



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

**Date:** February 22-24, 2016

**Location:** Washington, DC

**Audience:** Government, CSOs, and Development Partners

ESF	Issue	Items	Feedback
Vision	Human Rights	1. Approach to human rights in the ESF	<ul style="list-style-type: none"> <li>• Participants reiterated the overall importance of Human Rights (HR) for environmental and social safeguards.</li> <li>• There were several requests to revise the current language in the vision statement. The current draft refers to “aspirations of the Universal Declaration of Human Rights” which, according to participants, undermines the standing of human rights as binding legal obligations and gives the impression that compliance with the international declaration is optional. Several participants asked therefore to replace “aspirations” with something along the lines of “obligations” or “consistent with.” Other participants recommended to modify language in the vision statement so it becomes more “operationalized.”</li> <li>• Some participants suggested that the vision statement state clearly that the Bank would support borrowing states in meeting their own human rights obligations.</li> <li>• There was also a recommendation to revise the language under ESP paragraph 4-b and ESS1 paragraph 26-b “Social risks and impacts” to make it clear that the social impact assessment would include “any other</li> </ul>

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			<p>human rights related risks or impacts” not specifically listed, as the listing is currently too narrow.</p> <ul style="list-style-type: none"> <li>• Participants asked whether the impoverishment risks such as marginalization, food security, etc., are considered by the Bank as risks to HR. Accordingly, impoverishment risks should be mentioned and taken into consideration in Bank projects.</li> <li>• Some participants indicated that although the Bank is not a Human Rights Tribunal, it should draw on the work of human rights tribunals to ensure that it does not contribute to human rights abuses, addresses problems pertaining to HR and ensures that there is no discrimination.</li> <li>• It was suggested that Human Rights not only be addressed in the vision statement but should also be part of the ESP and ESS1. Participants called for a requirement in the ESP that the Bank respect human rights throughout its operations and take all necessary/reasonable measures to ensure that activities it finances or otherwise supports do not cause or contribute to human rights violations.</li> <li>• It was repeated that there should be a uniform approach to HR conventions among MDBs and IFIs. Accordingly, several participants focused on the importance of referencing the international treaties and not weakening the obligations Borrowers have already assumed under them. It was noted that referencing international laws would contribute to making the ESF stronger. The importance of harmonization of the language with other international agencies for Borrowers and donors was highlighted, particularly since most countries have ratified international human rights treaties.</li> <li>• Participants stated that the discussion at the Board level may be controversial, but the Bank management should support human rights and move forward with a stronger approach toward HR, given that most member countries are supportive. A better discussion with the Board on HR issues is needed.</li> <li>• It was noted that the Bank has a key role to play in promoting HR. Hence, the Bank leadership should adopt an approach similar to the one taken by the UN Secretary General in undertaking human rights due diligence to ensure that it does not contribute to or exacerbate human rights abuses.</li> </ul>

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			<ul style="list-style-type: none"> <li>• Participants believed that there is currently an inconsistency under ESS1, paragraph 24 between international laws and national laws. The language needs to be corrected. In addition, there was a request to change the language in paragraph 30 so it states as well “in compliance with international law.”</li> <li>• The Bank was criticized for not referring to protection of women’s rights in its gender strategy. There was therefore a request to articulate this reference in the ESF.</li> <li>• There was a suggestion to establish an external panel of experts on HR that would include experts in all related areas such as Indigenous Peoples, gender, etc.</li> <li>• Clarifications were sought on the mapping of ESS1 and its provisions particularly in the area of HR.</li> </ul>
ESP/ ESS 1	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</li> </ol>	<ul style="list-style-type: none"> <li>• Regarding the list of social impacts in ESS 1, paragraph 26, section (b): it was suggested that the language be changed from only “including...” to “including, but not limited to ...”</li> <li>• The inclusion of a list of characteristics that may make a group vulnerable was welcomed; however, the language referencing vulnerable and disadvantaged groups needs to be used consistently throughout the ESF, so as to avoid confusion or giving the false impression that only certain populations have equities in the issues at hand.</li> <li>• Some participants underscored the importance of retaining the references to sexual identity and sexual orientation in the list of factors for identifying disadvantaged and vulnerable groups and individuals (in the relevant footnotes).</li> <li>• The list of vulnerable people should not be exhaustive.</li> <li>• Para 24 of ESS1 – questions were asked regarding relevance of national and international law to the project, and whether there is a double standard. Participants also asked what would happen if there were a contradiction between international treaties and national legislation.</li> <li>• People may have several characteristics that make them vulnerable and marginalized. Those people may be the target of greater discrimination.</li> </ul>

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		accordance with national law	<p>Social assessments should include special measures for people that have several characteristics that make them vulnerable.</p> <ul style="list-style-type: none"> <li>• The disadvantaged and vulnerable groups that are given particular attention in projects should be as broad as possible. An example where a vulnerable group was not given proper attention was the Kamwenge-Kabarole Roads project. Children were not properly taken into account as a vulnerable subset of the population and suffered several adverse impacts as a consequence.</li> <li>• The definition of non-discrimination should also make clear that vulnerability is relative; that ethnic minorities are not always the subject of discrimination, and that discrimination is context specific.</li> <li>• The list of characteristics that can make a person vulnerable and marginalized should be moved from footnotes to the body of the text.</li> <li>• The social impact assessment process needs to include safeguards specialists with the necessary social expertise and sign-off authority, and this should be specified in the procedures.</li> <li>• The ESF should have more specific reference/guidance regarding specific issues of particular relevance to persons with disabilities.</li> <li>• Some participants appreciated the Bank’s consideration of the concerns expressed in previous consultations about whether environmental and social impact assessments would be required by ESS1 to assess separately specific impacts on children or whether a generalized look at vulnerable groups would suffice. Participants believed that the language in the second draft requiring assessments to examine “risks that project impacts fall disproportionately on individuals or groups who, because of their particular circumstances, may be disadvantaged or vulnerable” represents an improvement in this regard.</li> <li>• The Bank was urged to develop guidance/guidelines on how to undertake robust social impact assessments, including how to assess human rights <u>impacts</u>.</li> <li>• A degree of independence is needed when undertaking social assessments, especially in countries where discrimination has been institutionalized.</li> </ul>

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			<ul style="list-style-type: none"> <li>• A broader look is required to determine which groups are involved. It is very easy to miss some of them. It is necessary to identify potential impacts upfront. Properly trained social experts should carry out assessments in order to do no harm. Ask the right questions in the right way. Language should be consistent throughout the ESF regarding disadvantaged and vulnerable groups.</li> <li>• The key to implementability is specificity. If things are not written down they could cause a problem later on, hence the importance of language and architecture to make non-discrimination more visible throughout the ESF.</li> <li>• It is important to recognize multidimensional aspects to establish adequate mitigation measures. This requires application of several ESSs addressing complex social risks. It is not about just gender, sexual orientation or disability. There is a need for a multidimensional approach.</li> <li>• Social performance has a direct effect in investment returns. All other investors are recognizing its importance. Indicators of environmental, social and governance performance should increase. The Bank should be a leader, not go in the opposite direction.</li> <li>• Monitoring instruments should be strengthened by requiring, at a minimum, the collection of data disaggregated by sex, age, and disability (and other groups as needed) in order to monitor and track project-related impacts.</li> <li>• Some participants noted that there are usually unexpected impacts.</li> <li>• The Bank should require gender specific social impact assessments and ensure that the results are used to improve project design and implementation and proper mitigation measures.</li> <li>• In case of high risks projects social experts should be consulted.</li> <li>• Discussion on gender roles is important as it involves the whole population. All projects should have <u>sex</u>-disaggregated data in order to have more effective monitoring. Gender specialists should be involved in social assessments.</li> </ul>

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			<ul style="list-style-type: none"> <li>• Gender issues should be better integrated throughout the ESS (that is, discussed in other safeguard standards besides ESS1).</li> <li>• A stand-alone policy would provide the direct signal to staff of the importance of the topic. The gender strategy is not mandatory, and therefore, is not enough.</li> <li>• The Bank has not developed sex-disaggregated data. It promised that it would do so several years ago but has not. That is why the Bank needs a specific standard on gender.</li> <li>• Concerns were raised about how the Bank should undertake operational work on SOGIE in countries where discriminatory legislation is endorsed. How will the Bank ensure that SOGIE vulnerabilities are appropriately assessed and addressed in countries where they are discriminated against, especially where that discrimination has been institutionalized?</li> <li>• There is concern about the Bank’s struggle to address the pushback on SOGIE issues from certain Borrowers in country contexts that consider them to be “Western” values.</li> <li>• How will the Bank verify the Borrowers’ assessment? How will the Bank engage with LGBTI population? For that purpose, knowledgeable social experts are particularly important.</li> <li>• Participants asked how the Bank would require a social assessment in countries where LGBTI communities are criminalized. Political discrimination should be included in the non-exhaustive list. Concern was expressed as to how to engage with those criminalized communities without putting them in danger and preventing retaliation. Importance of assessment and monitoring was noted. There should be a no harm approach, also in regard to consultation. Additional budget should be allocated in order to bring people from other countries. Sophisticated advice needs to be provided in a sensible way.</li> <li>• LGBTI communities should not only be identified in health and education projects. A broader vision is required. There is no baseline data for assessments that include LGBTI communities. What happens if a Borrower refuses to acknowledge this community?</li> </ul>

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			<ul style="list-style-type: none"> <li>• There is little guidance in reference to people with disabilities. This is important for the use of Borrowers’ frameworks. There is no minimum bar. For example, there are no references to minimum accessibility standards, or non-discrimination protections for hiring project workers.</li> <li>• Vulnerable is not specifically defined in either ESS4 or ESS5, and thus additional clarity is needed regarding whether the same definition of vulnerable groups, incorporating age related vulnerability, from ESS 1 will apply to these policies. Furthermore, as with ESS 1, it is important that these policies explicitly require that Borrowers address the unique needs of children who may be resettled, i.e., access to quality education, as well as the unique health and safety needs of children, i.e., increased risks of sexual exploitation, rather than address all groups deemed “vulnerable” as a single entity.</li> <li>• The Principle of Universal Access was used to highlight equity in access to project benefits particularly in regards to transportation, discrimination, and health/security hazards.</li> <li>• Participants asked that the objectives of ESS1 be amended to commit to not harming communities and not discriminating against marginalized individuals and groups. Appropriate language can be drawn from paragraph 5 of the Vision Statement (To design and implement effective sustainable development activities in compliance with international law, and responsive to the development priorities and needs of local communities; To ensure that there is no prejudice or discrimination toward project-affected individuals or communities, particularly in the case of disadvantaged or vulnerable groups, in the distribution of adverse impacts or in access to development resources and project benefits.). Participants were concerned that without this language, preventing discrimination would be absent from the objectives, meaning that it would not be required in the use of country systems and co-financing common approaches.</li> </ul>
	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	<ul style="list-style-type: none"> <li>• Participants expressed support for the use of the Borrowers’ frameworks in the long term when they are sufficiently robust, but also expressed concern that the Bank’s proposed approach might result in use of</li> </ul>

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		<p>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>	<p>Borrowers' frameworks that are not sufficiently robust, with resulting environmental and social harm.</p> <ul style="list-style-type: none"> <li>• The role and value added of the Bank in building the capacity of the Borrower for effective use of its framework was widely acknowledged by participants. However, participants asked for rigorous and objective assessment of such frameworks.</li> <li>• There was a request for clear guidance on how assessment of the Borrower's framework should be conducted. Participants asked for further specification of ESS objectives and requirements and for details on the methodology used for evaluation.</li> <li>• Participants suggested that the Bank should help to strengthen country systems instead of just recommending the use of Borrower's framework.</li> <li>• Participants asked the Bank to acknowledge the importance of track records before resorting to the use of the Borrower's framework and to incorporate assessment of a Borrower's track record in the assessment of a Borrower's framework (as well as the system's requirements and Borrower capacity).</li> <li>• Some participants suggested that this should include corruption risk, institutional strengthening and enabling environment for participation.</li> <li>• The Bank should provide a detailed methodology for assessing borrower frameworks to both donors and borrowers well in advance of Board consideration of the final ESF.</li> <li>• Much more detail is needed on the methodology, and this should be disclosed publicly, prior to Board approval of the policy.</li> <li>• Clear guidance is needed on how these assessments are conducted, both for Bank staff and Borrowers.</li> <li>• The use of Borrower framework assessments should be publicly disclosed and consulted upon in a timely fashion.</li> <li>• The use of Borrower frameworks can be particularly detrimental for vulnerable and disadvantaged groups and should be assessed thoroughly with that in mind, prior to its use.</li> </ul>

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			<ul style="list-style-type: none"> <li>• It would be important to clarify what would happen if there were no effective grievance mechanisms, including for Borrower non-compliance with its own laws and requirements.</li> <li>• The Bank should also provide more information on its plans to provide technical assistance to Borrowers to help them strengthen their environmental and social risk management frameworks. Bank Management should commit to using the Bank’s own financial resources for this, not relying on trust fund contributions.</li> <li>• There was a request to edit the language in paragraphs 23 and 25 of ESS1. Para 23: “providing it is likely to be able to address the risks and impacts of the program” is too soft and indirect; instead say, “can be expected to adequately address,” then specify in the procedure.</li> <li>• Participants inquired about when the assessment of the Borrower’s framework would be done.</li> <li>• There were concerns about country teams not assessing the gaps in country systems properly.</li> <li>• There was a discussion about the level of specificity needed for determining the requirements of the use of Borrower’s framework.</li> <li>• There was some discussion of the overall standard to be employed in considering the use of Borrower frameworks. A variety of views were expressed.</li> <li>• Some participants thought that principles should be used as basis for assessment of equivalence – assess equivalence against principles and capacity. Some participants suggested assessing Borrower frameworks against an updated version of the use of country systems safeguards pilot annex (OP 4.00 Annex A).</li> <li>• Some participants thought that the objectives (as proposed by the Bank) do not have enough level of detail/specificity.</li> <li>• Some participants thought that the Borrower frameworks should be assessed against the ESSs themselves.</li> <li>• The defining factors are not just the letter of the law, but also track record and capacity. Participants asked how that would be determined, and whether country teams would be able to address these questions honestly</li> </ul>

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			<p>and fully, given local sensitivities. It is important to ensure that the country teams can and will capture everything that is necessary.</p> <ul style="list-style-type: none"> <li>• Different approaches are being discussed: equivalence, materially consistent, the Bank’s judgment – and then there’s the question of how to do the assessment. There remains a level of discomfort and several questions; the Bank needs to revise the text to be clearer.</li> <li>• There is some willingness to accept that an “equivalence” standard is too high, and that the approach of “materially consistent with” may be more appropriate, but in that case more specificity is needed.</li> <li>• Some participants suggested that the standard for use of Borrower frameworks be “materially consistent with the requirements of the ESSs.”</li> <li>• The use of Borrower frameworks is a false premise if they are non-existent. The Bank should not predicate the success of ESF implementation on the use of Borrower frameworks.</li> <li>• Participant asked how the Bank would communicate to the Borrower that its framework fails to meet Bank standards.</li> <li>• It is important to be working on a long term goal of using the systems of all countries. The Bank has an important role to build these systems. Sometimes the value added of the Bank in country systems building is greater than the project financing.</li> <li>• Use of Borrower frameworks requires rigorous and objective assessment of laws and capacity as well as strong resources to assess frameworks and support them.</li> <li>• Various participants raised concern over the lack of clarity of the test for alternative systems - “achieve outcomes consistent with the objectives of the ESS” - in particular, whether this meant consistency with the substance/requirements of the ESSs or with the objectives that precede each ESS.</li> <li>• Various participants expressed concern that the objectives that precede the ESSs are too vague and significantly weaker than the substantive requirements of the ESSs. They also do not represent outcomes.</li> </ul>

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			<ul style="list-style-type: none"> <li>• A participant asked whether alternative frameworks could indeed achieve objectives materially consistent with ESSs. A definition of this was needed.</li> <li>• Support should be provided for Borrower frameworks, but only if they are being strengthened, which requires a long-term systematic approach rather than just one-off gap filling.</li> <li>• The ADB approach could be used: equivalence plus capacity and track record test (ADB Safeguard Policy Statement, para 68).</li> <li>• ADB requires consistency with a summary of requirements rather than with objectives, which is much stronger – the Bank should require the same; summarize main requirements instead of objectives.</li> <li>• A participant wondered why the “materially consistent” terminology was necessary in the ESF, since projects need to comply with the ESSs in any case.</li> <li>• Timing of when the assessment would happen needs to be clarified. There is no mention of CPF/SCD in the ESF, whereas the relationship between those and the assessment should be made clear.</li> <li>• It may be possible to distill the standards into the most important aspects and require consistency with them, but consistency with the current objectives is not enough. Countries are complaining about system equivalence; they would also complain about an assessment project by project. The question is how to link the lessons learned from the country systems approach to a new approach that would not require a new assessment for every project.</li> <li>• A participant asked how the current approach and the framework approach differed.</li> <li>• It was suggested to use existing methodologies to assess Borrower frameworks.</li> <li>• Para 27: Borrower’s notification of changes in systems: strike “notified by the Borrower.”</li> <li>• Regarding paragraph 40 in the procedure, it was observed that the language was unclear. It states, “depending on the risk and nature of the project,” but there is no indication about what to do with what has been</li> </ul>

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			<p>observed. A focused assessment can be done. Changing “may” to “will” adds some certainty.</p> <ul style="list-style-type: none"> <li>• Para 40 in procedure: unclear about interplay between ESSs and procedure. Only adding “will” won’t address the entire problem, as it is also necessary to know what “depending on nature of risk and impacts of projects” means—define more clearly.</li> <li>• There was an inquiry about the differences between the ESSs and the Environmental and Social Procedures.</li> <li>• A participant suggested that the Bank should not permit the use of Borrower frameworks for “high risk” and “substantial risk” projects for the first five years, which would allow the Bank to establish a track record for managing the use of Borrower frameworks and learn from experience.</li> </ul>
	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"> <li>• Some participants inquired about the logic behind using the common approach.</li> <li>• Further clarifications were requested with respect to the requirements for the use of the common approach and country systems and the test of “achieve material consistency with the ESSs” (see above).</li> <li>• A question was raised about the policy that applies to the common approach and the distribution of responsibilities and roles.</li> <li>• Co-financing/Common approach: harmonization and reducing burden for countries is important, but the Bank cannot allow for weaker systems to prevail. The proposed common approach is unclear; the Bank should provide assurance that its high standards will be upheld in co-financing.</li> <li>• Co-Financing: harmonization was welcomed, but not all development institutions and private sector organizations have the same rigor as the Bank. The Bank should ensure that the ESF is used, and the Bank should not co-finance a project that allows the use of standards that are weaker than its own.</li> <li>• When there are other banks involved in financing, it is necessary to clarify which safeguard policies would apply and how any issues with another financier’s system would be addressed.</li> </ul>

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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"> <li>• Further clarification was sought on the definition of “substantial” when referring to “substantial risks.”</li> <li>• Participants inquired about what adaptive risk management actually means; there is a need to clarify and state upfront in the draft the goals behind this approach, e.g., to maintain, not dilute, ESCP protection objectives.</li> <li>• Concerns were raised regarding the need to ensure that this approach does not harm people.</li> <li>• Participants suggested that the contextual risk should be taken into account in the ESF. Furthermore, it was proposed that the SCDs should be used to inform risk assessment.</li> <li>• Questions were raised on the resources allocated for adaptive risk management.</li> <li>• Participants suggested greater clarity about the Bank’s role in adaptive management. Participants asked for stronger requirements for supervision and monitoring, including that monitoring reports be made public.</li> <li>• Clarifications were sought on what is meant by close and frequent supervision.</li> <li>• Participants mentioned that the draft Framework needed to include an explanation of what the process of adaptive management entails, as well as a requirement for stakeholder consultations that need to take place. It was suggested that the explanation of the process could be included in ESS 1 or ESS 10.</li> <li>• Some participants suggested that the requirement that an adaptive management process be spelled out in the ESCP (not developed later) be consistent in both the Bank and Borrower requirements (ESP and ESSs 1 and 10).</li> <li>• There is a lack of clarity of how adaptive risk management will be operationalized.</li> <li>• Identifying the project context needs to be done at the outset, in an upstream manner, and the context should be taken into account in determining the risk category of a project.</li> </ul>

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			<ul style="list-style-type: none"> <li>• The Bank needs to ensure that an adaptive risk management approach does not prevent practitioners from foreseeing possible adverse impacts.</li> <li>• The use of panels of experts in high-risk projects needs to be included as part of the procedures.</li> <li>• If a project is approved without knowing where the project will be implemented, then the project should be stopped once the area is determined to ensure that, for example, Indigenous Peoples are not harmed and can participate in the design and implementation of the project.</li> <li>• The Bank should carefully consider how the ESF’s adaptive risk management approach will affect: accountability; the Bank’s leverage; community consultations; and monitoring.</li> <li>• Participants asked about whether any changes to the environmental mitigation that changed the parameters of the ESCP would require consultations with affected people.</li> </ul>
	Risk classification	9. Approach to determining and reviewing the risk level of a project	<ul style="list-style-type: none"> <li>• Participants wished to know whether low-risk projects would have to present less information to the Board than high-risk projects. It is not clear if the Board will receive more or less information for different categories of projects.</li> <li>• Regarding subprojects: there is a “massive loophole” in the draft Framework regarding which environmental and social management standards will apply to subprojects. It is not clear if national law or the draft ESF would be the standard for subprojects that are not classified as high-risk. The language in the draft ESF needs to change to reflect that the draft ESF will be used as the standard for all projects and subprojects.</li> <li>• The criteria for what constitutes a high-risk project are too high.</li> <li>• The criteria to determine the risk-rating of a project is unclear and does not address social risks appropriately. Furthermore, there is too much emphasis on environmental risks and not enough on social risks. Paragraph 23 of the procedures should mention risks related to social inclusion and have a section on how participation will take place. Regarding the four aspects that make a project high-risk, just one should be enough.</li> </ul>

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			<ul style="list-style-type: none"> <li>• A clear definition of “significant” needs to be provided. The proposed risk classifications of “high risk” and “substantial risk” both refer to “significant” impacts, but the term “significant” is not defined.</li> <li>• Risk classification should be clearly noted in publicly disclosed information and information provided to the Board.</li> <li>• Due to the subjective nature of risk classification, it was recommended that in order to increase consistency the Bank should develop guidance and examples, including sector-specific.</li> <li>• Recommendation that a full ESIA be required for projects with significant social and/or environmental risk, whether the project is “high risk” or “substantial risk.”</li> <li>• Participants requested further clarifications on the risk classification of subprojects. According to them, the text has many loopholes in this area.</li> </ul>
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>• For complex, multicomponent projects, it was suggested that there be an overarching assessment of environmental and social risks, to provide a holistic framework for consideration of project risks and impacts, which could then be followed by the specific requirements applicable to the individual components.</li> <li>• There was an inquiry about when projects are considered too risky for Bank financing.</li> <li>• There was a request for more clarity in defining the associated facilities. Clear responses are needed; close attention will be paid to associated facilities. The current definition of associated facilities is too narrow.</li> <li>• There was a long discussion on the role of third party monitoring. Some participants indicated that the Bank should always use independent reviews and third party monitoring.</li> <li>• Some participants suggested that the procedures spell out that expert staff are involved in developing monitoring plans.</li> <li>• According to participants, the ESF is currently unclear with regard to the roles and responsibilities of third party monitoring. Questions were raised about the triggers and indicators that will be used to determine when it is appropriate to retain third party monitoring. Participants asked for further guidance about this process and that it be articulated clearly in the text.</li> </ul>

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			<ul style="list-style-type: none"> <li>• There was a request to develop training materials on how to do third party monitoring.</li> <li>• It was suggested that the Bank explicitly include the option of independent third-party audits when more extensive or ongoing third party monitoring is not feasible or appropriate. Audits should be considered routinely for high-risk situations (e.g., when high risks are identified in supply chains).</li> <li>• A question was raised regarding the type of information the Bank requires from FIs, and what kind of monitoring FI subprojects would entail.</li> <li>• A suggestion was made that the Bank make explicit in policy and procedures the Bank's role in verifying Borrower information.</li> <li>• Participants suggested that the Bank should consider using independent experts to verify the accuracy of Borrower audit reports. According to some participants, third party monitoring should be triggered when the Borrower does not submit quarterly reports.</li> <li>• Clarifications were sought on the relationship between the Bank and the independent third party experts. The Bank was asked if it is responsible for contracting the third party. It was suggested that the hiring of the third party should not be done by the Borrower.</li> <li>• Some participants demanded that the Bank support community monitoring.</li> <li>• Differential access to services should be included in social impact assessments.</li> <li>• There is a great deal of complexity involved in making appropriate social assessments. That complexity makes it hard to have a social baseline, which is something that the Bank will have to work hard on developing.</li> <li>• SEE also – under ESS3 below – recommendations to modify ESS1 in relation to climate change and GHGs.</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>• The Bank's commitment to develop the ESCP was appreciated.</li> <li>• There was a question about the link between monitoring and the ESCP and whether the ESCP would clearly outline the required monitoring for the project.</li> <li>• Participants inquired whether the ESCP can be used by communities to have further information about what the Borrower is doing.</li> </ul>

ESF	Issue	Items	Feedback
			<ul style="list-style-type: none"> <li>• Some participants suggested that it should be required to follow up on noncompliance of the Borrower with the ESCP.</li> <li>• Participants stated that the ESCP should be publicly consulted upon as part of the environmental/social impacts consultation.</li> <li>• Participants asked how the ESCP differed from, for example, an ESIA, and why they do not have the same disclosure requirements.</li> <li>• The ESP states that the ESCP will include an adaptive management “process” agreed between the borrower and the Bank. The content of the “process” is not spelled out or defined in either ESS1 or its Annex 2. A basic outline of this process should be described in the Framework, mostly likely placed in ESS1 or its Annex 2.</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</p>	<ul style="list-style-type: none"> <li>• ESS2 should make explicit reference to the fundamental principles and rights at work (the right to organize and bargain collectively, and prohibitions on forced labor, child labor, and nondiscrimination in employment) and the associated conventions.</li> <li>• ESS2 should include protections for public sector workers.</li> <li>• Including references in ESS2 to recognized standards (e.g., the fundamental principles and rights at work and corresponding ILO conventions) would facilitate implementation of the ESF as well as Borrower capacity building efforts. Absence of explicit references would be damaging for countries involved and to the Bank’s reputation.</li> <li>• ILO membership requires compliance with the fundamental principles and rights at work.</li> <li>• Scope of ESS2 application: Para. 2 of ESS2, unlike all the other ESSs, gives the Borrower full discretion to decide what requirements apply. This paragraph should conform to the other ESSs.</li> <li>• There seems to be inconsistency and a double standard with regard to the application of core labor standards in ESS2 versus the use of other standards from international conventions in other ESSs.</li> <li>• Borrowers’ focus on costs: Including references to explicit standards (e.g., ILO conventions) in ESS2 would help answer questions about cost because Borrowers are already familiar with ILO conventions and what they need to do in order to comply with the conventions.</li> </ul>

ESF	Issue	Items	Feedback
		<p>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>• The provisions related to workers’ organizations in ESS2 do not adequately address preventing retaliation against workers (as they do in the IFC’s PS2). There need to be specific protections against retaliation against workers who bargain collectively and/or associate freely.</li> <li>• The Bank does not have the expertise to define and interpret concepts and terms that are already defined by international conventions, especially given its history on labor.</li> <li>• Tradeoff of not referencing specific conventions condemns the ESF to having to go through update exercises constantly.</li> <li>• In co-financing situations, ESS2’s lack of specific references to the fundamental principles and rights at work and international conventions allows for potential inconsistency in the application of labor rights and principles.</li> <li>• The ESF should apply requirements to all project workers, particularly regarding their occupational health and safety as well as their rights.</li> <li>• The Framework now recognizes a variety of employment relationships in connection with projects, including contractors’ and subcontractors’ workers, primary suppliers’ workers, and community laborers. Extending to these project workers the same or equivalent levels of protection as are provided for direct project workers will help ensure that subcontracting and supply chain arrangements are not used to pass on risks to the health, safety, and rights of workers associated with World Bank projects.</li> <li>• Importantly, the second draft still does not require the Bank’s Borrowers to respect their own countries’ obligations under ratified international labor standards relevant to Bank-financed projects. ILO urges the Bank to integrate into the ESF the duty to recognize and defer to the Borrower’s international obligations to respect fundamental principles and rights at work and ratified international labor standards when addressing social risks and impacts in all Bank-financed projects.</li> <li>• The objectives of the labor standard (ESS2) should also include the need to “effectively realize internationally recognized fundamental principles and rights at work”.</li> </ul>

ESF	Issue	Items	Feedback
			<ul style="list-style-type: none"> <li>• Additional adjustments are needed to ensure the fundamental principles and rights at work apply to government civil servants working in connection with the project and to protect workers from retaliation for engaging with workers’ organizations or similar mechanisms.</li> <li>• Finally, the ESF should be clear that fundamental principles and rights at work and occupational safety and health provisions apply to all categories of project workers, which is not currently the case in the draft.</li> <li>• The Bank should not allow for potential weaknesses in the standard. For example, there should not be a difference in treatment made for contractors.</li> <li>• Contractor/subcontractor coverage: Discourse on exceptions for contractors and subcontractors with respect to labor protections is troubling. The majority of work on Bank projects is likely to be performed by contractors and subcontractors. Longstanding labor requirements in standard bidding documents for procurement have not received much objection, so the objection to requirements in ESS2 is curious. Clarification is needed on the extent of Borrower differences on ESS2.</li> <li>• There seems to be conceptual confusion among some Borrowers on what constitutes community labor. The community labor provisions also offer Borrowers’ flexibility, depending on the nature of risks and impacts.</li> <li>• There is concern that gender is not included both in ESS2 and in the ESF as a standalone standard. Strong language is needed on gendered labor issues, and such language should be featured prominently in the ESF, not a footnote.</li> <li>• Clarification is needed on why more language on non-discrimination was not carried over into ESS2.</li> <li>• ESS2 gives Borrowers a lot of discretion, so why are there complaints from them about requirements?</li> <li>• The Bank should elaborate on what Borrowers are saying about engaging with informal workers.</li> </ul>

ESF	Issue	Items	Feedback
			<ul style="list-style-type: none"> <li>• Clarification is needed on grievance mechanisms available to workers.</li> <li>• Due diligence must be employed with regard to Indigenous Peoples.</li> <li>• The Bank <u>must</u> not permit involuntary labor; this is a key reason for the community labor provisions.</li> <li>• The next draft of the framework must specify the minimum age for work in line with ILO Convention 138.</li> <li>• The Bank was commended for setting a minimum age for work in ESS2, as well as strengthening provisions preventing the employment of children in hazardous labor and addressing potential child labor in primary supply chains.</li> <li>• ESS2 should not use the term “harmful child labor” because this phrase has no internationally recognized meaning.</li> <li>• The revised framework should require that Borrowers take steps to address the risk of child labor or forced labor in the supply chain.</li> <li>• In addition, significant gaps remain in aligning the ESS text with the minimum baselines under internationally-recognized standards. In particular, the provisions on child labor do not yet conform to the nearly universally ratified ILO child labor conventions. Notably, they fall beneath the floor for worst forms of child labor and fail to enforce the minimum age of employment in relation to compulsory age of education or protect all children from all forms of prohibited child labor on Bank-financed projects.</li> <li>• In assessing the use of a Borrower framework, the Bank must take into account whether the government is enabling a forced labor system.</li> <li>• It will be harder for the ILO to support the Bank’s efforts to implement ESS2 if it does not include the fundamental principles and rights at work.</li> <li>• There was a question raised regarding participation in consultations, specifically noting that the Bank will receive different input from different government agencies.</li> <li>• There was a question raised as to why paragraph 16 from IFC’s PS2 was excluded from the draft ESS2.</li> </ul>

ESF	Issue	Items	Feedback
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 should include a threshold for GHG emission estimation, as many other MDBs do.</li> <li>• The text “when financially feasible” should be eliminated from the language in the standard.</li> <li>• The Bank should provide information on the cost that quantification will impose on Borrowers.</li> <li>• Quantification requirements are necessary to include in the standard, without which it is difficult to discuss impacts. The threshold should be reinstated and consistent with IFC standards (also could be open to exploring standards that are equivalent depending on their details).</li> <li>• The language on thresholds is not detailed and it is not clear who is going to set it in projects.</li> <li>• GHG emissions appear to be potentially captured under two separate provisions. The Bank should clarify how the mitigation requirements of these provisions would work for pollutants, such as GHGs, that appear to fall under both provisions.</li> <li>• Definition of air pollution is needed, especially in terms of whether GHG are included.</li> <li>• There is concern that the term “financial feasibility” as defined in ESS3 and elsewhere in the Framework could create an inappropriate prejudice against mitigation measures that have high incremental costs, but might also have higher incremental benefits.</li> <li>• The definition of the phrase “technically and financially feasible” should include the consideration of benefits, not just costs for the Borrower.</li> <li>• Definition of “cost effective” needed as well.</li> <li>• Clarity is needed on climate resilience expectations and considerations in ESF (observable outside of safeguards context, e.g., IDA and country systems, but should be in ESF also).</li> <li>• International best practice should be emphasized over regional best practice, as the latter can be weaker.</li> <li>• Pollution prevention: EHSs should be the default benchmark, and an independent review should also be conducted of proposed use of standards less protective than EHSs.</li> </ul>

ESF	Issue	Items	Feedback
			<ul style="list-style-type: none"> <li>• ESS3 section on water use should include language on water access and quality.</li> <li>• Resource efficiency should be at the top of the mitigation hierarchy.</li> <li>• In ESS3, paragraph 16, the words “the facilities owned or controlled by” should be deleted. GHG emissions do not necessarily emanate from facilities. The current wording would not require quantification of emissions, for example, from land use change.</li> <li>• Attention is also needed on how climate impacts projects.</li> <li>• There is a need for cost assessment based on data collection, but the Bank should not wait for data gathered from annual country data inventories. Moreover, the Bank has an obligation to ensure financial flows for de-carbonization per Paris agreement.</li> <li>• In terms of project design, the intent of the policy and the language used should be to create incentives for a low-carbon approach in projects.</li> <li>• The Bank should consider paying for costs, especially to capture a broad picture of emissions across the Bank’s portfolio.</li> <li>• Explicit reference to international agreements is needed like in the previous draft ESF (e.g., agreements on international chemical management standards).</li> <li>• Gender should be included in ESS3 (and ESS4), given that climate and natural resources issues have differentiated impacts across genders.</li> <li>• Climate change and the linkage to ESS6 needs to be clarified, especially with regard to land use and forest degradation.</li> <li>• In the absence of a standalone standard on climate change, it is concerning that the term renewable is only mentioned in a footnote. The Bank should encourage consideration of renewable alternatives in its projects.</li> <li>• Given the Bank’s report from Borrowers that reporting on GHG issues in projects is going to be an added burden cost wise, it would be important to know what this means in real cost terms. There should be an estimation of the expected cost to make for an informed argument.</li> <li>• The focus on financial feasibility in ESS 3 and incremental costs may not be the right approach. Just looking at the cost narrowly will not</li> </ul>

ESF	Issue	Items	Feedback
			<p>necessarily point in the right direction and so should be looked at holistically.</p> <ul style="list-style-type: none"> <li>• The argument concerning the cost burden to report on GHG emissions is weak. The Bank has the obligation to make resources available for this given the commitments in Paris by countries to decrease emissions.</li> <li>• On mitigation issues, the Bank should try to promote incentives for low carbon alternatives in projects and more holistic low carbon approaches.</li> <li>• This standard does not mention gender explicitly especially as it relates to pollution and to people living in very vulnerable situations. Projects should address the gendered way that people deal with resource issues and climate change.</li> <li>• In developing a climate-sensitive safeguards framework, the Bank should be guided by two core insights that emerge from its own recent analytical work. First, climate change will impose a layer of “deep uncertainty” over many investment decisions, which will require more robust and sophisticated assessment and decision-making approaches that, among other things, better integrate stakeholder inputs. Second, the goals of climate sensitivity and resilience need not be in tension with its mandate to alleviate poverty in an environmentally responsible manner.</li> <li>• To incorporate these insights, the revised ESF should adopt best practice approaches to project selection, appraisal, and alternatives assessment that fully account for the costs, risks and uncertainties of climate change. And, it should narrowly focus the Bank’s efforts on systematically identifying and capturing synergies between climate sensitivity and development objectives, while precluding support for activities with significant tradeoffs until these synergies are fully exploited.</li> <li>• ESS 1 should incorporate the outcomes of the Paris Agreement by (a) ensuring coherence with country-owned strategies to reduce emissions and strengthen resilience; and (b) “making finance flows consistent with a pathway towards low greenhouse gas emissions and climate resilient development.”</li> <li>• ESS 1 should ensure consistency between project proposals and national strategies to promote climate-sensitive development.</li> </ul>

ESF	Issue	Items	Feedback
			<ul style="list-style-type: none"> <li>• Nationally Determined Contributions (NDCs), Low-Carbon Development Strategies, and Nationally Appropriate Mitigation Actions (NAMAs): Paragraph 24 should be strengthened to make clear that the Bank will expect that all the activities it supports are consistent with the strategic plans, priorities and objectives that countries have adopted as part of their national development plans, NDCs or NAMAs.</li> <li>• National REDD+ Strategies: The Bank should ensure that its investments are consistent with national REDD+ strategies, and seek synergies with REDD+ readiness efforts and programs. Importantly, ensuring such consistency will require consideration of emerging national REDD+ safeguard systems.</li> <li>• National Adaptation Plans: The Bank should ensure that its financing is consistent with the adaptation priorities, strategies and plans articulated through national-level processes and should work through national mechanisms whenever possible.</li> <li>• National Action Plans for short-lived climate pollutants (SLCPs): As a partner in the Climate and Clean Air Coalition (CCAC), the Bank should promote the development of these plans by integrating them into its investment decision-making to ensure that its activities are consistent with the national SLCP reduction priorities.</li> <li>• Second, one of the overarching objectives of the Paris Agreement is to make “finance flows consistent with a pathway towards low greenhouse gas emissions and climate resilient development.” Operationalizing this objective means, at a minimum, that the planning and alternative assessment provisions of ESS1 should create a strong presumption against supporting financing greenhouse gas intensive and maladaptive, that can only be overcome where there are no feasible alternatives to meet compelling development needs.</li> <li>• ESS 1 should require Borrowers to assess and manage (a) the climate-related risks facing supported projects and the resilience to climate impacts of those projects; and (b) the impacts they will have on the resilience of local communities and ecosystems.</li> </ul>

ESF	Issue	Items	Feedback
			<ul style="list-style-type: none"> <li>• In order to assess the development impacts of a project under various potential climate scenarios, Paragraphs 26 and 35 should require Borrowers to assess two types of climate-related risks. First, Borrowers should assess the risks a changing climate pose to their project. Second, Paragraphs 26 and 35 should also direct Borrowers to assess the ways in which their projects and programs may affect the ability of host communities and ecosystems to adapt to climactic changes.</li> <li>• ESS1 should require Borrowers to consider these potential adaptation risks and impacts across a range of potential climate change scenarios (e.g., low, medium, and high). This could be accomplished by clarifying the requirements in paragraph 26 of ESS1.</li> <li>• ESS 1 should require the use of transparent planning and assessment tools such as Integrated Resource Planning and full life-cycle accounting to ensure that the Bank’s activities are as low-cost, low-carbon, pro-poor, and sustainable as possible.</li> <li>• Annex I (A) (5) sets out a list of tools for Borrowers to use to conduct environmental and social impacts. However, this list does not include well-proven tools such as integrated resource planning and full life-cycle accounting of environmental and social externalities, including accounting of greenhouse gases and short-lived climate pollutants.</li> <li>• The Bank should require clients to develop integrated resource plans when considering utility sector projects, and use them to design interventions that promote the best resource allocation to meet demand. To advance the objectives of ESS 3, the revised ESS 1 should make clear that the Bank will not support energy or water supply expansion projects unless it is shown through an IRP process to be the most advantageous service delivery option.</li> <li>• Full life-cycle accounting is essential to better account for the externalized costs and risks of proposed projects, and to better ensure that the World Bank’s investments are as low-carbon, pro-poor, and sustainable as possible. Accordingly, Paragraph 22 should specify that appraisal methodologies will internalize the full life-cycle social and environmental costs of proposed projects and alternatives (including demand-side management alternatives), to identify options with the</li> </ul>

ESF	Issue	Items	Feedback
			<p>greatest overall benefits. While the other environmental and social safeguards should eliminate many externalized costs, they should explicitly complement, not displace, a full-cost analysis for all projects.</p> <ul style="list-style-type: none"> <li>• Full cost accounting should include the environmental and social costs of greenhouse gases and short-lived climate pollutants, including those from indirect emissions associated with the project, such as from land-use changes and forest degradation. ESS 1 should require project sponsors to consider a “social cost of carbon/short-lived climate pollutants” for the direct and indirect emissions associated with the project, which should be factored into economic and alternatives analyses. This accounting should be conducted in accordance with internationally recognized methodologies and best practice. The Bank should disclose this information, along with the methodologies applied and assumptions used for the supported project or program and the alternatives considered.</li> <li>• ESS 3 should strengthen its resource efficiency requirements to prioritize end-use resource efficiency improvements as a core climate and development strategy, and to require the use of “best available technology”.</li> <li>• Given the extraordinary opportunities for end-use efficiency initiatives to achieve the Bank’s development, environmental, and carbon mitigation objectives at least cost and risk, the Bank should prioritize an end-use oriented approach to the delivery of utility services in all of its activities. In the utility sector, ESS 3 should preclude support for a project to expand energy or water supply where the same services could be more advantageously delivered through improved end-use efficiency.</li> <li>• Outside of the utility sector, ESS 3 should require all resource and energy intensive projects to undertake efficiency audits to identify and capture opportunities for resource use reductions and efficiency improvements.</li> <li>• ESS 3 should also provide more specific policy guidance regarding acceptable efficiency performance standards for the construction or procurement of buildings, vehicles, appliances, industrial motor systems, lights, and other energy and water consuming devices used in Bank supported projects. In particular, it should create a presumption that clients will use “best available technologies” unless the client can make a</li> </ul>

ESF	Issue	Items	Feedback
			<p>compelling case that they are not appropriate to the specific project circumstances.</p> <ul style="list-style-type: none"> <li>• The safeguard policies should fully apply the “mitigation hierarchy” to issues of resource efficiency, water and energy use, and emissions of air pollutants.</li> <li>• In accordance with ESS 1, resource efficiency measures should be prioritized at the top of the mitigation hierarchy with other avoidance strategies. Borrowers should be expected to apply efficiency measures along with other avoidance measures wherever possible, and undertake efforts to minimize, restore, or offset impacts only where such avoidance is not possible.</li> <li>• ESS 3 applies a diluted version of the mitigation hierarchy to resource efficiency and pollution prevention measures. First, rather than treating efficiency measures as a core avoidance tool that should be implemented wherever possible under ESS 1, ESS 3 requires that they only be implemented where “technically and financially feasible.” (Para. 6). This is odd, since ESS 3 purports to apply “in accordance with the mitigation hierarchy.” (Para. 4). Instead of limiting efficiency requirements in the same way as offsets—and thus functionally putting them at the bottom of the mitigation hierarchy—ESS 3 should make clear that efficiency will be prioritized within the mitigation hierarchy along with other avoidance strategies, and that feasibility considerations of efficiency measures will be evaluated no differently than other avoidance strategies.</li> <li>• Second, ESS 3 applies an even weaker standard to other measures to control air pollution, including greenhouse gas emissions. It only requires Borrowers to implement “technically and financial feasible and cost effective options” to reduce air pollution. (Para. 15). This amounts to an air pollution exception to the mitigation hierarchy. Paragraph 15 therefore should be amended to clarify that the mitigation hierarchy will fully apply to air pollution, including greenhouse gas emissions.</li> </ul>
ESS5	Land acquisition and involuntary resettlement	24. Treatment and rights of informal occupants and approach to forced evictions	<ul style="list-style-type: none"> <li>• The language in ESS 5 should change from “restoring or improving” livelihoods and living standards to “improving” livelihoods and living standards. People’s livelihoods can always be improved, not just restored,</li> </ul>

ESF	Issue	Items	Feedback
		<p>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>and a restoration standard is likely not to be met, leading to impoverishment.</p> <ul style="list-style-type: none"> <li>• ESS1 should have an “improved livelihoods” standard for the economic displacement issues covered in ESS1, and ESS5 should cover <i>de facto</i> land takes in the same manner as other land takes.</li> <li>• ESS 5 should include language that indicates that land provided after resettlement will be better in specific ways, such as: legal rights, productivity, and living quality, or “quality, size and legal status.” “Replacement in kind” is too open-ended.</li> <li>• ESS 5 and ESS 7 should explicitly state that: (1) land-based redress for indigenous peoples will be a priority; and that (2) when indigenous peoples are subject to involuntary resettlement, they should be guaranteed equal or greater ownership rights over any replacement lands, and that replacement lands should be equal in quality, size and legal status, unless their free, prior and informed consent has been obtained for alternative redress. Current policy language falls below the standard set by the U.N. Declaration.</li> <li>• There should be clearer language to provide better access to land and natural resources.</li> <li>• Resettlement should be framed as a “sustainable development program,” rather than a “development opportunity.”</li> <li>• ESS 5 should explicitly mention that no land assets will be taken from people prior to resettlement.</li> <li>• Benefit sharing needs to be included as a provision within ESS 5. Compensation is not enough.</li> <li>• The requirements in ESS5 are insufficient even for restoration. The resettlement options should be at least equivalent. The location is essential (productivity of the land).</li> <li>• Compensation for all loss of income needs to be included in ESS 5, not just compensation for the loss of income of business owners.</li> <li>• Full replacement costs need to be paid as part of compensation.</li> <li>• Strict language on the avoidance of forced evictions should be explicit in policy, procedures and ESS1, not only ESS5.</li> </ul>

ESF	Issue	Items	Feedback
			<ul style="list-style-type: none"> <li>• The recognition of people without formal rights should remain in ESS 5. Although some countries have voiced concern regarding the inclusion of people without formal rights, they are the most vulnerable people and must be included. One objective should be enhancing land tenure.</li> <li>• ESS 5 should make clear that customary land rights should be considered a form of ownership.</li> <li>• ESS5 scope should be broadened to make sure it covers all communities regardless of the type of project.</li> <li>• More clarity is needed regarding communal land tenure system, which is of major relevance for African countries. Land tenure security is vital to fight poverty.</li> <li>• Language should be included in ESS 5 that takes into consideration forest dwellers.</li> <li>• Economic displacement and physical displacement should be treated as equally severe. Economically displaced persons can easily be physically displaced as an unintended consequence of economic displacement.</li> <li>• The ESF should be revised to state that people who suffer project-related livelihood impacts that are not directly related to land acquisition are required to get compensation and/or livelihood restoration assistance.</li> <li>• No project should go to the Board without a detailed survey and baseline of project affected people, their assets, and livelihoods; a detailed RAP; and a budget for implementing resettlement. There is concern that the ESCP will become a loophole for resettlement.</li> <li>• ESS 5 should include clearer language mandating that documents are disclosed prior to appraisal, and in local languages.</li> <li>• The ESF does not clearly state that a cost assessment for RAPs is required, but it should.</li> <li>• More clarity is needed on what is considered a residual impact.</li> <li>• Some key implementation procedures need to be clearly required. These include: sound baselines; robust economic analysis; robust financial feasibility analysis, a realistic budget and designated available funds; third party verification of replacement land; a midterm evaluation of</li> </ul>

ESF	Issue	Items	Feedback
			<p>implementation of the RAP, a final evaluation, and ongoing assessment of risks so that mitigation measures can be adapted if needed.</p> <ul style="list-style-type: none"> <li>• Project disbursement should be tied to the proper implementation of safeguards – in the case of ESS 5 to the compensation for lost assets (the RAP). That should be added as part of the language of the Standard.</li> <li>• There should be third party monitoring for all projects that require resettlement and a panel of experts in case of resettlement.</li> <li>• Monitoring has to be thorough and should include data for all assets and project affected people.</li> <li>• It is necessary to have enough resources to implement resettlement adequately.</li> <li>• Make sure that the oversight of the Bank in multicomponent projects is not diluted. Impacts of projects involving resettlement should be supervised by Bank independently of who is financing.</li> <li>• The Bank should also include subprojects in ESS5.</li> <li>• The vision that one package fits all is not correct. There is a lack of resources and specialists in this area at the Bank. Improvements should be made in Bank’s procedures based on lessons learned.</li> <li>• The RAP is a project within a project. It should be treated as a separate thing. Its mitigation measures should evolve as the risk changes throughout the project cycle. There should be a deeper discussion about risks at the Bank level and more dissemination of experiences. The Bank has not done research on economics of displacement/resettlement.</li> <li>• More clarity on the timeline is needed. Project preparation should ensure engagement of local population and civil society. There should be a focus on building capacity in countries, not just in government.</li> <li>• There is no language that prevents relocation of Indigenous Peoples from sacred sites in ESS5 nor ESS7. It would be considered a human rights violation. ESS5 para 14: lack of reference to rights of Indigenous Peoples when relocated. It is a specific population attached to a specific piece of land.</li> <li>• The Bank should prohibit the relocation of indigenous peoples’ sacred sites. As sacred sites are by their very nature site-specific, any attempt to</li> </ul>

ESF	Issue	Items	Feedback
			<p>‘relocate’ these sacred spaces will destroy their religious and cultural value in all but the rarest cases. Such relocation would prevent indigenous peoples from manifesting, practicing, and teaching their spiritual and religious traditions, customs, and ceremonies associated with their sacred and ceremonial sites. Without a bright line prohibition on relocation of indigenous peoples’ sacred sites, the current language in the ESF falls short of its goal to protect indigenous peoples’ sacred sites and falls below the standard set by the U.N. Declaration. Neither Standard 5 nor Standard 7 prevents such relocation. Paragraph 17 of Standard 5 merely cross-references Standard 7 without discussing indigenous peoples’ sacred sites. Unfortunately, paragraph 24 of Standard 7 applies only to projects that may “significantly impact cultural heritage that is relevant to the identity and/or cultural, ceremonial or spiritual aspects of Indigenous Peoples’ lives,” requiring that “priority... be given to the avoidance of such impact. Where significant project impacts are unavoidable, the Borrower will obtain the FPIC of affected Indigenous Peoples.” The determination of “significant impact” is too vague to serve as an effective standard, and its interpretation appears to be left to the borrower’s discretion.</p> <ul style="list-style-type: none"> <li>• The Bank should acknowledge the particular importance of sacred sites.</li> <li>• The Bank should take into account the impacts of projects not limited to resettlement that could further marginalize and isolate communities.</li> <li>• It is important to talk about socio-cultural displacement as well as economic and physical displacement. Land acquisition can destroy the fabric of society, e.g., people having to cross a highway to get to their agricultural fields or their culturally-important sites.</li> <li>• The Bank needs to acknowledge the psychological repercussions that may emerge from relocation. Those repercussions may last several generations. The Bank should acknowledge the human stories behind resettlement.</li> <li>• Vulnerability is not specifically defined in either ESS4 or ESS5, and thus additional clarity is needed regarding whether the same definition of vulnerable groups, incorporating age related vulnerability, from ESS 1 will apply to these policies. Furthermore, as with ESS 1, it is important that these policies explicitly require that Borrowers address the unique needs of children who may be resettled, i.e., access to quality education, as well</li> </ul>

ESF	Issue	Items	Feedback
			<p>as the unique health and safety needs of children, i.e., increased risks of sexual exploitation, rather than address all groups deemed “vulnerable” as a single entity.</p> <ul style="list-style-type: none"> <li>• Unlike OP 4.12, ESS5 does not cover all components of a project, regardless of source of financing. ESS5 should maintain this scope, and the ESF should have clear language on the treatment of multi-component projects.</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> <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>• Participants asked how the Bank would ensure that there are no net losses in biodiversity offsets, and how no net loss would be calculated, for example using IFC methodology.</li> <li>• There was support for the recommendation to prohibit biodiversity offsets in critical habitats, as well as concerns expressed on the technical analysis relating to biodiversity offsets.</li> <li>• Other broad concerns included inadequacy of baselines, consistency of ESS6 with the mitigation hierarchy, the lack of coverage of forests in ESS6, insufficient attention to landscape/watershed assessment and planning, and the inadequate treatment of ecosystems and ecosystem services.</li> <li>• The Bank should state more clearly in ESS6 that offsets should not be used for something rare or precious.</li> <li>• There should be language prohibiting the relocation of cultural heritage sites in ESS 6.</li> <li>• There were concerns about the effectiveness of biodiversity offsets in general (in natural habitats writ large), including the governance and institutional contexts in which they are feasible/appropriate, appropriate baseline data, long-term monitoring and verification of outcomes, and the ability to maintain offsets in perpetuity given limited Bank leverage once the project has closed. Bujagali and Lom Pangar hydroprojects were cited as examples.</li> <li>• Forests: Concerns were expressed about the lack of coverage of forests in ESS6. The proposed ESS6 removes the strong content in OP 4.36 on forest and forest peoples, which has not been reincorporated. One of the few instances where forests are singled out--in a paragraph on salvage logging-</li> </ul>

ESF	Issue	Items	Feedback
			<p>-singles them out in order to permit deforestation under very vague requirements. The removal of this paragraph is suggested and a request made that the Bank clarify this language.</p> <ul style="list-style-type: none"> <li>• There is concern that the language on salvage logging could create a loophole for Borrowers. Clarification is needed on the Bank’s approach in different governance contexts and on whether this language only applies in exceptional circumstances.</li> <li>• Inclusion of language on forest plantation in ESS6, paragraph 19 is concerning.</li> <li>• Concerns were also expressed about the need for a sufficiently robust assessment of potential forest impacts to enable identification of direct/indirect risks to forests early in the project cycle and mitigation of impacts. Greenhouse gas emissions due to deforestation and land use change should also be quantified, and considered in cost benefit analysis.</li> <li>• There were several recommendations that ESS6 contain more specific references to forests, forest ecosystems, natural forests, sustainable forest certification, forest-dependent people, etc. Forests are special and require special explicit mention and protection at least equivalent to current protections.</li> <li>• There is concern that forest impacts are not often sufficiently considered if not the main focus of a project and if at the Bank’s discretion.</li> <li>• Protections for oceans and freshwater also need to be explicit.</li> <li>• Biodiversity Management Plan: although there was not the opportunity to discuss this during the consultation, information was requested on the content of these plans within ESS6--particularly given that they are to be included as part of the ESCP, and thus constitute an opportunity for binding Borrower commitments.</li> <li>• It was suggested that the Bank develop clear guidance on assessing and mitigating impacts on ecosystem services.</li> <li>• Ecosystem services: concerns were expressed about the exclusive focus of ESS6 on biodiversity, and identification of sensitive ecosystems solely on the basis of biodiversity--as opposed to ecosystem services or cultural value. It was recommended to broaden the definition of critical habitat,</li> </ul>

ESF	Issue	Items	Feedback
			<p>and to more fully integrate ecosystem services into the requirements of ESS6 (beyond the introduction of the policy). The WB should refer to existing guidance on incorporating ecosystem services in impact assessment (e.g., ESR for IA).</p> <ul style="list-style-type: none"> <li>• Mitigation measures typically have focused on mitigation of biodiversity loss and protection of natural habitats, not ecosystem services (related issues, but not the same). There is guidance on a mitigation hierarchy regarding the mitigation of impacts on ecosystem services (e.g., ESR for IA).</li> <li>• Application of ESS6 (assessment and mitigation) should emphasize the landscape level, not focus on isolated projects out of context. It was suggested that the Bank adopt a watershed approach (an example of landscapes) to ecosystem protection that would consider both upstream influences on the project (sub-project) site as well as impacts the project (sub-project) will have on downstream ecosystems. One speaker emphasized that this is particularly important since the Bank unfortunately is not proposing to have a standard on climate change.</li> <li>• There was much discussion regarding the poor track record of biodiversity offsets to date, and the fact that inclusion of an offset as mitigation for loss of habitats/negative biodiversity impacts should not be constitute a reason to reduce a high risk project to lower risk level.</li> <li>• Several participants requested an explicit statement in the ESF that offsets cannot be used as a mitigation measure for impacts on critical habitats. The statement in ESS6 para 18 did not seem sufficient.</li> <li>• There is a need for a definition of GIIP in this context.</li> <li>• The ESS should say more about linkages between changes in ecosystems (as a project impact) and potential impacts on human health – i.e., changes that favor disease-bearing organisms such as certain insects, bats, rodents...(create a linkage between ESS6 and ESS4).</li> <li>• Regarding invasive species, a link was recommended between language in ESS6 on risk assessment and ESS1’s risk assessment requirements.</li> <li>• Clarification was requested on how offsets described in the Objective of ESS1 will apply to offsets described in ESS6.</li> </ul>

ESF	Issue	Items	Feedback
			<ul style="list-style-type: none"> <li>• Baseline data: Indirect and cumulative impacts must be included in assessments along with direct impacts.</li> <li>• Clarification was requested on definitions of “project,” “appropriate,” and “no other viable alternative.”</li> <li>• The ESF should show the relationship between habitat conditions, biodiversity, and ecosystem services.</li> <li>• The use of an adaptive management approach must not allow the dilution of protection of ecosystems and biodiversity, especially critical habitat. ESS6 should include some specificity on application of an adaptive management approach to ESS6 issues.</li> <li>• A question was asked regarding how the Bank would incentivize ecosystem assessment at the scale necessary for systematic application given the ESF’s project by project approach.</li> <li>• The ESF should use a landscape/high-level approach in considering project risks and developing a project management strategy, taking into account plans used by countries.</li> <li>• It was recommended that the Bank consider impacts and dependence on ecosystem services beyond those caused by climate change.</li> <li>• Biodiversity and community health should not be in “silos”, apart from one another.</li> <li>• More clarity is needed on certification, including the timeframe.</li> <li>• Clarity is needed on the evaluation of risks and impacts in terms of the ESF’s language on mitigation, especially regarding how offsets and potential degradation are considered.</li> <li>• A participant asked what the criteria would be to trigger the application of ESS6.</li> <li>• Language in the draft ESF on animal husbandry should not be so obscure, and animal welfare should be clearly and specifically referenced.</li> <li>• It is encouraging that the Bank is supporting the agenda of the SDGs. But the most recent draft of the Environmental and Social Framework is still seriously lacking in regard to animal welfare and the protection of other living species.</li> </ul>

ESF	Issue	Items	Feedback
			<ul style="list-style-type: none"> <li>• The Bank should holistically consider the impact that development has on other living species in the safeguard process. This requires that animals be appreciated and protected as sentient beings with intrinsic value, independent of their value as natural resources. Moreover, there is a growing international and regional policy framework covering animal welfare.</li> <li>• Animal welfare considerations play a key role in poverty reduction; agriculture/livestock/fisheries and rural development; sustainable livelihoods; health/safety (including food safety and security); biodiversity/environment; and disaster/emergency response work.</li> <li>• A starting point for incorporating animal welfare considerations into development projects is right at the World Bank’s fingertips. Large-scale animal agriculture, which inherently implicates animal welfare, is a leading cause of climate change. The Bank has also noted the connection between inappropriate uses of antimicrobial drugs in the breeding of animals as a contributor to antimicrobial resistance. The Bank, which has recently offered \$150 million in financing to resolve the Zika virus, has already led the conversations to address these issues and their connection to our relationships with animals.</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>• In light of the rights of Indigenous Peoples protected in the ILO Convention on Indigenous Peoples (No. 169), ILO concurs with the decision to use due diligence in identifying Indigenous Peoples whose livelihood and other rights may need to be safeguarded under the ESF.</li> <li>• The Bank was asked to explicitly require in the standard that due process is applied in all consultation proceedings with indigenous peoples where their rights and/or interests are subject to determination, as well as when projects intend to use indigenous peoples’ cultural heritage/resources for commercial purposes. Standard 7 should extend the application of due process to projects promoting the commercial development of indigenous peoples’ cultural heritage/resources.</li> <li>• Most participants found the terminology used in the title of ESS 7 acceptable and noted that alternative terminologies are already referenced in the text. Some participants were open to expanding the title</li> </ul>

ESF	Issue	Items	Feedback
		<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>of the Policy, as long as it maintains both the term “Indigenous Peoples” and the protections that are already afforded to them as distinct Peoples.</p> <ul style="list-style-type: none"> <li>• A comment was made urging the Bank to find terminologies for Indigenous Peoples that can be accepted by all shareholders and that fulfill the same objective of protecting Indigenous Peoples and other vulnerable communities.</li> <li>• It was asked whether the Bank would have the ability to intervene if Indigenous Peoples are not recognized by Borrowers.</li> <li>• Some participants said that ESS7 should categorize projects as high risk when Indigenous Peoples in isolation are involved.</li> <li>• Some participants said that the Bank should, first and foremost, seek to avoid impacts on Indigenous Peoples in voluntary isolation and their lands and territories.</li> <li>• For some participants, ESS7 should ensure that projects pose no risk of contact or impact on Indigenous Peoples in isolation.</li> <li>• Some participants said that explicit language should prohibit projects that involve Indigenous Peoples in voluntary isolation. The World Bank should include an explicit prohibition for financial support to projects that may affect indigenous peoples living in voluntary isolation. Because current policy language is vague and does not set out a clear protection measure, it fails to meet regional applicable standards set by the Proposed American Declaration on the Rights of Indigenous Peoples, the Inter-American Development Bank’s Operational Policy on Indigenous Peoples, and the Inter-American Commission on Human Rights. Indigenous Peoples terminology covers a wide range of communities. It has broad support in the international community. ILO Convention 169, the African Commission on Human and Peoples’ Rights, and other agreements provide guidance for the definition of Indigenous Peoples and tribal people.</li> <li>• ESS7 should be based on best practice. Political considerations should not be put at the same level to avoid ending up with a moderate position instead of a best practice. The standard should be applied according to the views of practitioners.</li> </ul>

ESF	Issue	Items	Feedback
			<ul style="list-style-type: none"> <li>• Most participants rejected the inclusion of a waiver in the standard. If a waiver is ever to be considered for ESS7, very clear guidelines and a transparent participatory process should be established to determine when it could be used.</li> <li>• The mention of a waiver in ESS 7 is of extreme concern. It is tantamount to the resurrection of the alternative approach.</li> <li>• ESS 7 should mandate third party monitoring to ensure that the sharing of project benefits is taking place in a culturally appropriate manner.</li> <li>• Between the first draft and the second draft, there was a weakening of the clause in ESS7 paragraph 25, through a change from “the Borrower will also ensure fair and equitable sharing of benefits” to “the Borrower will also enable Indigenous Peoples to share equitably in the benefits...” There is concern around this change from the stronger word “ensure” to the weaker word “enable.”</li> <li>• Participants urged the Bank to retain language on free, prior and informed consent.</li> <li>• ESS 7, Para 23, should say that all relocation of Indigenous Peoples will “comply,” not that it will be “consistent” with ESS 5.</li> <li>• The standard for redress in ESS5 needs to be clearer. Currently paragraph 14 refers to “replacement in kind”. It should spell out, as other MDB’s such as the IFC and ADB, that the replacement of land should be equal or better than the lost land in terms of quality, size and legal status.</li> <li>• Any mention of eminent domain and how it impacts Indigenous Peoples needs to be addressed in ESS 5, as well as ESS 7.</li> <li>• The World Bank should include decisions (jurisprudence) from international law as the basis of how FPIC is understood in the draft Framework.</li> <li>• ESS 7 should include a distinction between individual and community veto power.</li> <li>• Some participants noted that they had not seen the proposed language for a new title to the policy and around implementation of FPIC.</li> <li>• Some participants noted that the proposed definition of FPIC is for the Bank’s ESF only.</li> </ul>

ESF	Issue	Items	Feedback
			<ul style="list-style-type: none"> <li>• ESS7 should make clear that, where Indigenous Peoples own land through customary land tenure systems, formalization of those rights should be in the form of ownership, not as weaker usufruct/usage rights.</li> <li>• It was noted that ESS7 allows conversion of collectively held land into individual titles. This should be changed. Titling of Indigenous Peoples' property should be only on a collective basis. ESS7 should not allow the conversion of Indigenous Peoples' collective property rights to individual ownership of land. (To put it differently, ESS7 should not allow the individual titling of Indigenous Peoples' territories.)</li> <li>• Some participants urged the World Bank to either eliminate Standard 7 language referring to conversion of indigenous peoples' property rights to land into individual ownership, or set up a prohibition of financial support to projects seeking such a conversion. Considering that indigenous peoples own their lands collectively and hold a special relationship to their lands as distinct peoples within existing nation-states, such a conversion must be explicitly prohibited. Current policy language fails to meet the standard set by the U.N. Declaration on the Rights of Indigenous Peoples (U.N. Declaration) on this matter.</li> <li>• One of the main issues affecting Indigenous Peoples is the uncertainty about ownership. Bank should have a policy regarding this topic, not a standard for Borrowers. Distinction should be made between forced eviction and forced displacement. Whatever falls under eminent domain should be subject to the protections of the Bank's standards.</li> <li>• ESS7 para 19: when FPIC cannot be obtained, it allows continuation of other aspects of the project. It was asked how the Bank would define those aspects, and whether the project would be redesigned. If so, questions were asked about how it would be operationalized.</li> <li>• Consent is different from consultation. This distinction is sometimes lost in ESS7.</li> <li>• African institutions have been calling for consent. Even individual companies are recognizing its importance. The Bank should not fall behind on this.</li> </ul>

ESF	Issue	Items	Feedback
			<ul style="list-style-type: none"> <li>• The Bank needs to be more explicit on how it will ensure that labor issues affecting Indigenous Peoples are given the necessary attention.</li> <li>• <i>Note:</i> Comments relating to Indigenous People’s sacred sites are in the sections of this document on ESS5, ESS6, and ESS8.</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>	<ul style="list-style-type: none"> <li>• The expansion of cultural heritage to include intangible cultural heritage as well was welcomed, as was the protection of cultural heritage regardless of whether it is legally protected or previously identified/distributed, and the addition of Borrowers’ responsibilities concerning the safeguarding against looting, theft and trafficking of movable cultural heritage items affected by a project.</li> <li>• ESS 8 should explicitly state that due process of law protections will apply to all cultural heritage, not just when cultural heritage will be used for commercial purposes.</li> <li>• The World Bank should explicitly require in this standard that due process is applied in all consultation proceedings with indigenous peoples where their rights and/or interests are subject to determination, as well as when projects intend to use indigenous peoples’ cultural heritage/resources for commercial purposes. Standard 8 requires only that borrowers inform “affected parties”, including indigenous peoples, about their rights, the scope of the commercial development, and potential benefits (para. 28). It also asks borrowers to carry out a meaningful consultation, provide for benefit sharing, and identify mitigation measures (para. 29). Standard 8 should be strengthened and clarified to ensure coherence with the greater protections found in paragraph 22(f) of Standard 7, which requires borrowers to afford due process where a project promotes the commercial development of indigenous peoples’ land or natural resources.</li> <li>• It was recommended that long term cumulative impacts be considered, and that long term monitoring of cultural heritage be included in action plans.</li> <li>• Another recommendation was to use cultural heritage experts throughout all project stages, as Borrowers may not have adequate expertise.</li> <li>• Independent assessment regarding cultural heritage for consultations is suggested. Minority communities should be included.</li> </ul>

ESF	Issue	Items	Feedback
			<ul style="list-style-type: none"> <li>• The definition of intangible cultural heritage as given in the ESF includes unnecessarily vague terms. In the absence of a universally accepted definition, the Bank should look to Article 2, subsection 1-2 in the 2003 UNESCO Convention for Safeguarding of the Intangible Cultural Heritage.</li> <li>• There are accepted international agreements. Not only relying on best practice, there is applicable international law, particularly among Borrower countries, since 98% of the Bank’s loan portfolio goes to countries that have already ratified the 1972 and 2003 Conventions. It needs to be reflected in the ESS. Any intervention that has impacts on intangible cultural heritage should require FPIC; this is not a new obligation for most Borrowers, since it is accepted practice under the 2003 Convention.</li> <li>• Some participants urged that the Bank maintain the current level of protection for sacred sites, even with sacred sites covered in ESS8. This should include clarification on what will happen if a sacred site cannot be relocated and a clear statement that there is to be no impact on the sacred site that significantly diminishes its functioning as a sacred site. Moreover, it should be clear that impacts on sacred sites will be considered in conjunction with related habitat, livelihood, and Indigenous Peoples issues.</li> <li>• It is very difficult to understand how sacred sites could be relocated.</li> <li>• There was concern that Standard 8 allows relocation of “archeological sites and material” (para. 18), “built heritage” (para. 22), and “natural features with cultural significance” (para. 25). The language in paragraph 25 is alarming, as it makes the Borrower responsible for determining “whether it is possible to transfer the cultural heritage and/or sacred characteristics of a place to another location.”</li> <li>• How will Indigenous Peoples in sacred sites be relocated? There should be a prohibition in that sense. Regarding the use for commercial purposes, what is indicated in ESS5 for commercial use of land could be used, rather than different language.</li> </ul>

ESF	Issue	Items	Feedback
			<ul style="list-style-type: none"> <li>• Development projects can have devastating and extensive impacts on cultural heritage, such as electrification that can disrupt the practice and transmission of cultural heritage. Clarification is needed on the scope and application of ESS8.</li> <li>• It is important that the Bank and Borrowers recognize and account for the diversity and multiplicity of cultural heritage within a single community, region, or nation-state. Independent assessments and consultations concerning cultural heritage are recommended.</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>• Lending through FIs needs to be very carefully considered. Risks for FIs are just as great as for directly financed projects. Some participants indicated that for FIs, risk management and due diligence are hard to monitor. Framework and FI projects should use the same risk classification and definitions for sub-projects as the Bank uses for directly funded projects. Framework projects should be used sparingly; it should be said explicitly as and when they can be used.</li> <li>• More clarification is necessary for both the FI itself and the FI’s client implementing the subproject regarding procedures, disclosure and monitoring. Specifically, there needs to be clarification that project documents will be disclosed in an appropriate manner.</li> <li>• There is a need to incorporate all lessons learned over the past years on FI, including lessons learned documented by CSOs and IFC.</li> <li>• FIs are very hard to manage, as is waiting for an FI to fulfill its obligations.</li> <li>• Clarification was sought regarding when and which ESSs would apply to which subprojects, and what “relevant ESSs” meant. IFC has the notion of “higher risk.” A suggestion was made that high and substantial framework subprojects apply the ESSs and a similar standard for FIs.</li> <li>• Application of ESS9 to FI labor issues: there is some contradiction in ESS9; labor requirements are not required consistently, for example ESS9 does not require looking at labor or EHS, but an FI is obliged to dedicate a senior specialist in ESS2, which seems contradictory.</li> <li>• More clarifications were sought on the disclosure of FIs subprojects, as ESS9 does not require disclosure for them. The CAO recommended that</li> </ul>

ESF	Issue	Items	Feedback
			<p>with respect to IFC, there needs to be transparency around FI projects and redress when due diligence fails.</p> <ul style="list-style-type: none"> <li>• Participants sought more clarity with respect to the grievance redress mechanism for FIs, and what to do if such mechanisms fail.</li> <li>• There was an inquiry about the role of third party monitoring for FIs.</li> <li>• Participants stated that the Bank needed to move forward on FIs; IFC is going to review FI policy aspects but the Bank should not wait for this.</li> <li>• The Bank should be assertive about its mandate to alleviate poverty and not harm communities; if Borrowers don't agree, they should not receive the funding for FIs.</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>• The importance of stakeholder engagement was highlighted by participants as being an essential pillar of safeguards. It was noted that it is the best way to identify risks and manage them.</li> <li>• Stakeholder consultation and information disclosure regarding changes in risk (resulting from changes in project or project circumstances) that trigger the adaptive management process should be addressed.</li> <li>• There was a suggestion for adopting self-selection of stakeholders.</li> <li>• CSOs asked for more participation in consultations.</li> <li>• Some participants indicated that the implementation of this standard would have budget implications on the Borrower which might lead to resisting implementation of engagement requirements.</li> <li>• Participants highlighted the importance of the Bank maintaining its Public Information Centers.</li> <li>• Some participants stated that ESS10 lacks details about the documents that require disclosure.</li> <li>• The importance of translation and the need for use of clear language in the disclosed documents were emphasized by the participants.</li> <li>• It was reiterated that the Bank should be in charge of the oversight and ensuring there is proper disclosure from the Borrower's side.</li> <li>• There was a request to extend this standard to other types of Bank lending and not limit it to Investment Project Financing.</li> <li>• The need to prepare consultations properly was also emphasized by participants.</li> </ul>

ESF	Issue	Items	Feedback
			<ul style="list-style-type: none"> <li>• There were questions about the size and means of consultations.</li> <li>• Participants asked the Bank to tighten the language under ESS10.</li> <li>• Language that emphasizes the importance of differentiating between groups labeled disadvantaged or vulnerable was welcomed.</li> <li>• Participants noted that special attention should be given to vulnerable and disadvantaged groups in stakeholder engagement. Moreover, and according to participants, project affected people should be the ones informing the Bank how stakeholder engagement should be done.</li> <li>• It was suggested, given the many concerns about stakeholder engagement with vulnerable and disadvantaged groups, that it might be helpful for the Bank to develop more detailed guidance to aid Borrowers on stakeholder engagement with these groups.</li> <li>• It was noted that the Borrower would need to establish proper procedures to avoid reprisal against complainants.</li> <li>• There is a big difference between consulting vulnerable and marginalized communities, and consulting communities that are criminalized because they possess certain characteristics (i.e., the LGBT community in some countries). Consultations of criminalized communities will likely have to take place outside of the country of origin. That will require additional resources and specialists.</li> <li>• Participants indicated that there should be a shift in the culture and that communities should be more involved.</li> <li>• There was a recommendation that the Bank include a clear requirement for stakeholder engagement during project implementation by ensuring a mechanism for local monitoring of implementation of project mitigation plans/programs, including the ESCP.</li> <li>• Within the objectives of the ESS10, the second bullet already has language for enabling stakeholders to be involved in the environmental and social performance of the projects. This should include a line clarifying the incorporation of a mechanism for formal local monitoring.</li> <li>• Similarly, paragraph 8 and paragraph 24 should add a line on local monitoring to allow stakeholder engagement during implementation.</li> </ul>

ESF	Issue	Items	Feedback
			<ul style="list-style-type: none"> <li>• The Stakeholder Engagement Plan should also include local monitoring as a way of direct engagement during implementation.</li> <li>• We also suggest the inclusion of an additional annex to ESS10 with minimal guidance on local monitoring mechanisms explaining that the scope for a local monitoring mechanism will be proportionate to the nature and scale of the potential risks and impacts of the project (similar to the annex for grievance mechanism).</li> <li>• The local monitoring mechanism should include the following: <ul style="list-style-type: none"> <li>• A structure that will allow organized stakeholders to perform monitoring activities of the implementation of the project mitigation programs and plans according to agreed-upon qualitative and/or quantitative indicators based on the different mitigation plans.</li> <li>• A mechanism that will allow the implementing agency and the Bank to receive, record and address monitoring reports from the local monitors.</li> <li>• Transparency about the monitoring procedures and governing structure of the mechanism.</li> </ul> </li> <li>• In this second draft, language that referenced age in a provision requiring the stakeholder engagement plan to remove obstacles to participation was removed. Due to the high barriers to participation that children face, and the need for specificity in the policy to ensure they are considered and included, we feel this represents a slight weakening of this policy from the child rights perspective.</li> <li>• Participants indicated that there is a need for detailed guidance on how to engage with youth and children.</li> <li>• Children. The World Bank’s draft Environmental and Social Framework (ESF) includes several promising new provisions that open the door to child participation in the new Information Disclosure and Stakeholder Engagement Policy, or ESS10. However, the requirements are broad and lack the detail and guidance necessary for their fulfillment.</li> <li>• The inclusion of provisions requiring consultation with children in the draft ESF are welcome additions to the World Bank safeguards suite, and subsequent ESF drafts must maintain and build upon those positive</li> </ul>

ESF	Issue	Items	Feedback
			<p>developments. Most importantly, the safeguards should continue to include requirements for including children in the stakeholder engagement process generally. Children must also be explicitly referenced in articulated definitions of the term “stakeholder” and Borrowers must be required to include children in stakeholder engagement efforts around all projects—not only those traditionally associated with “children’s issues” such as education and health.</p> <ul style="list-style-type: none"> <li>• In addition to these minimum requirements, detailed guidance for Borrowers must be provided by the Bank and referenced in the ESF so that the commitments in ESS10 can be meaningfully and effectively realized. Such guidance must enable Borrowers to overcome real and perceived barriers to child participation in all aspects of stakeholder engagement.</li> <li>• There are two key principles that should be adhered to when designing and planning a stakeholder engagement strategy that includes children: First, the inclusion of children in stakeholder engagement processes should be done in a way that is safe and ethical; and second, the inclusion of children must be done in a way that is meaningful and sustainable. Take into account the child’s best interests; adopt/update a child protection policy; obtain informed consent; address confidentiality; avoid manipulation.</li> <li>• Designing consultations that are meaningful and sustainable: broaden the scope of “children’s issues;” children should be consulted on all matters that affect their lives, not only on issues traditionally associated with children, such as education or health; it is always good practice to partner with local civil society in the identification and engagement of children in consultations; identify a broad range of child stakeholders; maintain transparency.</li> <li>• Practical guidance for carrying out children’s consultations. These suggestions, or variations thereof, should be incorporated into subsequent procedures produced by the Bank on ESS10 as guidance and suggested methodologies for carrying out binding policy: plan adequate time for preparation and notice for consultations with children; produce child friendly materials; choose effective facilitators; schedule an</li> </ul>

ESF	Issue	Items	Feedback
			<p>appropriate day and time; choose an accessible venue; explain the process; hold a preparatory workshop; choose appropriate activities to convey information and solicit opinions; explore difficult, distressing or dangerous issues with sensitivity; create a follow-up plan in advance; include the views of community members that have insight and interest in children.</p>
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 national law or where the Borrower has technical or financial constraints and/or in view of project specific circumstances</p>	<ul style="list-style-type: none"> <li>• Occupational Health and Safety Guidelines: participants asked what mechanism would be used to apply these guidelines and in what explicit cases in the ESF reporting would be required.</li> <li>• Recommendation to clarify that EHSGs, where available, are intended to be the default standard not just one option among others.</li> <li>• Independent expert reviews should be conducted on proposals to use a standard less protective than EHSG.</li> <li>• Recommendation to provide for use of the more protective of good international industry practice (GIIP) or good regional industry practice (GRIP), given that regional practice can be highly variable.</li> <li>• With respect to ESS 3 Paragraph 13 and Paragraph 14 references to considering “assimilative capacity”, clarification is needed that such provisions regarding locating or relocating facilities in areas that are not yet degraded to levels that impact human health do not also waive pollution control requirements.</li> <li>• With respect to ESS 3 Paragraph 9, supplement the reference to water use with other dimensions of sound water management such as water quality and water access.</li> </ul>
	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>	<ul style="list-style-type: none"> <li>• More details on the budget for implementation are needed. Participants asked when such details would be available. It was noted that the Board has a working group on implementation, but it is not clear that this is available even to those members.</li> </ul>

ESF	Issue	Items	Feedback
		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	<ul style="list-style-type: none"> <li>• Some Borrowers have low capacity, and the World Bank will need to clarify whether there is enough budget and resources for capacity building.</li> <li>• See comments about capacity building above (in the section on use of Borrower frameworks).</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>• Participants asked whether disclosure of monitoring reports would be mandatory and encouraged the Bank to require disclosure of monitoring reports. Disclosure in this case is essential to verify the accuracy of those reports.</li> <li>• The importance of disclosure was highlighted by participants, since it is an essential tool to verify Borrower information. Participants focused on the need for stakeholder consultations.</li> <li>• Disclosure upfront is essential. It should also cover subprojects and associated facilities.</li> <li>• There was a question about the disclosure requirements particularly pertaining to monitoring reports.</li> <li>• There was a question on how disclosure of the ESIA differs from disclosure of client monitoring reports in terms of those being the property of the client.</li> <li>• The importance of disclosure prior to appraisal was emphasized by participants. Instruments should be disclosed before Board approval.</li> <li>• Participants mentioned that the disclosure of project documents need to happen upfront and that any possible impacts have to be included in those documents. Participants underscored that risks need to be made public as early as possible.</li> </ul>

ESF	Issue	Items	Feedback
			<ul style="list-style-type: none"> <li>• Key safeguards instruments such as ESIAAs, ESCPs, IPPs, RAPs, IPPFs, Resettlement Frameworks, and ESMPs need to be completed prior to project appraisal, in order for the Bank and Board to be able to assess the risks of projects they are asked to approve. Commitment in ESCP to prepare them is not good enough. It is critical that existing disclosure requirements for many of these documents not be weakened.</li> <li>• Transparency and disclosure are needed before appraisal.</li> <li>• Project changes and monitoring reports: Ongoing disclosure is needed, especially with respect to proposed changes in ESCPs resulting from the ESF’s adaptive risk management approach.</li> <li>• The Bank should clarify what is meant by early disclosure of documents – early in relation to what? Will there be a disclosure schedule?</li> <li>• Some participants recommended clear, time-bound disclosure requirements for framework and financial intermediary subprojects, as due diligence documents for these subprojects are often prepared after Board approval.</li> <li>• Some participants urged disclosure to people affected by financial intermediary subprojects of the World Bank’s financing role.</li> <li>• Some participants raised the question of disclosure of risk classifications and changes in risk classifications.</li> <li>• Disclosure of key documents: Lack of time-bound requirements works against the Bank’s goal of increased stakeholder engagement and greater accountability. More clarity is needed on how the Bank will ensure greater accountability, as at this point, discussion on this should not be in the abstract.</li> <li>• Participants expressed considerable concern that disclosure will not occur if the ESF is not clear on this basic issue.</li> </ul>
	Implementation of the ESF	51. Bank internal capacity building, resourcing, and behavioral change in order to successfully implement the ESF	<ul style="list-style-type: none"> <li>• Participants urged the Bank to development guidance on how to monitor safeguards compliance.</li> <li>• The Bank needs to work harder at increasing the Borrower’s capacity to ensure that safeguards standards are kept.</li> <li>• A question was asked about who would be in charge of third party monitoring and the supervision of resources.</li> </ul>

ESF	Issue	Items	Feedback
		52. Ways of reaching mutual understanding between Borrower and Bank on issues of difficult interpretation	<ul style="list-style-type: none"> <li>Resources and implementation: For the Bank's proposed approach to be effective, it needs to be well staffed and well resourced. Concern remains about the current budget. The Board needs to see baselines for current budget and staff, and to understand how budgets and staffing will be augmented to meet the requirements of the existing safeguards, as well as the new issues and increased implementation requirements of the proposed ESF.</li> </ul>
Other issues			<ul style="list-style-type: none"> <li>Participants inquired whether safeguards are the responsibility of task team leaders or environmental and social specialists.</li> <li>The issue of lack of environmental baseline data in certain projects was raised, particularly in biodiversity projects.</li> <li>The scope of the ESF covers only investment lending, but participants advocated the potential applicability to PforR, DPL and in all other Bank activities and instruments.</li> <li>Accountability and grievance redress mechanisms are critical to the ESF, and the inclusion of a project-level agreement and redress mechanism in ESS10 was welcomed.</li> <li>The Bank was urged to look into and use the IFC's Good Practice Note on grievance mechanisms.</li> <li>The Bank was urged to include project affected people in the design and implementation of grievance mechanisms as much as possible.</li> <li>The aspiration of the Bank to have a GRS in place was welcomed, and the Bank was urged to further elaborate its objective and functioning.</li> <li>The idea of an additional consultation between the Inspection Panel and CSOs received support.</li> <li>The Inspection Panel should be able to have oversight and monitoring over the entire project as well as compliance with the standards.</li> <li>CSOs do not have clarity on how the Borrower's grievance mechanism frameworks will be assessed. If CSOs do not understand this, project affected people will not be able to either.</li> <li>Project level GRM: there were concerns about how this will work, what the minimum guidelines are and what the budget will be.</li> </ul>

ESF	Issue	Items	Feedback
			<ul style="list-style-type: none"> <li>• It is important to ensure that project affected people have direct access to the Inspection Panel. Especially because of the inherent conflict between the Borrower's role to implement policies and at the same time monitor noncompliance.</li> <li>• There should be language in the ESF that mandates that project affected people are made aware about the Inspection Panel and other grievance redress mechanisms (e.g., GRS, project-level grievance mechanism). Notifying communities of the existence of the Inspection Panel should be a requirement.</li> <li>• Clarification was sought on sequencing and whether communities can go directly to the Inspection Panel without going through prior instances.</li> <li>• Clarity is needed in ESS10 to ensure that it does not insinuate that there is sequencing in terms of the redress mechanisms available to people.</li> <li>• Some participants suggested that text in ESP paragraph 58 be changed to eliminate the suggestion of new requirements to access the Inspection Panel.</li> <li>• Third party monitoring responsibilities should be extended to the Inspection Panel. They should do this throughout the lifecycle of the project.</li> <li>• A question was asked about whether grievance mechanisms would be restructured in cases where projects are restructured and their risk-ratings change.</li> <li>• There was support for well-functioning project-level grievance mechanisms. The Bank should take into account certain pitfalls: lack of independence and trust; inappropriate use of mechanisms in the resolution of severe grievances such as resettlement and human rights abuses; the need for a mechanism to deal with reprisals.</li> <li>• Clarification was sought on the difference between the GRS and grievance redress mechanisms.</li> <li>• The Bank was asked how it would guarantee that additional flexibility does not decrease accountability.</li> </ul>

ESF	Issue	Items	Feedback
			<ul style="list-style-type: none"> <li>• Clarification was sought on the scope of the term “due diligence” and the extent of any to which the Bank’s supervision role implied responsibility for actual outcomes.</li> <li>• There is structural, systemic dilution of the Bank’s safeguards. This is because the Bank is moving from joint compliance responsibility between the Bank and the Borrower, to a clear responsibility on behalf of the Borrower, covered by only a thin veil of Bank supervision.</li> <li>• The potential for non-compliance, especially within the ESF’s flexible structure, makes safeguards and the designation of responsibilities extremely important.</li> <li>• Clarity is needed on who has jurisdiction over grievance redress if a project is non-compliant in terms of monitoring.</li> <li>• The ESF policy and procedures need to be very clear about the responsibilities of the Bank as well as the Borrower in order for the Inspection Panel to be able to assess whether or not the Bank is compliant with its responsibilities.</li> <li>• Language in the ESF that uses “may” instead of “will” in certain instances and that says the Bank has the “right” or “discretion” to act make it difficult for the Bank to be held accountable and should be changed.</li> <li>• There should be an ongoing review of compliance throughout the project life cycle, specifically through the Inspection Panel.</li> <li>• There remains a lack of oversight, independent auditing, and protections for project-affected communities.</li> <li>• The Bank should be mindful of mechanisms that in practice can actually block people’s access to having their grievances addressed. Project-affected communities need access to effective redress mechanisms at the local level.</li> <li>• Ensuring compliance with procedures is important in order to ensure good outcomes, not just for its own sake. Lack of responsibility on the part of the Bank in terms of ensuring compliance would represent a dilution of the Bank’s standards.</li> </ul>

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			<ul style="list-style-type: none"> <li>• World Bank performance: Lessons from bad performance are not reflected well enough in the ESF.</li> <li>• There is a disconnect between the World Bank and external experts. Knowledge sharing is not systematically done.</li> <li>• Not all phase 3 consultations were effective/best practice (e.g., inability of some CSOs to participate).</li> <li>• Case studies were really rich, substantive, and helpful to the discussion.</li> <li>• International norms/best practice: the Bank needs to harmonize with international best practices (e.g., FPIC, ILO standards, Paris agreement including on accounting for GHG emissions, etc.).</li> <li>• The Bank’s responsibilities are still not clear, thus creating the potential for both Bank staff and Borrowers not to meet their obligations.</li> <li>• The Bank’s ESF policy and procedures should be developed using a lens of inclusivity.</li> <li>• The term safeguards is not found throughout the 130 pages of the ESF.</li> <li>• The World Bank safeguards team should take a stance on ensuring the Bank is a responsible leader on environmental and social standards.</li> <li>• Serious progress was made during the course of this consultation. But clarity remains needed for the following issues:</li> <li>• Responsibilities of the Bank vs. the Borrower (more discussion needed on language used)</li> <li>• Disclosure: Timing of key documents (ESIA, RAP, IP plan, ESCP)</li> <li>• Borrower frameworks: The Bank should emphasize consistency rather than equivalence with ESF requirements.</li> <li>• Budget and resources: It would be helpful to know: the current budget for safeguards; the Bank’s budget plans under the proposed ESF; the budget needed for Borrowers under proposed ESF.</li> <li>• The World Bank should align with highest international standards with respect to preventing negative impacts of development projects on children. Yet, the current draft ESS 1 is not as strong as the Japan Bank for International Cooperation’s Guidelines, which require—in the text of the binding policy—appropriate consideration be given to “vulnerable social groups such as women, children, the elderly, the poor, and ethnic</li> </ul>

ESF	Issue	Items	Feedback
			<p>minorities, all of whom are susceptible to environmental and social impact and who may have little access to the decision-making process within society.”</p> <ul style="list-style-type: none"> <li>• Minimum requirements for quality child impact assessments. While full details regarding how to carry out a quality assessment of impacts on children as part of an environmental and social impact assessment may be contained in procedures or guidance notes developed at a later point, it is important that the binding ESS1 policy contain additional details regarding the basic elements of such an assessment. Namely, the policy should address the types of impacts on children that an assessment should look at, as well as the need for assessments to look at differing impacts on certain groups of children, including, but not limited to, those separated from their families and communities as referenced in the draft policy.</li> <li>• It is crucial that the World Bank require all assessments to look at both the direct and indirect impacts of projects on children and should include: education, labor, health and violence, among others.</li> <li>• Differentiated impacts. A child impact assessment must avoid the tendency to treat all children as a single group and instead must examine the ways in which different groups of children are likely to be differentially, or disproportionately, impacted by a project. ESS1 must require Borrowers, for all projects, to look at differentiated impacts on children by gender and age as well as potential differing or more severe impacts for child-headed households and particularly vulnerable children.</li> <li>• It is of critical importance that the Bank require, through its environmental and social safeguards, all Borrowers to assess the potential impacts of any Bank-financed project on children. The Bank must provide sufficient guidance to the Borrower, in binding policy, to ensure that the Borrower will do so. A failure to include such requirements will lead to a continuation of the present situation, one where Bank projects are responsible for harm to children that can have negative consequences that last a lifetime and further impoverish communities.</li> <li>• The richness of discussion throughout the consultation is appreciated.</li> <li>• The safeguards review has shown the value of multilateralism.</li> </ul>

ESF	Issue	Items	Feedback
			<ul style="list-style-type: none"><li>• While the safeguards review process has been a bumpy journey, there is a shared focus and set of goals and aspirations that have guided the efforts toward a strong ESF.</li></ul>