



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	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	<ul style="list-style-type: none"> 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.

		recognition of certain groups is not in accordance with national law	
Use of Borrower's Environmental and Social Framework	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)	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	<ul style="list-style-type: none"> 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.
	6. Role of Borrower frameworks in high and substantial risk projects		
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		
Adaptive risk management	8. Approach to monitoring E&S compliance and changes to the project during implementation		

	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	10. Assessment and nature of cumulative and indirect impacts to be taken into account 11. Treatment of cumulative and indirect impacts when identified in the assessment of the project 12. Establishing project boundaries and the applicability of the ESSs to Associated Facilities, contractors, primary suppliers, FI subprojects and directly funded sub-projects 13. Circumstances under which the Bank will determine whether the Borrower will be required to retain independent third party specialists	<ul style="list-style-type: none"> It is important to enforce implementation of Environmental Management Plans.
	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) 16. Application and implementation impacts of certain labor requirements to	<ul style="list-style-type: none"> 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

		<p>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>daily training for PMU, ecologists, national and international consultants etc.</p> <ul style="list-style-type: none"> • 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	<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</p>	

		<p>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>	
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"> • 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.

			<ul style="list-style-type: none"> • 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	<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</p>	<ul style="list-style-type: none"> • A participant asked for clarification of the definition of Ecosystem Services under the ESF

		<p>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>	
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 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>	

		36. Application of FPIC to impacts on Indigenous Peoples' cultural heritage	
ESS8	Cultural Heritage	37. Treatment of intangible cultural heritage 38. Application of intangible cultural heritage when the project intends to commercialize such heritage 39. Application of cultural heritage requirements when cultural heritage has not been legally protected or previously identified or disturbed	<ul style="list-style-type: none"> 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	40. Application of standard to FI subprojects and resource implications depending on risk 41. Harmonization of approach with IFC and Equator Banks	
ESS10	Stakeholder engagement	42. Definition and identification of project stakeholders and nature of engagement 43. Role of borrowing countries or implementing agencies in identifying project stakeholders	<ul style="list-style-type: none"> 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	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	
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"> • 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	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., FCS, small states and emergency situations		<ul style="list-style-type: none"> • 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	50. Timing of the preparation and disclosure of specific environmental and social impact assessment documents (related to ESS1 and ESS10)		<ul style="list-style-type: none"> • 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	51. Bank internal capacity building, resourcing, and behavioral change in order to		

		<p>successfully implement the ESF</p> <p>52. Ways of reaching mutual understanding between Borrower and Bank on issues of difficult interpretation</p>	
<p>Other issues:</p> <ul style="list-style-type: none"> 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. 			