



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

Phase 2

Feedback Summary

Date: November 12, 2014

Location (City, Country): Berlin, Germany

Audience (Government, CSO, etc.): Multi-stakeholder

Overview and Key Issues Discussed:

On November 12, the Federal Ministry for Economic Cooperation and Development (BMZ) hosted a multi-stakeholder consultation on the World Bank's proposed Environmental and Social Framework. This meeting was part of a two-day event that also included discussions on human rights and land issues. The multi-stakeholder meeting on November 12 was moderated by Deutsche Welle anchor Melinda Crane. Stefan Koeberle, Director for Operations Risk Management, presented the framework on behalf of the World Bank. The discussion focused on Human Rights, sustainability, labor protections, climate change, biodiversity, the protection of Indigenous Peoples, and provisions for stakeholder engagement. For purposes of conciseness, the following summary highlights comments and recommendations that were provided by individual representatives; collective comments and recommendations are noted as such.

Specific Feedback from Stakeholders

1. General Comments

- Consultation participants pointed out the importance of effective implementation of any policies designed to protect people and the environment. Safeguard policies need to be about implementation and impact. Any framework can only be as good as its implementation; therefore a coherent, integrated framework is needed in addition to an appropriate allocation of resources for implementation. The World

Bank should therefore provide a resourcing and implementation plan. Regarding implementation, concern was expressed about borrower capacity and the Bank's ability to monitor, which would require a significant reallocation of resources.

- In order to ensure effective implementation and impact, the World Bank should take on board practical experiences from the past, including from smaller projects that may lead to larger projects or to larger impacts.
- It was pointed out that the World Bank needs to take into account projects that had negative impacts in the past. The World Bank needs to ensure that no harm is done with Bank-financed projects. In order to effectively reflect the principles of “do no harm,” the proposed Environmental and Social Framework needs to be stronger. This also means the removal of the qualifying clauses, such as “when technically and financially feasible,” “where adequate”, etc. from the draft in order to avoid a situation of open-ended compliance. It should also cover Development Policy Lending (DPL) and should not allow borrower countries to choose not to fulfill any of the provisions. The proposed Environmental and Social Standards should be minimum standards. Concern was expressed that the proposed framework would water down internationally agreed standards.
- Any new safeguards framework for the World Bank will have significant impact on other Multilateral Development Banks (MDB). The framework should therefore also contain clear directions for World Bank staff on how to implement the proposed standards. Staff need clear instructions on due diligence. Concern was expressed that World Bank staff and borrower governments might take the standards lightly in order to move a project forward—clear instructions could help prevent this.
- In order to be a full legal instrument, the proposed framework would need to specify jurisdiction, remedies, and sanctions.
- If using the national systems of borrowing countries, the World Bank should assess not only existing legislation, but also its implementation.
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2. A Vision for Sustainable Development

- Environmental and social sustainability are high on the agenda for Germany. Sustainability should be part of the World Bank Group's corporate goals and a principle of the proposed framework. Eradicating poverty and promoting shared prosperity need to be achieved in a sustainable manner. The safeguards review is very important from that perspective, also because the World Bank is an international standard setter, whose example will be followed by other institutions.
- Stakeholders discussed that human rights should be included in the proposed framework as binding Borrower requirement. Participants stated that Human Rights are explicitly linked to successful development. The World Bank should make it clear that it won't fund any project that would violate human rights. The World Bank should also follow international treaties and implement Human Rights assessments. Stakeholders pointed out that a large number of countries have ratified international Human Rights treaties.
- Stakeholders welcomed the inclusion of climate change aspects in the proposed framework, in particular those provisions that deal with quantifying and reducing greenhouse gas emissions. However, stakeholders warned that the proposed wording in the draft could be too ambiguous, leaving room for interpretation. In addition to addressing climate change aspects in World Bank projects, the institution should also support countries in building resilience and climate change preparedness. A forceful approach to climate change needs to include screening for short-term and long-term climate change, climate change risks, and climate change adaptation.

3. World Bank Environmental and Social Policy

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

- Stakeholders discussed the principle of non-discrimination and its role for LGBT/SOGIE issues. It was argued that the framework as it stands now would eventually fall short of having actual impact on LGBT/SOGIE issues. The World Bank should use its influence and leverage to ensure that all project-affected people actually benefit from a project. Stakeholders also suggested that the World Bank should work with countries on advancing the LGBT/SOGIE agenda. It was pointed out that the Bank Information Center (BIC) has provided the World Bank with a draft SOGIE policy, but many of the points made by CSOs in this draft were not taken up by the World Bank.
- It was pointed out that the Independent Evaluation Group (IEG) criticized the International Finance Corporation (IFC) for relying too much on information provided by clients. Concern was expressed that the proposed framework was going down the same route. As borrower countries have an interest in projects to be rated as low risk, they should not be fully relied on with regard risk assessment, monitoring, and risk management.
- The concept of project-affected people should be clearly identified.
- It was suggested that ESS1 should include provisions for a Human Rights assessment. For any kind of assessment, the World Bank will need to guard against conflicts of interest between contractors writing the assessment and governments that may be the biggest employer for such contractors. Third parties, including civil society organizations, should be involved in the assessment.
- It was noted that putting in place a system of “Deferred Appraisal” implies the approval of projects before the range and magnitude of their impact is known. The related emphasis on “less frontloading” closes off the space for civil society, especially for affected people, to comment on environmental and social assessments.

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

- The inclusion of a labor standard in the proposed framework was welcomed. However, it was also noted that with three other MDBs having adopted labor standards, the World Bank is behind the other Banks. One participant remarked that ESS2 is more modest than had been expected by stakeholders.
- Some stakeholders pointed out that relevant international treaties are not referenced in ESS2. Concern was expressed especially about the lack of references to International Labor Organization (ILO) conventions. As most countries are members of ILO and as acceptance of the core ILO standards is a condition of membership, all World Bank client countries should be held to those standards also.
- Consultation participants requested that all workers should be covered by ESS2. It was pointed out that contractors and sub-contractors often are the most vulnerable among the workers. Civil servants should also be protected by ESS2.
- Participants asked that Freedom of Association and the Right to Collective Bargaining be included in the framework.
- The World Bank was asked to take an active role in countries where working conditions are hard to control.

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

- Consultation participants acknowledged that ESS3 presents an important step forward, especially with regard to greenhouse gas emission accounting. However, it was pointed out that the framework only applies once a project is identified. Safeguards cannot adequately address climate change, for example, if they come in too late in the project cycle.

- Stakeholders asked the World Bank to ensure that borrower countries demonstrate their resource efficiency and pollution prevention. A robust and transparent approach needs to be developed to show whether the objectives of ESS3 are being met or not.
- It was suggested that the framework requires clear guidance on climate change issues in order to have any impact on climate change. It also needs stronger emphasis on the reduction of short-lived climate pollutants.

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

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

- Participants asked the World Bank to address land governance in ESS5 and pointed out the need for accountability and transparency with respect to land governance.
- The objective of ESS5 should be to maintain communities. If resettled, communities should be resettled together.
- It was pointed out that land issues are very critical to Indigenous Peoples. In that regard they should be differentiated from other poor communities.

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

- Biodiversity experts among the consultation participants lauded the objectives of the standards, but pointed out that the proposed language in the draft framework lacks precision in the definition of terms and their application. It was argued that the proposed language makes only brief reference to the importance of environmental values and lacks safeguards for ecosystem services.
- Participants saw the definition of critical habitats as too narrow.
- The proposed mitigation hierarchy was welcomed. However, the World Bank should make sure that offsets come only at the very end of that mitigation hierarchy to address residual impacts. It was pointed out that if negative impacts cannot be fully offset, the project should not take place. It was pointed out that if there is no evidence that negative impacts can be fully offset, the project should not take place.
- It was proposed that the World Bank also explicitly consider local and indigenous communities that are dependent on biodiversity resources.
- Stakeholders noted that ESS6 should not only be precautionary, but should include provisions to protect against adverse long-term impacts.
- ESS 6 was considered to be weaker than the existing Forest Policy that it is meant to replace because its definition of natural critical habitat does not include the sacred sites of indigenous peoples.

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

- Stakeholders welcomed the inclusion of Free, Prior and Informed Consent (FPIC).
- It was noted that the current safeguard policy for Indigenous Peoples has a positive legacy in Africa but that the proposed opt-out clause of ESS7 places this legacy at risk.
- Stakeholders expressed concern about the proposed alternative approach as they felt that this approach might lead to borrower countries avoiding the application of the Indigenous Peoples standard.
- It was pointed out that the concept of Indigenous Peoples does indeed not apply in all regions. For instance, some African governments make the case that their citizens are all indigenous. Where the concept of Indigenous Peoples is difficult to apply, a broader concept of

vulnerable groups and minorities should be applied. The definition of Indigenous Peoples should be based on self-identification and meeting pre-defined characteristics.

- Some participants suggested that FPIC should apply to all affected communities. FPIC should apply throughout the entire project cycle.
- FPIC needs to be clearly defined and should take into account that different communities may have different approaches to decision-making.
- Concern was expressed that Indigenous Peoples could be marginalized in the process of assessment, unless the World Bank takes an active role in the assessment rather than relying on client information.
- It was argued that the draft standard falls behind the standards of the UN Declaration on Rights of Indigenous Peoples.
- It was suggested to use the terminology of ILO Convention 169 “Indigenous and Tribal Peoples.”
- There was a call for the removal of the alternative approach. The proposed “alternative approach” is inconsistent with the principle of universality of human rights and undermines the progressive development of legislative protections.

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

- The World Bank should consider the particular relationship between Indigenous Peoples and cultural heritage as well as related spiritual issues when revising ESS8.
- ESS8 should include clear reference to international conventions.

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

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

- Stakeholders recognized that the World Bank performs above United Nations standards on information disclosure.
- It was proposed that the framework include intermediary measures for countries to demonstrate their approach to information disclosure.
- ESS10 should clarify any sanctions and remedies for cases where provisions on information disclosure and stakeholder engagement are not upheld.
- While it was acknowledged that the concept of participation as introduced in the draft framework was wider than the concept in the current safeguard policies, the framework also includes too many loopholes and is too free floating and aspirational. As a result it fails to ensure adequate participation.
- The framework should include a stakeholder engagement plan to ensure consistent implementation. Minimum requirements for participation should be spelled out. Third-party monitoring should be required.
- Participants asked that the framework require consultations before a project is presented to the Board of Executive Directors of the World Bank.
- The framework should refer to the Aarhus convention on information disclosure.