



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

**Date: 16 and 17 December 2015**

**Location: Abuja, Nigeria**

**Audience: Government**

ESF	Issue	Items	Feedback
Vision	Human Rights	1. Approach to human rights in the ESF	<ul style="list-style-type: none"> <li>We appreciate the need to reference Human Rights in the vision statement as one of the World Bank's values. Other than that, we are wondering what more the Bank intends to achieve differently from the appropriate UN agency on Human Rights particularly as the subject is always politically sensitive, and outside of the World Bank's core development mandate.</li> </ul>
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)	<ul style="list-style-type: none"> <li>Our laws are explicit on the equality of citizens, and equal treatment for all tribes and tongues in the geopolitics. Specifically, what constitutes vulnerable groups and how is the Bank's definition in agreement with our status?</li> <li>We think that the ESS 1 needs to be presented unambiguously, with clear guidance on specific implementation issues, to avoid attempts to redefine national laws and systems that have been built with the population overtime. This is a conflict that the World Bank Framework should definitely avoid.</li> <li>Social inclusion of LGBT should be approached cautiously.</li> </ul>

	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	<ul style="list-style-type: none"> <li>• Cyclists should be considered as vulnerable and be listed as such particularly for road construction and improvement projects. This will ensure that cycle lanes are provided.</li> </ul>
Use of Borrower's Environmental and Social Framework	<p>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)</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"> <li>• We will love to see clearly how the Bank will collaborate with the Nigerian people and how that partnership will enable a more effective and efficient result in project implementation. We also believe that for this new framework to help strengthen our institutions and build enduring system, the use of country system must be encouraged, in line with both the Accra Agenda and Paris Declaration.</li> <li>• Acceptability of National Laws being at the discretion of the Bank, what are those discretions? What criteria will be used in deciding these discretions? How about sovereignty of nations and Equator Principles?</li> <li>• Challenges of Gaps in borrower's laws in ESS1 such as duplication of functions in implementation, how would this framework address such challenges with regards to implementation?</li> <li>• What can be done to ensure that all agencies carry out their responsibilities for project implementation (to support the main Implementing Agency)?</li> <li>• What can be done to stop money allocated under projects for E&amp;S monitoring from being used for other purposes?</li> </ul>
Co-financing/ common approach	7. Arrangements on E&S standards in co-financing situations where the co-	<ul style="list-style-type: none"> <li>• How will the Bank determine the application of its ESS in situations where it is only a part financier of a project, particularly where the co-financier's standards are different from those of the Bank?</li> </ul>

		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	<ul style="list-style-type: none"> <li>• What are the terms and conditions of the loans? In case of natural disaster, who bears the consequence?</li> <li>• How does the ESF provide for a situation where further research after approval reveals that a project will cause gross adverse effect?</li> </ul>
	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>• Why does the Bank shy away from environmental auditing beyond the life of the project and why is this not built into the operations of the project.</li> <li>• The ESF does not give Environmental and Social issues equal amount of weight by lumping them together – social issues will be undervalued.</li> <li>• ESF should promote the use of organic agriculture for health safety reasons.</li> <li>• E&amp;S plans should continue to be prepared before project approval, not left to implementation stage</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	<ul style="list-style-type: none"> <li>• Legal Agreements already require the Borrower to abide by WB Safeguard policies, so why introduce the additional burden of preparing ESCP?</li> </ul>

			<ul style="list-style-type: none"> <li>• This should be in consonance with the provisions and agreement of the UNFCCC and not place additional burden on borrowers.</li> </ul>
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"> <li>• Human and Labour rights must be ensured and guaranteed; On working conditions and management of workers relationship, we hold that the Trade Dispute Act, CAP 78, Law of the Federation (FRN), should apply;</li> <li>• There must be a clear definition of and requirement for third parties, as certain obligations relating to management of labor are proposed to be applied to all the contracted workers engaged by third parties - brokers, agents and intermediaries;</li> <li>• There is need for proper justification of the desirability and extent of applicability of certain labor standards/rights available to direct or indirect labor that are proposed in paragraph 9-16, to community and voluntary labor. The incentive system must be right and devoid of any elements of discrimination among the various social strata.</li> <li>• What is the Bank’s role in covering operational risks on the lives of project staff, particularly in fragile situations?</li> <li>• Does the Bank have an EPR System (emergency preparedness response system) in case of natural disaster, wars and post war situations in a project area? And does this Framework seek to restore changes in the ecosystem that could follow such an occurrence?</li> <li>• The adoption of Labor standards as shown in paragraph 29 pg 12 should be considered under a separate vulnerability assessment metrics to eliminate bias. For paragraph 30, a detailed risk assessment should be considered before appraisal.</li> <li>• Working conditions should be part of the contractor’s contract.</li> </ul>

			<ul style="list-style-type: none"> <li>• PPE – the use of personal protection equipment (gear) by PIU staff and other such project implementers should be clearly stated in the ESF.</li> <li>• Disability issues should be taken into account in this standard.</li> </ul>
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>• It is good to note that the new ESF addresses Climate Change, which has not been addressed previously. This will particularly be beneficial in transport projects.</li> <li>• Why does the Bank not factor effects of Climate Change into the projects early on?</li> <li>• Some Bank funded projects are not good to the environment such as coal fired projects – what mitigation measures does the ESF propose to be built into such project?</li> <li>• Unpredictability of weather situation (climate change), no rain or too much rain – no weather information and records; devastation by nomads and their animals, pests and diseases – who bears the cost?</li> <li>• The World Bank should not duplicate possible approaches to measuring and monitoring greenhouse gas (GHG) emissions in Bank Projects as separate from the agreements of UNFCCC.</li> <li>• Is the World Bank aware that the requirement for the proposed standards for estimating and reducing GHG emissions for all the Bank project puts additional cost burden on the cost of World Bank projects and borrowing by poor countries?</li> </ul>
ESS5	Land acquisition and involuntary resettlement	24. Treatment and rights of informal occupants and approach to forced evictions in situations unrelated to land acquisitions	<ul style="list-style-type: none"> <li>• Issues of Land acquisition and involuntary resettlement need to be handled within the confine of the Laws of the land. An example is Nigeria’s Land Use Act, which places all land in the hands of government; any application of the framework in its current form may lead to incessant delay and excessive cost escalation, especially in the</li> </ul>

		<p>25. Interpretation of the concept of resettlement as a “development opportunity” in different project circumstances</p>	<p>case of Nigeria which is highly prone to informal and illegal occupancy.</p> <ul style="list-style-type: none"> <li>• Why would the Bank’s resources not be used for resettlement compensations instead of the borrower bearing this burden?</li> <li>• Need to fully integrate monitoring and follow-up on resettlement into projects</li> <li>• Why should people be compensated if they have occupied land in contradiction to spatial planning laws?</li> <li>• Entitlement for Illegal occupation (squatters) and forced evictions, who funds this exercise?</li> <li>• How do you provide services in cases of urban slums when people are not forced to move?</li> <li>• Framework should proactively address land grabbing.</li> <li>• OP 4:12 should be incorporated into a national policy, as is exemplified in India, to avoid disparity in involuntary land acquisition and compensation where Bank project is being implemented alongside national. From national level the policy can trickle down to the States.</li> <li>• Harmonization of the compensation process so as not to create a disparity between national and Bank funded projects.</li> <li>• Is there going to be training and capacity building built into the ESF, e.g. for community-based resettlement committees?</li> <li>• Since counterpart funds are used for compensation of the project affected persons, why not make pre-payment of counterpart funds conditions for project involvement in the first instance?</li> </ul>
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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>	<ul style="list-style-type: none"> <li>• A comprehensive water management plan should be put in place and incorporated in the ESF to avoid shortage of water in the catchment area in the project areas.</li> <li>• Must ensure any Biodiversity Management Plan takes into account the link between biodiversity conservation and indigenous knowledge and practices.</li> <li>• There is particular need for capacity building for implementation of ESS6.</li> <li>• Assuming there is a project that would trigger ESS 6, what kind of processes would go into fulfilling the ESS 6 objectives?</li> <li>• This standard should be built on the existing national law for the protection and conservation of natural and critical habitats; and the bio-diversity offsets in design of projects that benefit people located in otherwise bio-diversity sensitive areas.</li> </ul>
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>	<ul style="list-style-type: none"> <li>• The objectives as outlined in the context of ESF and ESS7 are already extensively addressed in the Nigeria Constitution and other relevant legal statutes and social apparatus;</li> </ul> <p>Paragraph 1: There are no people or any community in Nigeria referred to as indigenous;</p> <p>Paragraph 2: All these qualifications or descriptions enumerated in this paragraph do not fit into any specific society or group of people in Nigeria;</p> <p>Paragraph 3: the application of this concept as presently contained in the safeguard is likely to open a new vista of tribal and intra-tribal conflicts; it could be an invitation to bring Nigeria back to a confused era; an attempt to reignite already quenched ember; it may stir up hard earn long-term</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>tranquility, bring about disunity and frustrate existing nationalism and progress of unity in diversity that is presently enjoyed in the country;</p> <p>A Nigerian is a Nigerian in Nigeria, in the eye of the law there is no discrimination; aspiration is not based on or limited by any discriminative criteria; various forms of discrimination be it gender, job, medical, etc, are constitutionally and adequately addressed in Nigeria.</p> <p>Paragraph 5: This paragraph rightly admitted that: “there is no universally accepted definition of Indigenous [People]” – Question then is, why stick to the term or establishing it? The term or title or phrase “indigenous People” is not ideal/healthy for Nigeria, giving the background of bad blood it had generated in time past and the attendant negative consequences; the renewed consequences of bringing in the “indigent” term into the [ESSs’ lexicon; If for whatever justification, the issue relating to disadvantaged people must be addressed in the content of ESS 7, an alternative phrase or name or title, as the case may be, must be employed.</p> <p>Paragraph 6: This paragraph also admitted that the term, “Indigenous People” is used generically. This fact makes it more uncomfortable for a country like Nigeria with history/records of violent disagreement over the issue because it can be wishfully twisted at will to meet premeditated purposes and to achieve selfish motives;</p> <p>Paragraph 9 &amp; 10: Contrary to the claim in this paragraph, any people connected to a project would ordinarily [be fully consulted irrespective of what name or status ascribed to them and would be expected to be accorded the freedom to participate in project design and implementation. The people need not necessarily be called indigenous before they enjoy these prerogatives.</p> <ul style="list-style-type: none"> <li>• Clarification: Is there a link between ESS6 and ESS8? E.g. taking advantage of indigenous people’s knowledge in conservation and protection of the environment</li> </ul>
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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>	<ul style="list-style-type: none"> <li>• How does the ESF intend to protect the cultural heritage such as artifacts, and monuments?</li> <li>• ESF should call for preparation of Cultural Heritage Impact Assessments in the context of project implementation.</li> <li>• Treatment of intangible cultural heritage and inclusion of intangibles in this standard should only be if the project intends to commercialize such heritage.</li> </ul>
ESS9	Financial Intermediaries	<p>40. Application of standard to FI subprojects and resource implications depending on risk</p> <p>41. Harmonization of approach with IFC and Equator Banks</p>	<ul style="list-style-type: none"> <li>• Implementation costs and time implications of implementing/applying this standard to all sub-projects, regardless of risks involved should be adequately considered.</li> <li>• Need to harmonize this standard with IFC approach as well as with the Equator Banks.</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>• Stakeholder engagement was done well in the Lagos Urban Transport project but at a huge cost, who pays for this?</li> <li>• Let's put result ahead of money in such areas of communication to ensure a robust stakeholder engagement and participation.</li> <li>• The Framework will need to clarify who project stakeholders are and what it really means by "engagement".</li> </ul>
General	EHSG and GIIP	<p>44. Application of the Environmental, Health and Safety Guidelines (EHSGs) and Good International Industry Practice (GIIP), especially when different to</p>	

		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		<ul style="list-style-type: none"> <li>• Nigeria needs capacity to manage hazardous waste and pesticide pollutions.</li> <li>• Is the financial implication of the new standards feasible? Has a cost benefit analysis for the new standards been carried out to understand what the cost implication would be borrowers that bare at different capacity levels?</li> <li>• In terms of implementation of environmental regulations; there is duplication of functions and overlapping of activities, how would the standards address this challenge and other gaps with regards to implementation?</li> </ul>
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		<ul style="list-style-type: none"> <li>• The ESF has serious financial operational implication for a borrower whose resources is already slim– who bears the cost for such additional burden such as detailed reporting on GHG emissions? Is the Bank going to assist clients build their capacity through trust funds?</li> <li>• The cost of implementation of the framework can be more than half of the cost of the project.</li> <li>• Implementing Bank projects seems to be at an expense of a social cost to the government when it implements its own projects as the people begin to use the Bank’s projects as standard, which government cannot meet when using own resources.</li> <li>• What is the opportunity cost of using the ESF?</li> </ul>

			<ul style="list-style-type: none"> <li>• Institutional framework – institutional arrangement and participation is weak.</li> <li>• Would the Environmental &amp; Social Commitment plan be an added load to already existing pre-effectiveness conditions?</li> <li>• The ESF may take the country back to the Structural Adjustment Project era.</li> <li>• The ESF has serious financial operational implication for a borrower whose resources is already slim– who bears the cost for such additional burden such as detailed reporting on GHG emissions?</li> <li>• Would the ESF have an auditing program to evaluate the success of the framework and of a project implemented with it?</li> <li>• Need for more assessment and feedback and more monitoring even beyond the life of the project which will need technical and capacity support to the borrower at the national and state levels. Need for support by the Bank.</li> <li>• It is clear that the financial implication of this transformation is huge. The case studies should have highlighted clearly what the financial implications would have been – cost benefit analysis should have been done.</li> <li>• WB should establish a Trust Fund to support capacity building for implementing the ESF</li> </ul>
	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	<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>• What is a good timeline for ESS1</li> <li>• In order to ensure efficiency, make payment of counterpart fund a pre requisite for fund disbursement to states</li> </ul>
Other issues			<ul style="list-style-type: none"> <li>• Can the Bank provide intervention funds for an ongoing dam project?</li> <li>• Are there provisions in the ESF to address situations where environmentally and/or socially induced unrest/emergences cause displaced people to settle in schools thereby causing schools to shut down and affecting students' learning?</li> <li>• Can the Bank support a strategic plan for the Tourism sector?</li> <li>• Sustainability requires a financing process that must be looked at from the national level. The nation should start thinking about being self-sufficient from borrowing.</li> <li>• The new standards seem to be top down rather than bottom up.</li> <li>• I would like to know how category A projects would be handled in the ESF?</li> <li>• Construction work triggers HIV/AIDS cases, how would this be solved/mitigated under the ESF? (In general, there is need for capacity building for control and prevention of HIV/AIDS among and around construction projects).</li> </ul>