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

### Phase 3

### Feedback Summary

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**Date: February 16 and 17, 2016**

**Location (City, Country): Dar es Salaam, Tanzania**

**Audience: Government**

**Key: C = Comment and Q = Question**

#### Overall Comments

This is a combined summary from the two meetings held on February 16 and 17 with Tanzanian cabinet ministers/permanent secretaries, government ministries/parastatals and Project Implementation Units (PIUs). The two meetings were well attended with some 55 participants and consultation was open and constructive. Government representatives from the Government of Burundi also participated.

The World Bank delegation was led by Mr. Hartwig Schafer, the Vice President of Operational Policy and Country Services and attended by Bella Bird, Country Director for Tanzania, Mark King, Chief Safeguards Officer and several other technical staff. Mr. Andrew Ndaamunhu Bvumbe, Alternate Executive Director for a group of countries that includes Tanzania was also in attendance as well as two of his senior advisors.

Overall, the Government of Tanzania valued the time that the Bank has taken to consult on the proposed Environmental and Social Safeguards Framework (ESF) but stressed that the Bank should take into account the following:

- Cultural sensitivities surrounding some of the standards and not try to change the culture of the borrowers.
- Need for the Bank to adopt borrower frameworks as much as possible which they believe will help in strengthening country systems.

The table below contains detailed summaries of discussions for each of the proposed Standards.

ESF	Issue	Items	Feedback
Vision	Human Rights	1. Approach to human rights in	<b>Q:</b> Why does the ESF stop at envisioning Human Rights and not include the

		the ESF	surroundings such as the environment and animals?
ESP/ ESS1	Non-discrimination and vulnerable groups	<p>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> <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><b>C:</b> Having an extensive disability description is an additional task and burden.</p> <p><b>C:</b> Listing people according to their religion, age, sexual orientation and other types of vulnerabilities is going to be difficult for us because it is actually discriminative. We don't find any merit in spending time and resources on this when non-discrimination is already enshrined in the constitution of Tanzania. We protect everyone and promote equality under the law.</p> <p><b>C:</b> The Bank should recognize our cultural sensitives and not try to change the culture of our society and rather follow the borrower's laws and waive some of these conditions.</p> <p><b>C:</b> We understand the issue of discrimination, but asking for explicit listing of ethnic groups and sexual orientation is not good for our country.</p>
	Use of Borrower's Environmental and Social Framework	<p>4. Role of Borrower frameworks in the management and assessment of environmental and social (E&amp;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</p>	<p><b>C:</b> This new additions on ESS1 – Assessment and Management of Environmental and Social Risk being at Bank's Discretion is a concern. The Bank owns a lot of decision making not considering the sovereignty of the country.</p> <p><b>C:</b> ESS1 : PARA 7 and PARA 31 stated that the use of "all or part of borrower frameworks will be at World Bank's discretion" This issue needs more consultation because in most cases the banks procedures including No Objections are too bureaucratic, time consuming and costly due to time spent in responding into comments.</p> <p><b>C:</b> We recommend that local environmental frameworks should be applied to all lower risk projects while the high risk projects are the ones to be subjected to both borrower / WB safeguard frameworks. Also the word "discretion" should be rephrased to "consultation with the borrowing state".</p>

		<p>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>	
	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	<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</p>	<p><b>C:</b> Sometimes projects are delayed due to many environmental study reports which are reviewed by various experts whose comments are not consistent and difficult to be implemented/achieved in a developing country. In some cases comments are derived from limited local/site experiences of the experts.</p>

		whether the Borrower will be required to retain independent third party specialists	
	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	<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> <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)</p>	<p><b>Q:</b> How was freedom of association and association implemented in the Tanzania case study?</p> <p><b>Q:</b> How does the security of personnel get treated under this standard where the project needs one, who deploys their use and for what?</p>

		provisions/standards	
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 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><b>C:</b> Requiring extra studies and reporting on GHG when Africa emits only about 0.04 of all GHG is extra burden and adds to the cost of the project. Lenders should assist borrower states that are in the category of 0.04 GHG emission to easily access grants from GEF and many others when a project is deemed to trigger the need for GHG assessment.</p> <p><b>Q:</b> ESS 3 focuses on climate mitigation, why is the Bank not promoting and supporting climate adaptation instead?</p> <p><b>C:</b> There's need to clarify the list of projects that will be ring fenced from this standard.</p> <p><b>C:</b> Support of project by project is not effective, assisting countries to develop capacities in terms of climate adaptation should be considered instead.</p> <p><b>Q:</b> How do you handle losses and damages from climate change under 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><b>C:</b> There is need to clarify treatment and Rights of Informal Occupants and mobile population such as petty traders in the ESF when this is in conflict with Borrowers Framework.</p> <p><b>C:</b> No Formal Legal Rights to Land and Restoration of livelihood and it is difficult to ascertain in the case of petty traders and requirements of this for borrowers are an additional assignment to the borrower – Compensations is difficult to ascertain in this case.</p> <p><b>C:</b> Dealing with compensation cost of resettlement by the borrower is a burden. There's need to discuss the issues of resources for resettlement and compensations</p>

			<p><b>Q:</b> What exactly does the term “development opportunity” mean in relation to resettlements?</p> <p><b>Q:</b> How does the ESF handle chance findings?</p> <p><b>Q:</b> How does the issue of vendors and cases of illegality get treated in the ESF?</p> <p><b>Q:</b> In cases of encroachment on government land and Rights of Way, the country’s land law does not provide for right of claim, how does the ESF handle resettlement and human rights in this regard?</p> <p><b>Q:</b> At which scale and under which criteria should borrower assist the landless/vulnerable people during resettlement?</p> <p><b>Q:</b> In Tanzania, resettlement and compensation of illegal squatters does not appear in the country land law. Would the Bank grant credits for resettling and compensating these group of people?</p> <p><b>Q:</b> How is compensation going to take place in the case where resources are communally owned like in most communities in Tanzania?</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</p>	<p><b>C:</b> Ecosystem services is very important for Tanzania and should be captured in ESS 1 and 3 as well. Local communities should be involved in the inclusive natural resources management.</p> <p><b>C:</b> Tanzania has a unique global value ecosystem – the Bank should consider a grant option to the country for the implementation of ESS 6 because of the country’s global significance.</p>

		benefits 29. Definition and application of net gains for biodiversity	
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> <p>36. Application of FPIC to impacts on Indigenous Peoples' cultural heritage</p>	<p><b>C:</b> I valued the time that the Bank is taking to consult because these issues are critical to us for instance the use of IP is not the right terminology for Tanzania, and we would like to use this opportunity to underscore that.</p> <p><b>C:</b> Our constitution is clear and so I am concerned about the word “tradition” in the proposed title for ESS 7 and do not consider that as making progress. This standard should not be tolerated in Africa.</p> <p><b>C:</b> There’s more than the title because when you go into the details of the text, there are problematic issues in the text as well.</p> <p><b>C:</b> The integrity of the local people is not given consideration in the text.</p>
ESS8	Cultural Heritage	<p>37. Treatment of intangible cultural heritage</p> <p>38. Application of intangible</p>	<p><b>Q:</b> How do you operationalize the treatment of intangible resources under the ESF?</p>

		<p>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><b>Q:</b> In cases of co-financing with a local Bank, which standards is going to be in use?</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><b>Q:</b> This question relates to the Tanzania case study, what would have been the before and after situation of stakeholder engagement under the ESF?</p> <p><b>Q:</b> ESS10 requires an in-depth engagement with the community by the borrower, who bears this cost?</p> <p><b>Q:</b> As far as the Tanzania case study was concerned, a fair amount of stakeholder engagement was done and project implementation incorporated accessibility for PLWD. What else could have been done in terms of stakeholder engagement under the ESF?</p> <p><b>C:</b> Stakeholder Engagement Plan is calling for reporting in groups. This should not warrant such in-depth listing. Cultural wholeness and integrity of the country should be taken into account.</p>
General	EHSG and GIIP	<p>44. Application of the Environmental, Health and Safety Guidelines (EHSGs) and Good International Industry Practice (GIIP), especially when different to</p>	



		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		<p><b>C:</b> I would appeal to the Bank to consider the additional cost to the borrower that implementing the ESF would bring. The Bank knows the economic situation of a country like Tanzania, therefore I ask that a special line of credit support be given to us for the implementation of ESS 1, 3, 6.</p> <p><b>C:</b> The Bank should float a line of credit to support the borrower in implementation of the ESF.</p> <p><b>Q:</b> Has the Bank undertaken any analysis to determine the cost implication of implementing the ESF? For example, the case study should have shown the cost of implementing under the ESF.</p>
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		<p><b>Q:</b> In terms of building borrowers capacities for implementation of safeguards standards, why not set up Regional Centers of Excellence in Africa rather than individual country tailored approaches?</p> <p><b>Q:</b> What is the implementation time line of the ESF and what happens in the case where a project is currently being implemented under the existing Ops?</p> <p><b>C:</b> My observation is that the detailed nature of the ESF which is more than the Ops would generate increased cost of implementation to the borrower.</p> <p><b>C:</b> Standards 1, 3 and 6 are additional burdens to the borrower and so grants should be extended to the borrower for undertaking GHG studies and maintain ecosystem services.</p> <p><b>C:</b> Bank's feasibility study processes take too long that it ends up increasing cost of project implementation.</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	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	
Other issues			<p><b>C:</b> The Burundi case study is an emergency project that was approved in March 2015 and yet money is not yet disbursed; notwithstanding the disaster nature of the situation and so many people that has been displaced by the situation.</p> <p><b>Q:</b> How does the Bank define emergency if in this Burundi case study, a project prepared since 2014, approved in 2015 and in 2016 is still being referred to as emergency project and no money yet disbursed?</p> <p><b>Q:</b> This Burundi case study is a rehabilitation project, does the occasion call for an ESIA or an Environmental Audit?</p> <p><b>Q:</b> Still in this Burundi case study were the people affected compensated?</p> <p><b>Q:</b> With such a long delay in this case study, how would Cutoff date be handled?</p> <p><b>C:</b> I feel that the second draft of the ESF does not reflect views already expressed. It is important to reflect these views and take into account country sensitives in such cases as IP issues.</p>

	<b>Q:</b> How is strategic planning mainstreamed into the ESF?
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