



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

Date: December 3, 2014

Location: Bern, Switzerland

Audience: Government, CSOs, Academia, Private Sector

Overview and Key Issues Discussed: A presentation of the proposed Environmental and Social Framework was followed by a discussion between Bank staff and members of the Swiss government, CSO community, academia and the private sector. Participants provided specific feedback on the proposed Framework. Issues discussed included the applicability of the Framework across various types of lending instruments; the importance of avoiding dilution and maintaining the Environmental and Social Standards as a global standard for other institutions; and Borrower capacity and differentiation of responsibilities between the Borrower and the World Bank.

Specific Feedback from Stakeholders

1. General Comments

Comments:

- Impression that there is dilution and a “race to the bottom” and concern about the shift from up-front assessment to downstream requirements, which may lead to problem projects and compliance issues; this may necessitate a comprehensive redrafting of the Standards.
- There are too many qualifiers in the language, making requirements unclear and therefore the job of the Inspection Panel more difficult and weakening its mandate.
- Concern that there are gaps between the draft and the reality in the field.
- Overall, the precautionary principle is missing in the Standards.
- The Framework lacks a robust Human Rights risk assessment; the Bank should incorporate Human Rights due diligence within the proposed Framework; this should not be left up to the Borrower. In this regard, the Bank is encouraged to conduct separate Human Rights consultations.
- The proposed Framework should be outcome oriented and focused on impact.
- The Standards lack criteria that define under which conditions the Bank would suspend or cancel its contributions.

Recommendations:

- There should not be any dilution of existing safeguards.
- Safeguards should remain a “yardstick” for other institutions; coherence and consistency should be enforced.

2. A Vision for Sustainable Development
3. World Bank Environmental and Social Policy
<p><i>Comments:</i></p> <ul style="list-style-type: none"> • There needs to be a balance between “doing good” and “doing no harm” so that it is still possible to take risks. It is not in the spirit of development cooperation to be completely risk averse. Nevertheless, the Bank still has a responsibility to set a global standard. • Resources for monitoring and supervision will be important for successful implementation. • Participants asked why there were no references to legal frameworks like international standards and conventions throughout the policy. <p><i>Recommendations:</i></p> <ul style="list-style-type: none"> • The policy should apply to all Bank instruments, not only investment lending.
4. Environmental and Social Standard 1 (ESS1): Assessment and Management of Environmental and Social Risks and Impacts
<p><i>Comments:</i></p> <ul style="list-style-type: none"> • A private sector participant commented on the challenges in explaining the importance of implementing safeguard policies and ensuring compliance among contractors. Government commitment to implementing the Standards is essential to ensure a consistent message. • Shifting more responsibility to Borrowers is risky, particularly in cases of low capacity in country systems or corruption. • There seems to be an over-reliance on the Borrower’s country systems. <p><i>Clarifications:</i></p> <ul style="list-style-type: none"> • There seems to be a lack of clearly defined limits or “redlines” determining when the risks are too high to proceed with a project; redlines/limits must be defined and linked to the Bank’s twin goals. • Clearer criteria are needed for risk categories.
5. Environmental and Social Standard 2 (ESS2): Labor and Working Conditions
<p><i>Comments:</i></p> <ul style="list-style-type: none"> • The ESS lacks reference to ILO Core Labor Standards. <p><i>Recommendations:</i></p> <ul style="list-style-type: none"> • Third party workers and contractors should also be covered under the ESS, current definition does not cover all relevant parties. • It was suggested to align this standard with IFC and other regional Banks.
6. Environmental and Social Standard 3 (ESS3): Resource Efficiency and Pollution Prevention
<p><i>Comments:</i></p> <ul style="list-style-type: none"> • The ESS leaves too much room for interpretation; too many potential loopholes. • Offering compensation for or replacing biodiverse hotspots is a “No Go.”

- There seems to be too little in terms of climate change in the overall policy.

Recommendations:

- The ESS should require GHG emissions assessments.

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

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

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

Recommendations:

- The precautionary principle is mentioned in the Objectives section of the ESS, but nowhere else; this should be remedied so that it is integrated throughout the text.
- Concern that the ESS replaces the OPs on Forests and Natural Habitats and fails to protect forest communities. Large infrastructure and mining projects seem now to be possible under ESS6.
- ESS6 as it stands now is highly problematic and needs to be redrafted because it fails to protect ecosystem services; also, the need to protect the rights of forest-dependent communities is not mentioned. By replacing both OP 4.36 and OP 4.04, it opens a huge loophole: the Borrower may implement project activities that convert or degrade critical habitat provided that: “No other viable alternatives within the region exist for development of the project in habitats of lesser biodiversity value.” (ESS6, #17); Destruction of critical habitats and other areas rich in biodiversity may now be compensated for by establishing biodiversity offset areas.

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

Comments:

- Potential loophole in Para. 21 of ESS in that it seems that FPIC would only apply to the Bank financed portion of the project, leaving the Borrower free to fund other parts in a different manner without FPIC. For example, a dam financed by the Bank would require FPIC, but non-Bank financed roads through an indigenous community leading to the dam would not.
- FPIC includes the right to say yes, to say no and to say how.
- Many NGOs see paragraph 9 as an opt-out option that risks undermining FPIC.

Recommendations:

- Other vulnerable groups should have the same protections as Indigenous Peoples, mainly the right to Free, Prior and Informed Consent (FPIC).
- Clearer definition of Indigenous Peoples is needed. A different language should not be a binding requirement since many Indigenous Peoples have been forced to stop using their language.

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

12. Environmental and Social Standard 9 (ESS9): Financial Intermediaries
13. Environmental and Social Standard 10 (ESS10): Information Disclosure and Stakeholder Engagement
<i>Clarifications:</i> <ul style="list-style-type: none">• The language on the timing of disclosure needs to be clarified; e.g., “In a timely manner” should be replaced with “At an early stage.”