



**Review and Update of the World Bank’s Environmental and Social Safeguard Policies**  
**Phase 3**  
**Feedback Summary**

**Date: January 26, 2016**

**Location: Brussels, Belgium**

**Audience: Government and Parliament representatives**

ESF	Issue	Items	Feedback
Vision	Human Rights	1. Approach to human rights in the ESF	<ul style="list-style-type: none"> <li>• Participants urged the Bank to recognize the linkages between human rights, project development outcomes, and economic development.</li> <li>• Several participants insisted that the human rights obligations should be binding. They felt that the Bank should go beyond “aspiration.”</li> <li>• Participants suggested that it would be better if there was a clear reference to human rights principle.</li> <li>• Concerns were raised about the recognition of the international conventions on human rights.</li> <li>• There was a question on how the EU human rights charter applies to the EU and others’ actions.</li> <li>• Participants considered the Bank’s refusing to explicitly refer to human rights law as a problem.</li> <li>• Participants urged the Bank to make explicit reference to the Ruggie voluntary guidelines.</li> <li>• Participants suggested that the Bank produce a human rights gap analysis.</li> </ul>

			<ul style="list-style-type: none"> <li>• The Bank was asked about its approach to customary rights in the ESF.</li> </ul>
ESP/ ESS1	Non-discrimination and vulnerable groups	<ol style="list-style-type: none"> <li>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)</li> <li>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</li> </ol>	<ul style="list-style-type: none"> <li>• Participants requested further clarifications on how gender assessments will be done, noting that they are not mandatory in SCDs.</li> </ul>
	Use of Borrower's Environmental and Social Framework	<ol style="list-style-type: none"> <li>4. Role of Borrower frameworks in the management and assessment of environmental and social (E&amp;S) risks and impacts where these will allow projects to achieve objectives materially consistent with Environmental and Social Standards (ESSs)</li> <li>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</li> <li>6. Role of Borrower frameworks in high and substantial risk projects</li> </ol>	<ul style="list-style-type: none"> <li>• It was noted that country systems have potential if the ESF is strong. It will only work if the ESF is in line with human rights.</li> </ul>
	Co-financing/ common approach	<ol style="list-style-type: none"> <li>7. Arrangements on E&amp;S standards in co-financing situations where the co-financier's standards are different from those of the Bank</li> </ol>	<ul style="list-style-type: none"> <li>• Participants inquired about how to find a common approach with co-financiers regarding resettlement.</li> </ul>

	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	<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"> <li>• According to participants, the Bank's due diligence is not clearly specified, and it relies on information provided by the Borrower without independent verification.</li> <li>• Further clarification was sought on the definition of project boundaries.</li> <li>• Participants asked the Bank how associated facilities would be dealt with under the ESF.</li> </ul>
	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	<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>	<ul style="list-style-type: none"> <li>• Participants pointed out that the standard on labor will represent a reputational risk to the WBG, noting the omissions on ILO core labor standards.</li> <li>• Some participants asked whether the Bank would stop a project if there is child labor associated with a project being implemented by the Bank but not within the project itself. Moreover, they wanted to know what the Bank will do if it is financing a water supply project, and it is providing water to a cotton farm with child labor.</li> <li>• Clarifications were sought about the grievance redress mechanism.</li> </ul>

		<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 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"> <li>• The Bank was urged to reflect the Paris agreement in the ESF.</li> </ul>
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"> <li>• Participants raised concerns about ESS5 being too narrow. They asked the Bank to extend the provision on restoring livelihoods to all those economically and physically affected by Bank projects.</li> <li>• The Bank was urged to make explicit reference to land tenure (strong instrument).</li> </ul>
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 conserving natural and critical habitats</p>	<ul style="list-style-type: none"> <li>• The Bank was asked that the ESF clearly establish “no go” areas.</li> </ul>

		<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>36. Application of FPIC to impacts on Indigenous Peoples' cultural heritage</p>	<ul style="list-style-type: none"> <li>• Participants asked for further clarification on when the Bank would decide if a Borrower is meeting requirements for FPIC.</li> <li>• There was a question on whether the waiver that the Africans want with respect to Indigenous Peoples has been triggered before.</li> </ul>
ESS8	Cultural Heritage	<p>37. Treatment of intangible cultural heritage</p> <p>38. Application of intangible cultural heritage when the project intends to commercialize such heritage</p> <p>39. Application of cultural heritage requirements when cultural heritage has not been legally protected or previously identified or disturbed</p>	
ESS9	Financial Intermediaries	<p>40. Application of standard to FI subprojects and resource implications depending on risk</p>	<ul style="list-style-type: none"> <li>• Participants wanted to know what the Bank will be doing to increase the capacity of FIs to implement under the new ESF and to meet the new standards.</li> </ul>

		41. Harmonization of approach with IFC and Equator Banks	<ul style="list-style-type: none"> <li>With respect to FIs, some participants inquired about how the Bank will ensure that sub-Borrowers are in compliance with the ESF.</li> </ul>
ESS10	Stakeholder engagement	<p>42. Definition and identification of project stakeholders and nature of engagement</p> <p>43. Role of borrowing countries or implementing agencies in identifying project stakeholders</p>	<ul style="list-style-type: none"> <li>Participants argued that there is a need for CSO engagement to help promote sustainable development. They added that environmental assessments have to be available publicly to CSOs several months before a project goes to Board.</li> </ul>
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	<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>	
	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"> <li>There was a question on whether the ESF is taking into account conflicts in Africa and fragile and conflict-affected states.</li> </ul>
	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"> <li>Clarifications were sought in order to ensure consistent provisions stipulating that specific documents will be disclosed as early as possible.</li> </ul>

	Implementation of the ESF	<p>51. Bank internal capacity building, resourcing, and behavioral change in order to successfully implement the ESF</p> <p>52. Ways of reaching mutual understanding between Borrower and Bank on issues of difficult interpretation</p>	<ul style="list-style-type: none"> <li>• There were concerns regarding the impact of the ESF implementation on the timeline of the incremental efforts as well as the additional costs to Borrowers and to the Bank.</li> <li>• There was a question on whether the implementation of the ESF will have an impact on disbursements.</li> <li>• Further information was sought on the different roles in implementation and oversight. The Bank was asked whether there would be a system that tracks the implementation process.</li> <li>• Borrowers are complaining about the heavy burden of the implementation on them. Participants asked for further clarifications on how the Bank is responding to that.</li> <li>• Several questions were raised on whether the ESF will help shift the culture in the Bank and incentivize staff to be more engaged in environmental and social development.</li> </ul>
Other issues			<ul style="list-style-type: none"> <li>• The Bank was asked for a clear set of criteria to reinforce labor, human rights, and land issues. There is a disconnect between principles and practice on the ground. The crucial key to address this disconnect is to engage CSOs throughout the process and have a real system of continuous feedback from CSOs on how the criteria will be applied in practice.</li> <li>• Participants reiterated the importance of implementation and regretted the absence of information on implementation plans.</li> <li>• Also, participants inquired about how the Bank will help people who fight for governance and who are oppressed by some Borrowers.</li> <li>• Participants noted that the standards do not apply to all Bank lending instruments, which they considered</li> </ul>

	<p>inadequate. They demanded that safeguards standards apply to all Bank financing instruments.</p> <ul style="list-style-type: none"><li>• Some participants asked whether there would be a tradeoff between development outcomes and safeguards.</li><li>• Participants stated that access to the Inspection Panel is not available to all individuals. Others asked for further clarification on how the Inspection Panel responds to complaints knowing that the standards are being modified. Moreover, there was a question on whether the Bank has examined the Inspection Panel cases to see if the implementation of the ESF will help resolve the problems raised in those cases.</li><li>• There were concerns that the consultations do not involve the implementation plan, which according to some participants should include the budget and be made available.</li><li>• On the choice of the case studies for the road testing, some participants argued that it would have been better to select more challenging projects such as in Uganda.</li><li>• Other participants wondered whether there should be a dichotomy between safeguards and project development.</li><li>• Participants stated that the ESF is not strong enough to offer sufficient protection to people. Others agreed with management that it should lead to better development outcomes.</li><li>• There was an inquiry on the main changes in the project milestones once the ESF is implemented.</li></ul>
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