

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

**Phase** 3

**Feedback Summary**

**Date:** December 9, 2015

**Location (City, Country):** Dushanbe, Tajikistan

**Audience (Government, Implementing agencies, Multi-stakeholder, etc.):** Civil Society Organizations (local and international NGOs)

**Overview**:

|  |  |  |  |
| --- | --- | --- | --- |
| **ESF** | **Issue** | **Items** | **Feedback** |
| Vision | Human Rights  | 1. Approach to human rights in the ESF
 |  |
| ESP/ESS1 | Non-discrimination and vulnerable groups | 1. 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)
2. 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
 | * Point 2 on the special category of citizens in cases of involuntary resettlement is challenging issue. Local legislation does not provide additional entitlements or rights to this group of people. It is also challenging to identify the persons who qualify as vulnerable or severely impacted (the Agency for Statistics does not track these categories). The local legislation provides compensation to people according to value of their property in case of involuntary resettlement.
* Non-discrimination. The local legislation does not provide specific identification of the vulnerable group of people. Additional criteria included here shall be carefully treated. For example, mental status cannot be disclosed. There are no records maintained by the national responsible agencies on vulnerable people. There are no statistics, no disaggregation by gender, by age, by disability or other categories.
 |
| Use of Borrower’s Environmental and Social Framework | 1. 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)
2. 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
3. Role of Borrower frameworks in high and substantial risk projects
 | * Contractors refer first and foremost to national laws, not to project-specific plans, so it is important to incorporate good requirements into the national Framework.

. |
| Co-financing/ common approach | 1. 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 | 1. Approach to monitoring E&S compliance and changes to the project during implementation
 |  |
| Risk classification | 1. Approach to determining and reviewing the risk level of a project
 |  |
| ESS1 | Assessment and management of environmental and social risks and impacts | 1. Assessment and nature of cumulative and indirect impacts to be taken into account
2. Treatment of cumulative and indirect impacts when identified in the assessment of the project
3. Establishing project boundaries and the applicability of the ESSs to Associated Facilities, contractors, primary suppliers, FI subprojects and directly funded sub-projects
4. Circumstances under which the Bank will determine whether the Borrower will be required to retain independent third party specialists
 | * It is important to enforce implementation of Environmental Management Plans.
 |
| Environmental and Social Commitment Plan (ESCP) | 1. Legal standing of the ESCP and implications of changes to the ESCP as part of the legal agreement
 |  |
| ESS2 | Labor and working conditions | 1. Definition and necessity of and requirements for managing labor employed by certain third parties (brokers, agents and intermediaries)
2. Application and implementation impacts of certain labor requirements to contractors, community and voluntary labor and primary suppliers
3. Constraints in making grievance mechanisms available to all project workers
4. Referencing national law in the objective of supporting freedom of association and collective bargaining
5. Operationalization of an alternative mechanism relating to freedom of association and collective bargaining where national law does not recognize such rights
6. Issues in operationalizing the Occupational Health and Safety (OHS) provisions/standards
 | * The new document demonstrates that WB is now paying more attention not only in project development phase, but in its implementation. It was good to see standard 2 on safety and hygiene of labor, including very flexible and broad aspects of safety. It is very important who and how perform management system. Capacity of the responsible people is also important in practical use of this new standards. Therefore, additional information/ training is needed on how to apply it in practice. It shall be daily training for PMU, ecologists, national and international consultants etc.
* Labor and working conditions are well covered in national laws, including children’s labor and gender issues. However, while the laws are good, enforcement is weak. In the conditions of Tajikistan children still work due to absence of other breadwinners.
 |
| ESS3 | Climate change and GHG emissions | 1. The relation between provisions on climate change in the ESF and broader climate change commitments, specifically UNFCCC
2. 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
3. Implications required for the Borrower of estimating and reducing GHG emissions for Bank projects, in line with the proposed standard
 |  |
| ESS5 | Land acquisition and involuntary resettlement | 1. Treatment and rights of informal occupants and approach to forced evictions in situations unrelated to land acquisitions
2. Interpretation of the concept of resettlement as a “development opportunity” in different project circumstances
 | * Point 24: Displaced people (DP) who have no rights. It probably includes legal DPs and legalized DPs, who will have no problems in case on resettlement. However, in case of illegal DPs and illegalized DPs the situation is different. They have no rights and entitlements. In addition, they have to bring the land into previous conditions in case of resettlement. They are requested to remove any construction facilities build in the land on their own cost, which is a challenge for them.
* Point 25: Resettlement planning. This process requires inputs, both financial and physical which cannot be allocated by the Government. Sometimes, illegal land using is promoted.
* Land alienation is an important issue. The country has no independent institution of property assessment. The property of people is assessed by local inventory agency, which can have a vested interest. It also shall be taken into account that the assessment is conducted today, but the actual payment/compensation is done after several years and due to inflation and raise of cost, the money reimbursed to resettled people is not enough for construction of new house.
* People’s right to worthy living conditions is violated. They are resettled to dry lands where are no infrastructure, no roads, no schools, no electricity, no water, no safety from natural disasters, no employment opportunities. In addition, they are compensated with the small amount of money which is not enough to build a new house. They are not given any choice and the result is often a step downward in housing and livelihoods. The resettlement is done on the pretext of infrastructure development.
* Right to information in cases of resettlement is often violated. Information is not provided to citizens under the excuse of its confidentiality or state secret. This is violation of the right to land use.
* A new housing code is expected to be adopted soon (it has been under discussion for more than ten years). It includes good provisions for the rights of displaced people but the law does not have definition of involuntary/forced resettlement. The issue of compensation is not stipulated in the law and each situation is considered based on the by-laws (specific resolutions adopted for specific resettlement cases), so it is important that good rules be incorporated in these. There are also a degree on the loss of profit.
* According to the latest information from the Parliament, there is a working group established, which is finalizing all recommendations and suggestions received from various Parliament committees and government of Tajikistan agencies. As of today the project of the Residential Code is being considered by the working group, but is not yet finalized for final consideration by the Parliament.
* There are laws on valuation methodology and licensed evaluators exist. But for large infrastructure projects valuation is done by a State agency. Evaluation is carried out best when there is international finance and local consultation. There is the need to agree on specific valuation methodologies and for verification of results. Evaluation methodology shall be developed and assessment of property, market pricing shall be conducted. Reporting shall also be put in place.
 |
| ESS6 | Biodiversity | 1. Operationalization of the provisions on primary suppliers and ecosystem services, especially in situation with low capacity
2. Role of national law with regard to protecting and conserving natural and critical habitats
3. Criteria for biodiversity offsets, including consideration of project benefits
4. Definition and application of net gains for biodiversity
 | * A participant asked for clarification of the definition of Ecosystem Services under the ESF
 |
| ESS7 | Indigenous Peoples | 1. Implementation of the Indigenous Peoples standard in complex political and cultural contexts
2. Implementation of ESS7 in countries where the constitution does not acknowledge Indigenous Peoples or only recognizes certain groups as indigenous
3. Possible approaches to reflect alternative terminologies used in different countries to describe Indigenous Peoples
4. 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
5. Criteria for establishing and implementation of Free, Prior and Informed Consent (FPIC)
6. Comparison of proposed FPIC with existing requirements on consultation
7. Application of FPIC to impacts on Indigenous Peoples’ cultural heritage
 |  |
| ESS8 | Cultural Heritage | 1. Treatment of intangible cultural heritage
2. Application of intangible cultural heritage when the project intends to commercialize such heritage
3. Application of cultural heritage requirements when cultural heritage has not been legally protected or previously identified or disturbed
 | * The issue of cultural heritage is also burning. The heritage may be damaged as the result of climate change and natural disasters. The issue requires attention.
 |
| ESS9 | Financial Intermediaries | 1. Application of standard to FI subprojects and resource implications depending on risk
2. Harmonization of approach with IFC and Equator Banks
 |  |
| ESS10 | Stakeholder engagement | 1. Definition and identification of project stakeholders and nature of engagement
2. Role of borrowing countries or implementing agencies in identifying project stakeholders
 | * Peoples’ rights to information must be respected (there is too much classifying of information as State secrets and confidential). There are several legal documents which guarantee this right. At the same time, there is an Administrative Code, the clauses of which are not followed in practice, many of which guarantee access to government information.
* A participant asked how requirements for Grievance Redress Mechanism should be implemented, for example in case of people who don’t speak the main language
 |
| General |  EHSG and GIIP | 1. 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 | 1. 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
2. Mitigation of additional burden and cost and options for improving implementation efficiency while maintaining effectiveness
 | * Once the ESF is approved there will be a need for capacity building and training – not just one-off events but an extended program for Borrowers, consultants, contractors, etc. (like Asian Development Bank has done)
* Standards need to be flexible, and accompanied by good guidance on implementation. World Bank will need to have people in place to help the Borrower understand and implement
 |
| Client capacity building and implementation support | 1. Funding for client capacity building
2. Approaches and areas of focus
3. Approach to implementing the ESF in situations with capacity constraints, e.g., FCS, small states and emergency situations
 | * The standard on capacity building is also important. Good environmental assessment plan need to be prepared in the project development phase, but more important is to realize it in practice. To do this, modules, directions, instructions are needed.
 |
| Disclosure | 1. Timing of the preparation and disclosure of specific environmental and social impact assessment documents (related to ESS1 and ESS10)
 | * The principle of free, prior and informed shall be applied in disclosure of information.
* A Participant asked for clarification regarding the types of information to be disclosed by Borrowers and the manner of disclosure (prior to and following project implementation)
 |
| Implementation of the ESF | 1. Bank internal capacity building, resourcing, and behavioral change in order to successfully implement the ESF
2. Ways of reaching mutual understanding between Borrower and Bank on issues of difficult interpretation
 |  |
| Other issues: * Suggested standards all are very good and useful. In order to implement them in practice it would be good to recommend their adoption under the national legislation or norms.
 |