



# World Bank's Safeguard Policies Review and Update Labour expert group

London, UK  
January 21, 2015

**On January 21, 2015**, a focus group of international labour experts was held in London, UK as part of the World Bank safeguard policies review process. On July 30, 2014 the World Bank Board's Executive Committee on Development Effectiveness (CODE) authorized the release of a proposal document for consultation purposes to seek feedback on its content. The draft Environmental and Social Framework includes Environmental and Social Standard 2 (ESS2) on 'Labour and working conditions'. Labour is one of the subjects that has been the subject of some focus during the consultation phase. It is also seen as one of the new areas for consideration by the World Bank in the Safeguard Review. More information about this process is available on the World Bank Safeguards Review [website](#).

Participants in the focus group comprised labour experts from a variety of civil society, trade union, donor and research organisations from around the world (see list of participants below). It was agreed at the outset that the focus group would be conducted in accordance with the 'Chatham House' rule, and that participants would speak in their individual capacities rather than as representatives of their respective institutions. In addition to participating experts, three World Bank staff members were present. The meeting was facilitated by Steve Gibbons, Director for Labour and Human Rights, Ergon Associates.

The focus group meeting began with a presentation by World Bank staff to help define the purpose and scope of the meeting. The presentation described the rationale, objectives and stages of the overall safeguards review process and intended next steps.

The following is a synthesis of key observations of participants during the day. It should be emphasised that these observations are not reported here as necessarily representing the substantive consensus of the group. They are instead summarized here as key issues put on the table by one or more individual experts that received attention during the consultation and that were proposed for further consideration as the process goes forward.

## **I. General points from the discussion**

- There is strong support for the inclusion of labour safeguards in World Bank projects but also felt that further revisions to the draft are needed to extend the scope of coverage and to strengthen the content to bring it closer in line with international core labour standards.
- The development of labour safeguards presents a clear opportunity for more 'joined-up thinking' on how the labour and employment impacts of World Bank projects could better contribute to overall poverty reduction and development goals.
- Close consideration should be given to harmonising the labour safeguard with other international instruments and particularly to the safeguard mechanisms used by other multilateral development banks (such as IFC, EBRD and AfDB), both to ensure coherence and to pinpoint areas where the

safeguards could be strengthened. Any comparisons should also recognise the unique characteristics of the World Bank's lending portfolio and the specific constraints associated with lending to public sector borrowers and operating under a high degree of scrutiny.

- There is clear value in having high and aspirational standards, including standards that go beyond the requirements of national law. Given how emblematic and important many World Bank projects are they would offer an opportunity to make a strong and positive case for improving labour standards.
- At the same time, attention should be given to ensure that the requirements of the safeguard are kept manageable (both in terms of the scope and the content) and that all of the provisions are implementable.
- More collaboration and engagement is needed to determine how the standards will be implemented and how progress towards the standards will be assessed.

## 2. Scope

The current scope of the safeguard only applies to workers who are directly employed by the borrower and concerns were expressed that this does mean that there was minimal coverage of those engaged under labour arrangements in World Bank funded projects.

In terms of scope, the group's key concern related to the application of ESS2 to **contractors and their workers**. In many World Bank projects (particularly those involving infrastructure development), the majority of project labour is supplied through contracting and sub-contracting. Some experts suggested that it would be workable to include a provision that requires borrowers to ensure that all first-tier contractors are aware of safeguard requirements and that processes and procedures are in place to ensure that these are followed. This could include taking labour management into account in the selection of contractors, as well as including clauses in contracts which specify labour obligations. Some experts raised the concern that the current scope could create an incentive for borrowers to increasing their use of sub-contracting.

Other discussions regarding scope related to:

- **Supply chain workers:** While it was recognised that auditing and monitoring supply chain workers is complex, some of the expert group felt that it was nevertheless feasible to include some basic provisions related to labour conditions in supply chains. For example, borrowers could be encouraged to introduce procedures to monitor core labour standards, identify any risks and, where needed, develop appropriate steps to remedy them. This could also include a mechanism whereby in situations when remedy is not possible or where suppliers are unable to demonstrate compliance, the borrower should shift to other suppliers.
- **Civil servants:** While the point was made by World Bank officials that it was not feasible for all aspects of the labour safeguards to apply to civil servants (given the sensitivities involved and the those civil servants who are employed in a purely administrative function may be covered by a separate code), a number of the experts felt that there is still scope to extend the scope of the coverage of the safeguards to cover all of the core labour standards in respect of civil servants who are engaged on the project in question (i.e. non-discrimination and freedom of association should be included in the safeguard in addition to child labour and forced labour which are already included). There may be some difficulties in establishing which civil servants should be covered under these rules, depending on their involvement in the project; however, this could be mapped at the beginning of the project.

### 3. Content

Many of the provisions in the current draft are focussed on compliance with national law rather than seeking to implement broader international standards. The group explored the question what this meant when national law does not meet international core labour standards or where there are significant legal restrictions on workers abilities to exercise their rights (particularly in regard to forming a union).

#### Core labour standards

The group were broadly of the opinion that the issue should be addressed by some reference within the safeguards to the ILO's four core labour standards which are widely understood and recognised and already applicable to World Bank borrowers by virtue of their ILO membership:

- **Freedom of association:** The current formulation requires borrowers to comply with national law. However, some experts raised concerns that in some World Bank borrower countries national law is not fully aligned with the core international labour standards on freedom of association. It was suggested that in these contexts borrowers should be required to meet international standards on freedom of association in World Bank projects. In particular, this should include a commitment not to discriminate or retaliate against workers who participate in worker organisations and to enable (or not discourage) alternative, independent mechanisms for workers to express their grievances and protect their rights. The IFC's Performance Standard 2 on labour and working conditions provides an example of how these provisions might be framed And guidance material could be developed to provide examples of how to comply.
- **Child labour:** The current formulation of this provision, which requires the borrower to set a minimum age for employment which complies with national law, in the view of the expert group, offers insufficient protection. The group felt that the borrower should not be permitted to employ children below the minimum age for employment set out in ILO C138 (15, or temporarily 14 in exceptional circumstances), regardless of the minimum age for employment specified in national law.
- **Forced labour:** Concern was expressed that while there is an express prohibition on employing trafficked workers, there are no equivalent prohibitions on other forms of forced labour. This discrepancy could lead to confusion on the definition of forced labour and it was suggested that it may be better to stick solely with the ILO definitions.
- **Non-discrimination:** The current draft does not clearly specify prohibited grounds for discrimination, however it is recognised that there are some challenges in operationalising measures against discrimination in certain country contexts (particularly in relation to sexual orientation) and a broader description might be a better compromise.

#### Other areas

Beyond the core labour standards there are several other areas where the content of the draft could be strengthened or clarified, although some experts noted that it was also important not to 'overburden' the safeguards policy with too many requirements:

- **Worker accommodation:** Requirements on worker accommodation in the draft are less stringent than other provisions, despite the fact that there are often significant shortfalls regarding living conditions for workers (e.g. in temporary camps for construction workers). It was suggested that more attention should be given to clarifying these provisions. This may, however, be a question for guidance rather than safeguards, as in IFC and EBRD standards.

- **Provision of written contracts / information:** The current draft requires that workers should be provided with information regarding their terms of employment. Some of the group felt that this should be further strengthened by specifying that the information should be written (and in a language which the worker understands).
- **Wages:** The group had a discussion on the provisions which state that workers should receive the applicable minimum wage. Some experts suggested that, in circumstances where no minimum wage is in place or where the minimum wage is insufficient, consideration should be given to a commitment to pay workers the 'prevailing wage' which is relevant to their area of work.
- **Grievance mechanism:** There was broad agreement that a grievance mechanism should be made available to all workers connected with the project (irrespective of their contractual status). This should be separate from the grievance mechanism for project workers.
- **Workplace violence and harassment:** One expert raised the issue of whether consideration should be given to including a specific provision requiring borrowers to implement processes to prevent and remedy workplace violence and sexual harassment. Others noted that this could potentially be achieved through a guidance note.
- **Social protection:** It was suggested that consideration could be given to adding requirements for borrowers to provide a defined basic safety net to workers (particularly compensation in the case of illness or injury). However, other experts noted that this may be difficult to achieve within the scope of the safeguard, given variations in national standards and practices.

#### 4. Implementation

The following points were raised in relation to the implementation of the labour safeguards:

- It was suggested that the World Bank should consider a pilot phase to test implementation of the safeguards in selected countries / projects before rolling it out to all borrower countries.
- One expert proposed that, at the onset of the project, the borrower should be required to carry out a mapping exercise to identify all of the project's labour requirements (including in relation to the supply chain) and to establish what types of contractual arrangements will be used to meet labour needs. This mapping should be used to assist the borrower in clarifying the nature of their obligations to different categories of workers. There should also be complete and accurate records of all workers on project sites irrespective of their contractual status.
- A number of experts noted that careful management of project procurement processes will be key to ensuring the effective implementation and monitoring of the safeguard on labour, particular if the next draft includes requirements on contractor management.
- It was raised that more discussion is needed to ascertain how monitoring will be done and how the projects' performance will be measured.
- It was discussed whether procedures should be developed by the World Bank to allow for a 'lighter' and more discursive version of a formal complaint mechanism. This could offer a more flexible way to resolve any issues which emerge and to continuously improve standards on projects.
- A number of experts questioned how the Bank will ensure it has the skills and competence in place to implement labour requirements effectively. It was suggested that collaboration and dialogue with trade unions, experts, private sector and civil society should be an integral part of the approach. An approach which was used at IFC some years ago involved the establishment of a 'Labour Advisory Group' to bring together different areas of expertise from outside the Bank (including trade union representatives and labour practitioners as well as engineers and international contractors) to offer broad guidance.

