



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

Date: December 16, 2015

Location (City, Country): Niamey - Niger

Audience Government: Niger Government (technical), Finance Ministers from WAEMU countries, President of WAEMU

Key: C = Comment

Q = Question

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	<p>C: Regarding LGBT issues, we believe that cultural issues should be handled at the national level and not through the ESF.</p> <p>C: Countries have human rights measures imposed on them that are different from national laws. For example, protection of minority rights beyond national laws can lead to chaos; inserting protection of Indigenous Peoples into our Constitutions can cause political problems.</p> <p>C: Have to be careful in defining vulnerable groups.</p> <p>Q: How is gender addressed in this ESF?</p>

		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		<p>C: There is a need for the ESF to be aligned to our national priorities.</p> <p>C: For us, safeguards have two dimensions. The first dimension is food security. The second is the development of our country. The realization of the Kandaji power plant project, for example, is expected to help us achieve these two dimensions. However, cumbersome environmental and social safeguards conditionalities could annihilate our efforts towards development objectives and potentially obstruct future partnership with the Bank.</p> <p>Q: What are the criteria used to assess the relevance of countries' environmental and social frameworks?</p> <p>Q: Could country frameworks be used for lower risk projects, and the ESF be used for higher risk projects?</p> <p>Q: Our ES requirements are no longer really aligned to the Bank's requirements. How can we address this?</p>
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		Q: Why is risk management not incorporated more effectively in ESF? The ESF should be more proactive in its approach.

	Risk classification	9. Approach to determining and reviewing the risk level of a project	Q: What is the tool used to classify a project's EA rating? Don't you think it would be a good idea to develop a classification fact sheet?
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>	<p>C: The Bank needs to trust borrowing governments, listen to them, and help them overcome development constraints and challenges instead of multiplying conditionalities.</p> <p>C: Environmental Impact Assessments should not be a burden for undertaking infrastructure development. They delay development processes, and we don't have the resources to do them.</p> <p>C: Safeguards should not hinder the development process.</p> <p>C: It's difficult to implement ESS's in a uniform way in Africa.</p> <p>C: Bank environmental and social standards have nothing to do with the situation on the ground. Environmental and social management plans can equal the cost of construction, for example, in a road project.</p> <p>Q: Do we need all these ESS's? What about the cost?</p> <p>Q: how will the Bank supervise the ESS's applied in each project?</p> <p>Q: How can borrowers better integrate environmental and social issues in their projects?</p> <p>Q: What is the difference between the ESS's and the IFC Performance Standards?</p> <p>Q: How does this ESF address disasters and wars?</p> <p>Q: What happens if environmental and social management make a project too expensive to implement?</p>

	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	Q: What is the relationship between the ESF and the ESCP? Which authority prepares the ESCP?
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>	<p>C: Children should not be exploited, but they should be able to work on family farms.</p> <p>C: ESS should include guidance on monitoring Occupational Health and Safety issues. We need technical assistance to ensure there is zero tolerance for safety problems.</p>
ESS3	Climate change and GHG emissions	21. The relation between provisions on climate change	Q: How can government incorporate climate change issues in Bank projects?

		<p>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>	<p>Q: How will this ESS capture national priorities for reducing GHGs?</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: The Bank should use national laws for land titling and abide to our constitutional provisions</p> <p>C: Compensating squatters is very difficult, especially with limited resources in our countries.</p> <p>C: Land for land should be a fundamental principle of this ESS.</p> <p>C: Monitoring and evaluation for resettlement is very important. We need to have as many indicators as possible.</p> <p>Q: Can we do a sort of cost benefit analysis to see for instance how many children would die because we are wasting time to build a dam on the one hand vs. undertaking construction in a faster, but correct manner?</p>

			<p>Q: Why is the Bank involved in this issue?</p> <p>Q: With this ESF, will RAPs still be prepared, or not? How will eminent domain be handled in the RAPs under this ESS?</p> <p>Q: How does this ESS address voluntary land donations?</p> <p>Q: If certain populations are exposed to flood risks, how would they be compensated under this ESF?</p> <p>Q: How should the land-to-land ratio be calculated when one is trading rain-fed land for irrigated land?</p> <p>Q: Niger has a lot of problems with land titling. How would this be handled in this ESS? What is the competent authority?</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 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	30. Implementation of the Indigenous Peoples standard in complex political and cultural contexts	<p>Q: Concerning Indigenous Peoples (IPs), we noticed that each country has its own legislative and constitutional rights. Why not use these fundamental laws and rights, instead of having many different interpretations?</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>	<p>Q: We hear about the concept of Free, Prior and Informed Consent (FPIC). "Free and Prior" may be clear, but what does "Informed" mean?</p>
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</p>	

		legally protected or previously identified or disturbed	
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	Q: Is this ESS related to co-financing with other regional development 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: There is a need to trust the Government and the workers on the ground. Dialogue is key for environmental and social safeguard issues. Q: What is the Bank doing to strengthen stakeholders' engagement in projects? Q: What happens if one person refuses to agree to a project?
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	C: ESS's will require training and capacity-building at country level, especially for those countries with no financial resources. Q: What is the Bank doing to support client capacity-building? Q: Can the Bank help countries update their environmental and social laws and regulations?
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	C: We find the environmental and social safeguard issues to be a constraint for the country development and we encourage the adoption of differential framework. C: We need to be conscious that, sometimes, some environmental and social safeguard issues can lead to confusion because of the importation of western concerns that are not adapted to the local context. C: The ESF seems to be too broad; in addition, a uniform interpretation is not possible. Issues may vary across time and space and this can lead to challenges during project implementation.
Other issues			C: The end result of the ESF is to promote development, and therefore there is a need to make things simple and short. Q: What is the date of implementation for the new ESF?

	<p>Q: Why does the ESF include ESS 4 on Community Health and Safety?</p> <p>Q: What happens if the original project was prepared using Operational Policies, and the Additional Financing is prepared under the ESF?</p>
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