

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

Phase 3

Feedback Summary

Date: February 2, 2016

Location (City, Country): Tokyo, Japan

Audience: Japan International Cooperation Agency (JICA)

ESF	Issue	Items	Feedback
Vision	Human Rights	1. Approach to human rights in the ESF	<ul style="list-style-type: none"> JICA is aware of the importance of giving attention to human rights, but there are practical limitations in assessing and responding to human rights safeguards at the project level, bearing in mind the nature of the issues and the challenges in information collection. Under the current draft stipulation, it should be clarified how the World Bank will ensure respect for human rights in the safeguard procedures, and whether the World Bank assumes any changes to the current operational procedures on this matter.
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"> JICA gives special attention to vulnerable social groups including women and indigenous people when implementing cooperation projects. JICA understands that the draft ESF addresses mental disability, health status, sexual orientation and gender identity for the disadvantaged and vulnerable. JICA, however, assumes challenges in appropriately caring for the vulnerable groups under these categories due to the difficulties in identifying them in some borrowing countries, for example, where their free expression of sexual orientation is not socially accepted. What the World Bank recommends as a practical method to identify the disadvantaged and vulnerable should be clarified, in particular concerning SOGIE, and how it considers sufficient support mechanisms for them.

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		is not in accordance with national law	
	Use of Borrower's Environmental and Social Framework	<p>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)</p> <p>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</p> <p>6. Role of Borrower frameworks in high and substantial risk projects</p>	<ul style="list-style-type: none"> JICA generally supports the concept of applying a borrower's ES framework as a project safeguard, and intends to coordinate with the World Bank and other donors especially in terms of capacity building of the borrowing countries. JICA, however, also recognizes the practical challenges that will arise in terms of donors' accountability and the difficulty of achieving short-term results through technical cooperation for capacity building. The Bank should clarify what the criteria would be for determining the use of the Borrower's Environmental and Social Framework, and for which countries and which types of projects in particular, this would be applicable.
	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	<ul style="list-style-type: none"> JICA understands that other multilateral donors have also introduced a common approach for co-financed projects and that this is an important concept toward donor harmonization. The Bank should clarify what are the specific factors to judge the acceptability of applying a common approach, when the draft ESF says "such approach will enable the project to achieve the project objectives materially consistent with the ESSs". It should be clarified to what extent the gap needs to be filled for a common approach when differences exist between the ESF and the standards of the co-financier.

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	Adaptive risk management	8. Approach to monitoring E&S compliance and changes to the project during implementation	<ul style="list-style-type: none"> N/A
	Risk classification	9. Approach to determining and reviewing the risk level of a project	<ul style="list-style-type: none"> JICA is highly interested in the World Bank's decision to introduce a risk-based categorization, as it will definitely affect future discussions during the revision of the JICA Guidelines expected in 2020. The rationale and criteria for determining each risk classification is still unclear in the ES Procedure and should be refined.
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>	<ul style="list-style-type: none"> Clarification was sought on whether the proposed ESF will change the roles and responsibilities between the Borrower and the Bank on conducting ES assessment and reviewing its quality and due diligence.
	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"> JICA believes there are pros and cons to introducing a legally binding ESCP. Agreement on environmental and social issues, when clearly stipulated in the legal document, would secure definite implementation on the borrower side. The Bank is requested to clarify how to balance environmental and social considerations with a smooth project implementation.

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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 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"> • JICA is aware of the importance of giving attention to labor and working conditions of the project-related workers, but JICA assumes that the requirements under ESS2 would substantially burden both the borrower and the World Bank staff for monitoring and compliance. This is because unlike IFC project cases, a governmental project financed under the World Bank is implemented by a private company selected through ICB or LCB and/or community workers, as in the case of small rural projects. The Bank should revisit the proposed ESS2 to see whether the proposed requirements can be effectively implemented and monitored. • The written labor management procedures proposed in ESS2 needs further clarification on how to apply, implement, monitor, and report. • The implementability of requirements on primary supply workers and workers in community labor is questionable.
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>	<ul style="list-style-type: none"> • JICA considers that the practicability of calculating GHG emissions from a project would depend on the definition or scope of “indirect emissions” from a project. It should be clarified what the scope of “indirect emissions” would be, for example, in the case of a road project. The proposed ESS3 does not provide sufficient clarity.

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		<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 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>	<ul style="list-style-type: none"> • The methodologies should be provided to estimate the direct and indirect GHG emissions and the expected “threshold established by the Bank of CO2 equivalent annually”.
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>	<ul style="list-style-type: none"> • Clarification was sought on the requirement on land titling project. • The Bank should pay more attention to measures for livelihood restoration and security of tenure, and monitor more closely the implementation of such measures.
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>	<ul style="list-style-type: none"> • JICA assumes that the current draft related to “primary suppliers” under ESS6 would require additional operational procedures and responsibilities on both the borrower and the World Bank. The implementability of the current draft on this is questionable. More guidance is needed on what is the kind of projects that would involve purchasing the primary production or use of living natural resources.

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		<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>	<ul style="list-style-type: none"> • It should be also clarified on how the certification of origin and standards of the primary production practices would be evaluated. • As biodiversity offsets are not easy to achieve, a cautious approach should be taken.
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>	<ul style="list-style-type: none"> • JICA understands that the implementation of FPIC (Free, Prior, and Informed Consent) requires the procedures for attaining consent from Indigenous Peoples and employment of independent expert, if necessary. • It needs to be clarified how the process of FPIC is operationally different from the current process of consultations with Indigenous Peoples. • Determination, recognition, and verification of “consent” of Indigenous Peoples should be clarified.

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		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	<ul style="list-style-type: none"> N/A
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	<ul style="list-style-type: none"> N/A
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	<ul style="list-style-type: none"> JICA recognizes that ESS10 would contribute to a more systematic engagement of stakeholders during project planning and implementation. However, the implementability of the proposed Stakeholder Engagement Plan should be re-examined. It should be clarified how the Stakeholder Engagement Plan would be developed and the identification of stakeholders and meaningful consultation be implemented in different project contexts (subprojects, FI, etc.)?
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	<ul style="list-style-type: none"> N/A

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		Borrower has technical or financial constraints and/or in view of project specific circumstances	
	Feasibility and resources for implementation	<p>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</p> <p>46. Mitigation of additional burden and cost and options for improving implementation efficiency while maintaining effectiveness</p>	<ul style="list-style-type: none"> While seeking Board approval in 2016 is important, the implementability of the ESF should not be compromised. Standards that cannot be implemented would not make sense.
	Client capacity building and implementation support	<p>47. Funding for client capacity building</p> <p>48. Approaches and areas of focus</p> <p>49. 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"> Many borrowers are lacking the capacity to implement the proposed ESF. The Bank should develop an implementation plan tailored to different Borrower capacities. The Bank should also offer learning opportunities to its development partners and potential co-financiers including JICA, when rolling out the ESF.
	Disclosure	50. Timing of the preparation and disclosure of specific environmental and social impact assessment documents (related to ESS1 and ESS10)	<ul style="list-style-type: none"> N/A
	Implementation of the ESF	51. Bank internal capacity building, resourcing, and behavioral change in order to	<ul style="list-style-type: none"> Clarification was sought on how the Bank will allocate its human resources for the implementation of the ESF, including monitoring and evaluation.

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		<p>successfully implement the ESF</p> <p>52. Ways of reaching mutual understanding between Borrower and Bank on issues of difficult interpretation</p>	
Other issues			<ul style="list-style-type: none"> • JICA has very strong interest in the WB safeguard policies review, as it refers to WB safeguard policies in JICA’s guidelines on environmental and social consideration. The Bank is requested to continue to closely coordinate with JICA. • Clarification was sought on the progress, results, and lessons learned from case studies conducted in line with the draft ESF. • Clarification was sought on how the Bank views the AIB’s safeguard policy, and the competitiveness of the proposed ESF.