



Review and Update of the World Bank Safeguard Policies

Expert Focus Group on “Ensuring Environmental and Social Integrity in Development Outcomes”

Co-hosted by the Center for Global Development (CGD)

Washington, DC, USA

September 22, 2015

On September 22, 2015, a focus group of diverse experts was held in Washington, DC as part of the third phase of consultations on a [second draft Environmental and Social Framework](#). Participants in the focus group comprised experts from a wide range of organizations from around the world. It was agreed at the outset that the focus group would be conducted in accordance with the “Chatham House” rules, and that participants would speak in their individual capacities rather than as representatives of their respective institutions. In addition to participating experts, World Bank staff members were present. The meeting was co-hosted by the Center for Global Development (CGD).

The meeting began with opening remarks from CGD and an overview by World Bank staff of the third phase of the consultations. The discussions focused on outcomes-based and adaptive risk management, as well as risk management in specific contexts. The following is a synthesis of key observations. They do not necessarily represent a substantive consensus of the group; rather they are key issues expressed by one or more individual experts, which received attention during the consultation.

Outcomes-based Approach and Adaptive Risk Management: Best Practices in Implementation

Comments

- An outcomes-based approach and adaptive risk management must have some degree of assessment to allow for modification. For example, if minor adjustments are needed, is it necessary to go back to the Bank for Board approval? The opportunity for positive change should not be lost because of system issues.
- Although adaptive management is an important aspect during this round of framework revisions, there is in fact not much on this within the framework. Instead, what is striking overall is the effort to establish principles and standards and the use of language that leaves room for judgment and assessment in process and application. To those reading the framework with a high-risk lens, the framework seems insufficient; to those with a low-risk lens, it seems to be too much (particularly regarding the use of borrower vs. World Bank systems; and the emphasis on upfront planning, consultation, and establishment of legal requirements vs. judging how the systems in place are actually performing). There is a question of whether procedures actually achieve the benefits they seek. There may be situations where, in spite of planning, implementation (whether by the borrower or World Bank) does not achieve the intended outcomes.
- The tendency in planning is to be as risk averse as possible, which may lead to overreaching. When the Bank assesses a borrower system, for example, is the assessment based on documentation alone or whether the system has in the past addressed environmental and social concerns adequately? If the Bank focuses solely on procedures, then aspects that appear to be effective

would be privileged, without fully considering the way they operate in the borrowing country itself and whether benefits actually accrue.

- The draft framework discusses mitigation relative to project costs rather than benefits. This may get in the way of assessing whether measures will achieve development benefits. Often, this is a political decision to be made by society.
- In addressing adaptive management and planning, the challenge is balancing outcomes vs. process. Most environmental regulatory agencies do not have enough resources to monitor and collect information to perform adaptive management. More information can lead to better results in the end.
- The Bank is trying to create an instrument that does not necessarily have a uniform view on what is binding, or even what its principles are.
- One participant, appreciating the complexity of the process and acknowledging the usefulness of hearing the details spelled out during this meeting.

Recommendations

- In the policy, the approach is “prevent, minimize, mitigate, and compensate;” but *adapt* should also be included.
- For unforeseen issues, there should be ways to make resources available (e.g., contingency funds).
- It is important to give stakeholders enough information to be able to make a decision on a project. While it is not necessary to know the exact details of every change that may occur, stakeholders do need to know that principles are in place.
- Financial feasibility should be carefully considered within a complete context, not just on its own, in order to not obstruct development objectives. Many times, changes do not increase risk but reduce it, and time is wasted preparing documentation for such situations. The upfront approach the Bank was previously taking burdened the borrower, but with the new approach, there is space for change.
- The Bank has to strike a balance between aspirational elements in its vision statement and provisions operable under a multilateral framework.

Questions

- In terms of scale, how should risk management be conducted? By whom? When? Is it efficient?
- The more data that is collected, the higher the cost, but also the less there is uncertainty. Given these tradeoffs, what data is needed? What constitutes environmental/social data?
- How will the Bank make compliance obligatory?
- If something occurs that was unplanned for, where will resources for that come from?
- How will the Bank assess borrower frameworks? What will be the feedback process regarding adaptive management? How will the Bank ensure proper planning within the adaptive management approach?
- How will the proposed flexibility interact with grievance redress mechanisms?
- How does the Bank intend to fund capacity building needs? Will the Bank develop its own risk assessment systems, including the strategies to address those risks and assign cost to them?
- Is there a concern about reduced competitiveness? How will the Bank address double standards? For instance, regarding climate change (also applies to labor, FPIC, and other areas), will the frameworks require countries to do more than what is required under the UNFCCC?

Risk Management in Specific Contexts: Land, Resettlement, Indigenous Peoples, and Cultural Heritage

Comments on Land and Resettlement

- The overall objective to avoid involuntary resettlement is crucial. These circumstances should only be exceptions. The initial plan requirements are a positive change. The clarification of land entitlements is also improved.
- The heavy burden on the borrower is a point of concern. A project-level grievance mechanism as a catch-all for offenses is a delicate matter, especially if all the issues need to be addressed. The resettlement policy is not in itself a problem, rather, the nature of past experiences with the Bank during implementation has given rise to concerns. There is pressure from national governments and plans on paper become very different from what is implemented on the ground.
- There is an assumption that communities do not have their own plans in place, when the reality is that they often do. It is important to recognize the existence of these types of plans in the community. They need to understand it as an ongoing process and not just a single moment.
- Whether to provide cash compensation or not should depend on the plans that communities have in place, and not on someone externally.
- It is not clear if a Resettlement Action Plan (RAP) is to be enveloped within the Environmental and Social Commitment Plan (ESCP) in the current draft ESF. Under current Bank policies, the RAP or RPF must be produced prior to appraisal. In the draft ESF, the RAP/RPF does not seem to necessarily be required. The ESCP should capture what the requirements are for the borrower and for Board approval.

Comments on Indigenous Peoples

- The importance of a stand-alone policy on Indigenous Peoples was emphasized. The draft framework includes new language that represent concepts from the UN declaration, which is a positive improvement.
- Leaving the determination of Indigenous Peoples to the Bank is both good and bad. In some cases it may be seen as positive, but the need for high-level expertise capacity may be a delicate issue to address.
- One participant commented that governments may have the right to recognize who or if there are Indigenous Peoples in their territory, while on the other hand people in these communities seek the right to self-identify as indigenous, which at times is not recognized by the government.
- Paragraph 9: the alternative approach is not present in the draft framework anymore, which is a positive change, but the issue of a waiver is of concern (i.e., what does it entail and where will it occur?). The burden is on the borrower to implement and ensure the policy is set up as desired.
- If FPIC is not obtained, the borrower will have to ensure that that aspect of the project is re-evaluated, which seems very complex considering that projects have intermingling, dependent parts that work as a whole.

Comments on Cultural Heritage

- Regarding cultural heritage, one participant commented that there is no stated reason or situation where a plan cannot go forward at all, i.e., a circumstance where there is cultural heritage that cannot be moved. Although the revised draft contains improved, thoughtful language, there is still concern about how it will work in practice (for example, what to do when it comes to national policy that has to be in place).

Recommendations

- The Bank should use quality-adjusted compensation in-kind in its resettlement practices.
- Indigenous Peoples have their own systems for recognition that should be used, not just the government's, which sometimes follows different procedure.
- There is danger of waste, duplication, and inconsistent quality results if the identification of Indigenous Peoples is done in a fragmented or flexible manner.
- The framework should have language that is clear to borrowers about what is expected, as there are still ambiguities. The language is not clear enough as there are many complex aspects that still need to be addressed.
- If the standards were modeled on the Program for Results, which is consistent across projects, they might be able to avoid duplication and improve results.
- The Bank should be mindful of the tendency toward risk aversion. If risk management gets too complicated, it may be a deterrent. From a safeguards or standards perspective, the Bank may want to finance a project, but because of reputational risks or cost perspectives, may decide against it in favor of less complicated projects.
- In the use of borrower systems, co-financing, or FI projects, the draft ESF only requires that the "Objective" of ESF is achieved. The Bank should clarify what achieving this objective means.

Questions

- What more can be done to reduce the ambiguity in language in ESS3? Is it possible to know which Indigenous Peoples groups would be covered? Knowing this could prevent ad hoc challenges from people who feel that they have some sort of claim or stake in the project. Similarly, in terms of triggers, would consent from all groups be required equally? A project could have all required consultations, but if consent is not given, it is important to know next steps.
- Regarding cash compensation vs in-kind, there is a large gap between rural and urban projects (e.g., land given not the same agricultural grade as land resettled from; in urban settings, some forms of compensation in-kind may not be possible or justifiable).
- Will the framework move a country's portfolio from high risk to low risk? Appetite in terms of risk needs to be measured.
- If the Bank has safeguards that are hard to manage, even with the best of intentions, will that result in less resource efficient/investment efficient portfolios? What is the balance – where do we draw the line as countries strive to move towards an equilibrium?

Other Comments

- One participant stated that the strengthening of social aspects is appreciated. Inclusion of social aspects is useful to ensure differentiated risks and impacts as well as to categorize the project.
- How to address the differences in the ESSs: ESS 4 does not include the requirement for the assessment of downstream livelihood impacts in the scope for dam construction; however, ESS 1 requires indirect and cumulative impacts to be assessed. Clarification is needed when there are inconsistencies among the requirements across ESSs.
- One participant asked if high-level strategies as well as a project-level framework would be assessed, and if so, what the cost implications are.
- The language used for definitions is important, especially when civil society seeks an Inspection Panel investigation. Vague objectives might prevent an intervention. Language should be strengthened to clarify meaning.
- There seems to be a tradeoff between safeguard compliance and development outcomes. It is important to consider how to strike the right balance. Moving away from compliance to actual focus on the outcome is important. A move in this direction would provide the incentives for country capacity building.