



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

Phase 3

Feedback Summary

Date: December 14, 2015

Location (City, Country): Kabul, Afghanistan

Audience: Multi-stakeholder

ESF	Issue	Items	Feedback
Vision	Human Rights	1. Approach to human rights in the ESF	N/A
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	<ul style="list-style-type: none"> • Emphasis that Afghanistan has a high ratio of the population with physical disabilities due to the protracted conflict and violence in the country. The mainstreaming of measures to facilitate mobility and access in physical structures financed by the Bank was underscored. • The challenges of implementing the ESS provisions for vulnerable groups, such as disabled people, but also women, women-headed households and certain tribes were highlighted. The major constraints were seen in institutional capacity, reach of government / rule of law, access and security, and traditional social structures. • The economic empowerment of women is currently targeted by a new gender strategy and an enabling legal environment, but practice on institutional, administrative and community level lags considerably behind. It should be considered how ESS1 will be able to contribute to gender equality in Afghanistan.

		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		<ul style="list-style-type: none"> • The readiness of the Afghan Government to prepare and manage the E&S systems and instruments for Bank financed projects was seen as very doubtful. While Afghanistan has recently established a National Environmental Protection Agency (NEPA) this has yet to be come operationally effective. Currently it lacks resources, staff, and most importantly, a strong enforcement mandate, supplemented with legal and executive powers. Cooperation between NEPA and line ministries (who are often the Clients of Bank financed projects) is poor, and NEPA rarely receives the legal and administrative backing required for effective enforcement of E&S compliance.
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		N/A
Adaptive risk management	8. Approach to monitoring E&S compliance and changes to the project during implementation		N/A
Risk classification	9. Approach to determining and reviewing the risk level of a project		N/A

ESS1	Assessment and management of environmental and social risks and impacts	<p>10. Assessment and nature of cumulative and indirect impacts to be taken into account</p> <p>11. Treatment of cumulative and indirect impacts when identified in the assessment of the project</p> <p>12. Establishing project boundaries and the applicability of the ESSs to Associated Facilities, contractors, primary suppliers, FI subprojects and directly funded sub-projects</p> <p>13. Circumstances under which the Bank will determine whether the Borrower will be required to retain independent third party specialists</p>	N/A
	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	<ul style="list-style-type: none"> • There were several general questions about the functionality of the ECSP, and how in e.g. Fragile, Conflict and Violence (FCV) affected situations it could contribute to a more flexible, tailored application of the ESS. There was some need to clarify the difference between ESCP and safeguards assessment or management instruments.
ESS2	Labor and working conditions	<p>15. Definition and necessity of and requirements for managing labor employed by certain third parties (brokers, agents and intermediaries)</p> <p>16. Application and implementation impacts of certain labor requirements to contractors, community and</p>	<ul style="list-style-type: none"> • CSOs saw only two sectors in the Afghanistan labor market as capable of implementing ESS2: The public sector and jobs created and financed by international organizations. • The enforcement of labor standards is seen as a major challenge, which would need very strong contractual anchoring, and effective oversight and enforcement arrangements. Given the overall lack of the rule of law, breaches of domestic labor regulations (esp. workplace health and safety) are the norm. • Application of ESS2 to primary suppliers was seen as major challenge, due to the efforts required for supervision / verification.

		<p>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>	<ul style="list-style-type: none"> • Child labor is widespread in Afghanistan, and many families rely on child labor for economic survival. Some CSOs were concerned about the potential negative impacts on such families, were they excluded from participation in Bank-financed projects, because e.g. of their children working. Questions also about how ESS2 could bring about general change of labor conditions, including child labor, in Afghanistan. • It should be clarified how ESS2 could be brought to private sector stakeholders in Bank-financed projects, e.g. suppliers and contractors, who currently operate very much under the regulatory radar.
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 standard, including determining scope, threshold, duration, frequency and economic and financial</p>	<ul style="list-style-type: none"> • Greenhouse gas estimation is seen as a major challenge for Afghanistan, due to capacity and resources available; also stressed that Afghanistan is one of the countries with very low per capita carbon footprint. • Specific policies on water are missing / too weak in the ESS, which is especially important for Afghanistan as crucial and often limiting natural resource. <i>(note: reference to ESS3, para 7-9 given)</i>

		<p>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>	
ESS4	Community health and safety	24. People with disabilities	<ul style="list-style-type: none"> Will ESS1 / ESS4 ensure that all Bank-financed projects, wherever buildings and infrastructure is involved, take the universal access principles for disabled into account?
ESS5	Land acquisition and involuntary resettlement	<p>25. Treatment and rights of informal occupants and approach to forced evictions in situations unrelated to land acquisitions</p> <p>26. Interpretation of the concept of resettlement as a “development opportunity” in different project circumstances</p>	N/A
ESS6	Biodiversity	<p>27. Operationalization of the provisions on primary suppliers and ecosystem services, especially in situation with low capacity</p> <p>28. Role of national law with regard to protecting and conserving natural and critical habitats</p> <p>29. Criteria for biodiversity offsets, including</p>	N/A

		<p>consideration of project benefits</p> <p>30. Definition and application of net gains for biodiversity</p>	
ESS7	Indigenous Peoples	<p>31. Implementation of the Indigenous Peoples standard in complex political and cultural contexts</p> <p>32. Implementation of ESS7 in countries where the constitution does not acknowledge Indigenous Peoples or only recognizes certain groups as indigenous</p> <p>33. Possible approaches to reflect alternative terminologies used in different countries to describe Indigenous Peoples</p> <p>34. 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>35. Criteria for establishing and implementation of Free, Prior and Informed Consent (FPIC)</p> <p>36. Comparison of proposed FPIC with existing requirements on consultation</p> <p>37. Application of FPIC to impacts on Indigenous Peoples' cultural heritage</p>	<ul style="list-style-type: none"> • Indigenous peoples are a contentious topic in Afghanistan, and most CSOs counseled not to attempt to define any of the ethnic or cultural minorities / groups / tribes as Indigenous Peoples. Overall the non-discrimination provisions under ESS1 were seen as an adequate approach to ensure equitable access and treatment of ethnic minorities in Afghanistan in the context of Bank-financed projects.
ESS8	Cultural Heritage	38. Treatment of intangible cultural heritage	N/A

		<p>39. Application of intangible cultural heritage when the project intends to commercialize such heritage</p> <p>40. Application of cultural heritage requirements when cultural heritage has not been legally protected or previously identified or disturbed</p>	
ESS9	Financial Intermediaries	<p>41. Application of standard to FI subprojects and resource implications depending on risk</p> <p>42. Harmonization of approach with IFC and Equator Banks</p>	N/A
ESS10	Stakeholder engagement	<p>43. Definition and identification of project stakeholders and nature of engagement</p> <p>44. Role of borrowing countries or implementing agencies in identifying project stakeholders</p>	<ul style="list-style-type: none"> • Role of citizens / communities in determination of portfolio design in Afghanistan. Need for stronger participatory processes to do the right projects for the Afghan context. • Operationalizing Grievance redress mechanism. It should be clarified how it would be activated for specific complaints about Bank-financed projects in Afghanistan. (note: the question was derived from one participant complaining specifically about implementation obstacles in an ongoing operation.)
General	EHSG and GIIP	<p>45. 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</p>	N/A

Feasibility and resources for implementation	<p>46. 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</p> <p>47. Mitigation of additional burden and cost and options for improving implementation efficiency while maintaining effectiveness</p>	<ul style="list-style-type: none"> • What would be the role of Afghan domestic institutions, e.g. the National Environmental Protection Agency (NEPA) in environmental oversight and compliance enforcement in Bank-financed projects? What capacity building, financing and strengthening can be expected during the transition to the new ESSs? • Several CSOs stressed that in Afghanistan the very foundations of E&S management, oversight and enforcement are lacking, due to the absence of rule of law and government influence in wide areas of the country, the extremely weak institutional capacity, the fragmentation and lack of cooperation between various Borrower entities. The possibility to rely on Afghan country systems as materially equivalent to ESS seems like a far off vision. • NGOs/CSOs should be given roles and opportunities in monitoring the implementation of Bank (and other Multi-lateral Development Banks) financed projects, using their expertise, networks, local presence and comparative high mobility within Afghanistan. Many NGOs are highly specialized and experienced in E&S assessment, management and monitoring, or have specific knowledge regarding gender, labor and other relevant fields.
Client capacity building and implementation support	<p>48. Funding for client capacity building</p> <p>49. Approaches and areas of focus</p> <p>50. Approach to implementing the ESF in situations with capacity constraints, e.g., FCS, small states and emergency situations</p>	<ul style="list-style-type: none"> • Which help can Afghan stakeholders (government and NGOs) expect to implement the ESS? How can the Bank help to strengthen country systems to at least partially rely on them for E&S management of Bank-financed projects? • Which tools and systems would be available for the Borrower (and other stakeholders, e.g. CSOs involved in monitoring / supervision) to apply / comply with the ESS? • Advocacy for joint information and training workshops to be organized for all stakeholders, on technical level, including government, donors and CSOs / private sector.
Disclosure	51. Timing of the preparation and disclosure of specific environmental and social impact assessment documents (related to ESS1 and ESS10)	N/A

	Implementation of the ESF	<p>52. Bank internal capacity building, resourcing, and behavioral change in order to successfully implement the ESF</p> <p>53. Ways of reaching mutual understanding between Borrower and Bank on issues of difficult interpretation</p>	N/A
Other issues			<ul style="list-style-type: none"> • The Bank’s procurement rules, especially the strong emphasis on cost rather than quality in some selection methods was seen as environmentally wasteful and as fostering the inefficient use of resources (due to the high replacement rate of poor quality goods and works) • Has the transition from MDGs (Millennium Development Goals) to SDGs (Sustainable Development Goals) been taken into consideration in the development of the new E&S framework? • Does the new E&S framework contribute to preventing / curbing corruption, elite capture and misappropriation of funds in Bank-financed operations?