



**Review and Update of the World Bank's Environmental and Social Safeguard Policies  
Phase 2  
Feedback Summary**

**Date:** October 27, 2014

**Location (City, Country):** Hanoi, Vietnam

**Audience (Government, CSO, etc.):** CSOs and development partners, consultants and researchers

**Overview and Key Issues Discussed:** Key issues discussed included: risk classification; use of borrower's framework; biodiversity; non-discrimination; LGBT; resource efficiency and pollution prevention; climate change adaptation; alternative approach; third party monitoring; policy flexibility; and financial intermediaries. **This summary is subject to change after review and comments from consultation participants.**

Specific Feedback from Stakeholders
<b>1. General Comments</b>
<p><i>Clarifications</i></p> <ul style="list-style-type: none"> <li>• Clarification was sought why the proposed framework will apply to the borrower countries and not to the <b>all WB member countries</b>.</li> <li>• Clarification was sought whether the Bank will develop <b>guidelines</b> for each ESS.</li> </ul> <p><i>Comments and recommendations</i></p> <ul style="list-style-type: none"> <li>• Participants expressed their appreciation for <b>the volume of information and comprehensive, detailed presentation</b> provided to the participants. They also welcomed the consultation organized in a <b>participatory manner</b>.</li> <li>• A participant said that they had provided the Bank with a long list of comments during the phase 1 consultation period. While some comments have been incorporated in the proposed framework, others are not. The <b>Bank response</b> to each comment should be provided.</li> <li>• This kind of consultation should also be held at the <b>sub-national level</b>.</li> <li>• Bank projects should support <b>inclusive development</b>. They should not only serve rich people.</li> <li>• There are some inaccuracies in the Vietnamese <b>translation</b> of the framework, including on LGBT. It should be revised.</li> <li>• <b>Flexibility</b> introduced in the proposed framework is important to facilitate the implementation.</li> <li>• Vietnam is in the process of revising its EIA legislation. The Bank should discuss with the government for assisting this process and <b>harmonizing</b> with the proposed framework.</li> <li>• It should be also noted that EIA requirements in the government differ among ministries and they are subject to frequent changes.</li> </ul>
<b>2. A Vision for Sustainable Development</b>
<p><i>Comments and recommendations</i></p>

- It is positive that **human rights** are included. However, they are non-binding requirements and there is a concern that the Borrower can apply the human rights principles at their discretion.

### 3. **World Bank Environmental and Social Policy**

#### *Clarification*

- Clarification was sought about the **methodology of the use of borrower's environmental and social framework**, and how to address the gaps between the proposed framework and the borrower's national system. It was also questioned whether and how the Bank will build the capacity of the borrower when using the borrower's environmental and social Framework.
- Clarification was sought on who will determine **the risk classification** of a project.

#### *Comments and recommendations*

- The proposed use of Borrower's environmental and social framework is a positive step toward a greater **ownership** of the borrower.
- In the use of Borrower's framework, it is unclear why the Bank proposes project-based approach. **Programmatic approach** may be better.
- The criteria for **risk classification for environment and social, especially for land acquisition and Indigenous People** should be clarified.
- The proposed **risk classification** needs to be further elaborated on the aspect of **ethnic minority**. While the environmental impacts can be more quantifiable, the social impact is more qualitative and subject to judgment. Ethnology institute and UNDP are currently developing a handbook on detailed criteria to help quantify the impact on ethnic minority. While a workshop on this is planned next year, we wish to coordinate with the Bank.
- In **risk classification**, it is important to not only classify the risk, but also come up with mitigation measures. Long-term impacts should also be assessed. When the risk is high and unable to mitigate, the Bank should be able to refuse to finance the project despite the pressure from the government and competition with other donors, such as ADB and JICA.
- Supervision and monitoring should cover the whole project cycle, as it is not possible to capture all upstream and downstream risks of the project in the scoping stage. In this context, CSO can help as **independent third party monitoring**. However, there are challenges about the capacity of the NGOs. As in the case of Trung Son hydro power project, they may not have full understanding of the project activities, including the ones concerning affected ethnic minority groups in the area.
- While the **third party monitoring** is important, the provision on this should be more specific to make it operational.
- In Vietnam, the implementation capacity is weak and the responsibility is unclear. The Bank's due diligence and guidelines for monitoring will be crucial.
- A challenge is how to monitor and engaged with the **contractors** and sub-contractors. Community involvement in the project is key, such as providing job opportunities to disadvantaged groups. However, local communities have no leverage on such contractors. Some contractors bring workers from their own country.

### 4. **Environmental and Social Standard 1 (ESS1): Assessment and Management of Environmental and Social Risks and Impacts**

#### *Clarifications*

- Clarification was sought on whether there is no contradiction between **compliance** with the proposed Framework and the flexibility in the **sequencing** and use of borrower's national system.

#### *Comments and recommendations*

- The borrower is responsible for assessing risks and impacts as well as designing mitigation measures. This is a **conflict of interest** and should be separated. Also, to ensure the quality, the risk assessment and management should be disclosed and participatory. It is also important to make sure that the risk assessment is communicated to the potentially affected communities.

- It needs to be clarified how the Bank will operationalize or address the **non-discrimination principles**, such as gender, embedded in the proposed Framework.
- The requirements on assessment and stakeholder engagement for **LGBT** should be properly implemented. LGBT community should be able to benefit equally from the Bank project. If the implementation is left to the Borrower, it will be treated at Borrower's discretion.

#### 5. **Environmental and Social Standard 2 (ESS2): Labor and Working Conditions**

N/A

#### 6. **Environmental and Social Standard 3 (ESS3): Resource Efficiency and Pollution Prevention**

##### *Clarifications*

- Clarification was sought about how the implementation of the requirements of energy, water and other resources efficiency will incorporate the Borrower country's national legislation.
- While the requirements in ESS3 on GHG are mostly on mitigation, clarification was sought about how the Bank will address climate change **adaptation**.

##### *Comments and recommendations*

- The structure of ESS3 needs to be improved. Para 1 is too broad and the following sections on resource efficiency and pollution prevention are not consistent.
- Regarding ESS4, para 8, it is unclear why the threshold for the **water demand** is set at 5,000m<sup>3</sup>/day. In Vietnam, the water demand in most projects is up to 3,000m<sup>3</sup>/day. The proposed threshold appears to be too high.

#### 7. **Environmental and Social Standard 4 (ESS4): Community Health and Safety**

N/A

#### 8. **Environmental and Social Standard 5 (ESS5): Land Acquisition, Restriction on Land Use and Involuntary Resettlement**

##### *Comments and recommendations*

- In Vietnam, **land issues** such as land use right, accessibility and transparent land administration are a big challenge. The Bank should continue to support the country in these issues.

#### 9. **Environmental and Social Standard 6 (ESS6): Biodiversity Conservation and Sustainable Management of Living Natural Resources**

##### *Clarification*

- Clarification was sought to what extent the proposed Framework addresses the cross-border issues.

##### *Comments and recommendations*

- While there is a national legislation in Vietnam on **biodiversity action plan**, the implementation is weak due to budget constraints. It is also often based on secondary **baseline data**. Clarification was sought on whether the baseline data required in ESS6, para 6, is primary or secondary data.

#### 10. **Environmental and Social Standard 7 (ESS7): Indigenous Peoples**

*Comments and recommendations*

- While the introduction of **FPIC** is a progress, there are some loopholes and non-binding requirements in the proposed framework. For example, there is a concern that the proposed “**alternative approach**” will be applied at Borrower’s discretion.
- It is appreciated that the review team has made a significant effort for the Indigenous Peoples policy. But in the Vietnamese context, it should be noted that **Indigenous Peoples and ethnic minority** are different from each other. This is a very sensitive issue in the central highland area in terms of land tenure such as community forests. This should be noted in the policy implementation.

**11. Environmental and Social Standard 8 (ESS8): Cultural Heritage**

N/A

**12. Environmental and Social Standard 9 (ESS9): Financial Intermediaries**

*Comments and recommendations*

- ESS9 is a very important policy that could help strengthen environmental and social standards of **commercial banks**. While there are 10 commercial banks which were surveyed under a study in Vietnam, 90% of them do not pay attention to environmental and social risks. 70% of funds for Vietnamese hydro power projects are financed by those banks. Those banks say the environmental and social responsibility rest on investors.

**13. Environmental and Social Standard 10 (ESS10): Information Disclosure and Stakeholder Engagement**

*Comments and recommendations*

- There is a potential loophole in ESS10. If all responsibilities are passed on to the borrower, ESS10 would not work. The communities in isolated areas may have no sufficient knowledge on the project or long-term consequences. It is important to find **an independent, right** party who can regularly facilitate the engagement with the communities.