Q: How can the World Bank work to strengthen environmental and social management by borrowing governments? Hopefully, the ESS's will be implementable.</p> <p>Q: How would the ESS's work in emergency/disaster situations? Also, how would they apply to migrant populations and host communities?</p> <p>Q: Migration issues (locally, internationally, across country) are very important for environmental and social impacts since they significantly affect the environment, social relations and socioeconomic contexts of host communities. The migration of pastoralists from the north to the south is damaging crops and causing conflict. How does the ESF address this?</p>
	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	
ESS2	Labor and working conditions	15. Definition and necessity of and requirements for managing labor employed by certain third parties (brokers, agents and intermediaries)	<p>C: Regarding child labor, it is important to distinguish between family labor (e.g. for farming) or apprenticeships and the abusive exploitation of children. Need some flexibility in this ESS.</p> <p>C: Need precise guidance on child labor issues.</p> <p>Q: How does the ESS operationalize collective bargaining in Bank projects?</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> <p>20. Issues in operationalizing the Occupational Health and Safety (OHS) provisions/standards</p>	<p>Q: How does the ESF work in an emergency situation or crisis? Take a situation with people moving with children that are working to help their old or sick parents, compared to people exploiting kids.</p> <p>Q: Is there a distinction between children who help their displaced parents and people that are exploiting children as employees?</p> <p>Q: How will employees provide comments and be sure that they will be taken into account?</p> <p>Q: Can the Bank Promote policies fighting child labor? Is there a distinction between children who help their displaced parents and people that are exploiting child as employees?</p>
ESS3	Climate change and GHG emissions	21. The relation between provisions on climate change in the ESF and broader climate change commitments, specifically UNFCCC	<p>C: Climate Change should be a strong requirement in the ESF, and the Paris Agreement (COP21) has made this clear.</p> <p>C: Climate change issues should become a conditionality the Bank's lending.</p> <p>C: Niger, as a country victimized by climate change, should get compensation.</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>	<p>Q: Isn't stating "whenever technically or financially feasible" with regard to the GHG assessment, resource efficiency and/or pollution prevention activities apparently a blank check to Government to not take their responsibilities to address these issues?</p> <p>Q: Appreciate language in ESS 3 about climate change. How will these be managed through the ESF?</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>	<p>C: Eminent domain is overdone in Niger, and it does not take into account communities' emotional attachment to land. People don't get to choose the new land they are given to replace their lost land. Also, people need to be trained to manage compensation, and this should be factored into the costs of a RAP. Finally, PAPs should receive training to restore their livelihoods.</p> <p>C: Pastoralism is not taken into account the extractive industry sector; there is no compensation plan for destruction to the environment and impacts on livelihoods.</p> <p>C: It is excellent that the ESF allows for more flexibility regarding compensation and resettlement issues, including phasing with the implementation of project activities/components.</p>

C: Migration issues (transhumance, pastoralism, nomadism, etc.) have not been raised in the ESF, even though it is a global issue with social and economic impact; these should be taken into account in the ESF. Land acquisition/resettlement is also a challenge.

C: Borrower's Framework: With regard to land acquisition, considering that a Bank-financed agricultural project was nationwide, even the government couldn't deploy a sound mechanism to solve land property issues. Therefore, implementing the new standards will be challenging, if not impossible. This requires capacity building to meet the ESS's.

Q: Applicability of the ESS in emergency situation: For people displaced by disasters, how would they be treated according to the ESF? The ESF says refugees would not receive compensation for resettlement, but how about displaced people?

Q: Populations are abused in the extractive industries projects; they are evicted without preparation, without evaluating the emotional loss, etc. and, searching for another space involves a lump sum cost. What are the preventive measures that will prevent abuse of the communities?

Q: Can the Bank finance the full cost of the resettlement?

Q: Nigerien law compensates landowners and not pastoralists. How does the ESF address this issue?

Q: Can we do a sort of cost benefit analysis to see for instance how many children would die because we are wasting time to build a dam on the one hand vs. undertaking construction in a faster, but correct manner?

Q: Populations are always abused in Niger because land costs/compensation are always underestimated. In the mining sector, land is expropriated without prior compensation and consideration of communities' dependence on their land (agricultural production, cultural). What are the preventive measures in the ESF to monitor implementation of ESS 5 and ensure borrowers comply with it?

			<p>Q: The Government doesn't yet have the right instrument to deal with the current land tenure issues. Does ESS 5 impose a heavy burden with regard to land acquisition?</p> <p>Q: How can we deal with resettlement issues (displacement of people) related to climate change and variability risks that could affect Bank funded projects?</p>
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>	<p>Q: What are the impacts of this ESS on project disbursements?</p>
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 constitution does not acknowledge Indigenous Peoples or only</p>	<p>C: There is no indigenous population in Niger and we want this confirmed in writing by the World Bank.</p> <p>Q: Are there indigenous people in Niger or not?</p> <p>Q: Does FPIC apply to all project-affected people, or just Indigenous Peoples?</p> <p>Q: Concerning Indigenous Peoples (IPs), we noticed that each country has its own legislative and constitutional rights. Why not use these fundamental laws and rights, instead of having many different interpretations?</p>

		<p>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>	<p>Q: Who defines the concept of Indigenous Peoples in Mali or Niger? Which definition is validated? Is the question limited to the right of occupation or the ethno-cultural aspects?</p> <p>Q: Regarding rights for Indigenous Peoples, what are the steps taken regarding issues with national impacts?</p> <p>Q: FPIC is very rare in Niger and it never happens in the extractive industries sector. Affected populations are not informed about risks or advantages associated with the project before proceeding with the project. What mechanism is in place to ensure that these people have been effectively informed by the borrower? How can we prevent groups with bad intentions from hampering project preparation/approval by abusing FPIC?</p> <p>Q: How can the ESF prevent harm to IPs, especially in the extractive industries sector? Is there a specific mechanism to monitor and ensure that these people are being compensated adequately as agreed in documents? Are pastoralists considered IPs?</p> <p>Q: Pastoralism is important in Niger. Who decides (between the Government and the Bank) which group is indigenous in a country? We should be cautious. What is the relationship between IPs and land rights? What about the relation between recognized IPs with the other groups living on the same land / territory? Is FPIC a hurdle to the accessibility to Bank funds to develop project in countries where IPs are recognized?</p> <p>Q: IP rights and FPIC: What are the mechanisms to manage strategic national development options if specific groups oppose it?</p> <p>Q: Is FPIC applicable in the pastoralism areas where people have a continuous movement? And what about areas under conflict?</p>
ESS8	Cultural Heritage	37. Treatment of intangible cultural heritage	

		<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	<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>	<p>Q: How do we ensure that the FIs align their environmental and social management with the ESF?</p> <p>Q: Is it expected that the capacity of intermediaries will be strengthened through the implementation of the ESS's?</p>
ESS10	Stakeholder engagement	<p>42. Definition and identification of project stakeholders and nature of engagement</p> <p>43. Role of borrowing countries or implementing agencies in identifying project stakeholders</p>	<p>C: Responding to environmental and social issues is an obstacle for us; there is a problem with adequate stakeholder participation.</p> <p>C: There is a need to trust the Government and the workers on the ground. Dialogue is key for environmental and social safeguard issues.</p> <p>Q: How to clarify stakeholder engagement? There are laws existing without an implementation decree. How is the WB going to operate?</p> <p>Q: It is rare to include communities into consultations. How to handle issues raised by communities and convince them?</p> <p>Q: What is the level of the stakeholders' engagement that is required to be satisfactory for the Bank for project processing?</p>

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	Q: Are human and animal health issues considered under the new ESF?
	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	C: ESS's can become a constraint to quick implementation of a project, especially small infrastructure projects that don't require much assessment or mitigation. It sounds like safeguard specialists are focusing more on their own intellectual issues instead of addressing the real sustainability aspects of projects. Q: What will happen if conflicts about the ESF between the borrower and the Bank occur during implementation? Q: If the borrowers establish ESS management units, will this be a financial burden for countries like Niger? Q: What are the mechanisms in place to ensure that the new ESF does not slow down the disbursement rate of projects, given the fact that countries are facing these challenges with existing operational policies and procedures?
	Client capacity building and implementation support	47. Funding for client capacity building 48. Approaches and areas of focus	C: Capacity building is very important because the stakeholders' perspective are divergent (financier, implementer, beneficiaries). Usually beneficiaries and implementers are in a hurry, while safeguards processing takes time to complete.

		49. Approach to implementing the ESF in situations with capacity constraints, e.g., FCS, small states and emergency situations	<p>C: Capacity building should also address support to updating countries' environmental and social regulatory and institutional frameworks to integrate emergent issues (migration, pastoralism, and climate change).</p> <p>Q: What is the link between the processing of sub-projects and the environmental and social risks and impact assessment?</p> <p>Q: Capacity-building is very important. How will the Bank help project beneficiaries strengthen their capacity?</p> <p>Q: Will Niger benefit from any climate change fund to build up its capacity to handle impacts?</p>
Disclosure		50. Timing of the preparation and disclosure of specific environmental and social impact assessment documents (related to ESS1 and ESS10)	
Implementation of the ESF		<p>51. Bank internal capacity building, resourcing, and behavioral change in order to successfully implement the ESF</p> <p>52. Ways of reaching mutual understanding between Borrower and Bank on issues of difficult interpretation</p>	<p>C: We find environmental and social safeguard issues to be a constraint for country development and we encourage the adoption of differentiated framework.</p> <p>C: We need to be conscious that, sometimes, some environmental and social safeguard issues can lead to confusion because of the importation of western concerns that are not adapted to the local context.</p> <p>C: The ESF seems to be too broad; in addition, a uniform interpretation is not possible. Issues may vary across time and space and this can lead to challenges during project implementation.</p>

			<p>Q: Is it envisaged in the ESF that the borrower can consult/negotiate with the Bank to find out solutions when mitigation measures have failed to succeed in the course of project implementation?</p> <p>Q: How will the Bank monitor the effective implementation of the standards by the borrower? Where are there gaps in national legislative and institutional frameworks to adequate implementation of the ESS's?</p> <p>Q: If in any case project implementation leads to negative environmental and social impacts, what should the project implementation team do?</p>
Other issues			<p>C: The ESF is welcome because it will surely improve the environmental and social management in borrowing countries.</p> <p>C: The end result of the ESF is to promote development, and therefore there is a need to make things simple and short.</p> <p>Q: ESS 4: In rural area less than the half of population has access to adequate healthcare (maximum distance of 5 km from house to center), and health issues are related to other domains like access to potable water, adequate nutrition, etc. What is the ESF's contribution to the improvement of health services coverage in the country?</p> <p>Q: How does the ESF address human and animal health issues?</p> <p>Q: Why have some OP provisions been taken out?</p> <p>Q: It is commonly said that the Bank always dictates lending to countries (e.g. structural adjustment), will it be the same with these ESS's?</p> <p>Q: The Bank is requesting additional studies on Kandadji dam project. Were the previous studies not complete enough or is it the requirements of the ESS's?</p> <p>Q: What is the transition process from the OPs to the ESF?</p>