



Review and Update of the World Bank’s Environmental and Social Safeguard Policies
Phase 3
Feedback Summary by Madagascar (CSOs/NGOs)

Date: December 04, 2015

Location (City, Country): Antananarivo, Madagascar

Audience (Government, Implementing agencies, Multi-stakeholder, etc.): Representatives of around 20 national and international CSOs/NGOs participated in the meeting (for instance representatives of Alliance Voahary Gasy, Conservation International), representatives of academia (University of Antananarivo) etc.

Overview: The consultations were held over one afternoon, during which : (i) the new ESS portfolio of the WB was introduced to the participants, highlighting the difference compared to the old provisions and the roadmap of its implementation; (ii) discussion over the new framework in general and each of the ESS in particular.

Note: Q – Question; C – Comment (in the feedback section)

ESF	Issue	Items	Feedback
Vision	Human Rights	1. Approach to human rights in the ESF	
ESP/ ESS1	Non-discrimination and vulnerable groups	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)	

		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	
	Use of Borrower's Environmental and Social Framework	4. Role of Borrower frameworks in the management and assessment of environmental and social (E&S) risks and impacts where these will allow projects to achieve objectives materially consistent with Environmental and Social Standards (ESSs) 5. Approach for making decision on the use of Borrower frameworks, including the methodology for assessing where frameworks will allow projects to achieve objectives materially consistent with the ESSs, and the exercise of Bank discretion 6. Role of Borrower frameworks in high and substantial risk projects	
	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	10. Assessment and nature of cumulative and indirect impacts to be taken into account 11. Treatment of cumulative and indirect impacts when identified in the assessment of the project 12. Establishing project boundaries and the applicability of the ESSs to Associated Facilities, contractors, primary suppliers, FI subprojects and directly funded sub-projects 13. Circumstances under which the Bank will determine 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	15. Definition and necessity of and requirements for managing labor employed by certain third parties (brokers, agents and intermediaries)	

		<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) provisions/standards</p>	
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</p>	C: The policies and measures relating to the climate change and climate catastrophes should be described more in detail. There are a lot of catastrophes and their prevention should be taken more into account in the new safeguards framework.

		<p>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>	
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>C: With regard to Protected Areas, we have very often: (i) people that protect the area; (ii) people that are harmful to the area. However, based on these new safeguards policies of the WB, both groups would have to be compensated. This can trigger social conflict as the “good” people can be upset that the project compensates groups that are harmful to the area.</p> <p>C: Too often people try to profit from compensation policies. Right before the project, people move in the areas of the future project implementation (for instance within Protected Areas) and then, as project-affected people, they get compensated – thus, opportunistic behavior of these people.</p> <p>C: Proposal on how to solve the problem of relocation – make the relocation only temporary. The moment the project finishes, the people should be allowed to return to their original livelihoods.</p> <p>C: A big problem in Madagascar is the insecurity of land tenure. The WB safeguards measures should clearly explain the land tenure / land use issues in projects.</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</p>	

		<p>conserving natural and critical habitats</p> <p>28. Criteria for biodiversity offsets, including consideration of project benefits</p> <p>29. Definition and application of net gains for biodiversity</p>	
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>Q: Does Free, Prior and Informed Consent (FPIC) necessitate unanimous consent or not? If not, does it mean that a minority voice will be ruled over?</p> <p>Q: If there is a minority that is against the project / against WB policies – is the project still going to be implemented?</p>

		36. Application of FPIC to impacts on Indigenous Peoples' cultural heritage	
ESS8	Cultural Heritage	37. Treatment of intangible cultural heritage 38. Application of intangible cultural heritage when the project intends to commercialize such heritage 39. Application of cultural heritage requirements when cultural heritage has not been legally protected or previously identified or disturbed	Q: How can the project evaluate the value of the cultural site? Q: If the community refuses to move a cultural artifact – will it be moved anyway, or will the project have to change because of that? C: National legislation is important for the protection of national cultural heritage. For example, mining projects cannot be closer than 80km from a cultural site (mining code stipulates this). Under these rules, the project / investor is obliged to search for alternatives to the relocation of the cultural artifact. If no other alternative is possible and the community agrees with the relocation, the investor has to finance all costs related to this change.
ESS9	Financial Intermediaries	40. Application of standard to FI subprojects and resource implications depending on risk 41. Harmonization of approach with IFC and Equator Banks	
ESS10	Stakeholder engagement	42. Definition and identification of project stakeholders and nature of engagement 43. Role of borrowing countries or implementing agencies in identifying project stakeholders	C: The obligation to communicate and share the info with stakeholders – should be included in the ESS6, ESS7 and ESS8. Information sharing and public disclosure of information is absolutely crucial. Q: If the decision of local population during the obligatory local consultations is against the WB safeguards policies – what is finally implemented (the local stakeholders' decision or the WB standards)?
General	EHSG and GIIP	44. Application of the Environmental, Health and Safety Guidelines (EHSGs) and Good International Industry Practice (GIIP), especially when different to 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	
	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	
	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>C: Really positive view of the new proposals. Representatives of the NGOs, universities etc. welcome this new attempt of the WB to improve the policies.</p> <p>C: Document is really good, however also really “heavy” and complicated – how can we implement it? Can WB help the country with its implementation and strengthen/develop the capacities of the countries to comply with the new standards?</p> <p>C: Unfortunately, the rule of law and governance is very weak in the country. What can the WB do to implement the measures even in countries with really bad governance? Is there some training/technical assistance available to help even these weak countries to meet the standards?</p> <p>C: Are there any rules on the use and purchase of the WB logo for the projects?</p> <p>C: This document is dated July 1st 2015. However, since then, three big conferences have been organized, especially the “Third International Conference on Financing for Development” organized in July 2015. This conference gave important conclusions for the financing for development. Shouldn’t these new safeguards policies take into account the conclusions of this and other global conferences?</p> <p>C: As mentioned by the WB team, each country has different priorities. How can we make sure that each country will really implement these safeguard policies rather than their own variations of it? Wouldn’t it be a solution to make regional variations of the safeguard policies that would comply more with the preferences of each region to ensure that countries really follow these rules and thus prevent potential conflicts?</p> <p>C: First perception of these policies was that they were really restrictive and implementing conditions and restrictions due to non-compliance. In general, restrictions are not a good way how to incentivize countries and actors to do something.</p> <p>Q: Are the “standards” a condition of Bank lending?</p> <p>C: Outreach and public information about projects can help the World Bank improve its public image. There is a general perception that the projects stay</p>	

only between the World Bank and the Country. However, it is not like that. Outreach and public information over the projects would help improve the public's perception of the World Bank.

C: General perception that the environment safeguards are more important than social ones (ONE – National Environment Office – has been in existence for a long time, The “Office National de Droit Humain” – National office for Human rights – is just being implemented). In general, call for a deeper adherence to the social safeguards too.

Q: Out of curiosity: What was the government saying to these changes? Were they interested in these new standards?

C: In relation to ESS5, ESS7 and ESS8 – Madagascar had not yet implemented a Land Code. Land security has to be assured for local communities to support their development in general as well as in relation to these three ESS.

C: “Speed of the implementation / tempo of the safeguard measures”: urban and rural areas have different speed (monthly salaries in urban areas vs. cash only twice a year after harvest in rural areas). The WB projects should also comply with this different rhythm (if applicable in rural areas); the ESF should take this into account (installments only after harvest etc.).