

'Effective Implementation: the Key to Safeguard Reform'

The World Bank Safeguard Review and Update cannot be successful without explicitly ensuring that implementation is a central concern at every stage of policy review and expressly addressed in any new proposed outcome safeguard approach

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Executive Summary

Issues and Needs at a Glance

- * Safeguard policies are often applied ineffectively, incompletely or disregarded altogether. Serious problems with implementation have repeated themselves since safeguards were first adopted by the Bank.
- * Staff incentives do not promote the comprehensive application of safeguard policies and indeed can act against effective use of these policies
- * Bank allocation of staffing and financial resources does not match the current or projected need for safeguard expertise or budgeting requirements for safeguard implementation and no plans to change this are apparent
- * Monitoring and evaluation systems used by the Bank are not up to the task of appropriately ensuring safeguard standards are met, with only *half* of projects relying on social and environmental policy frameworks assessed as adequately supervised
- * Internal Bank assessment of key social and environmental safeguard standards (such as broad community support) is unable to be independently verified when reviewed
- * Bank disclosure of documents, reports, evaluations and analysis committed to as part of the Management Response to the IEG evaluation of safeguards has been extremely limited despite repeated civil society requests, particularly problematic now as such reports are a vital element in any effective reform of the safeguard system
- * Safeguard policies rely heavily on the ability of recipient countries governments to implement the safeguard requirements, yet these governments often lack the capacity to thoroughly fulfill that task

Recommendations at a Glance

- * Documents, reports and reviews authored by the Bank and with direct relevance to the safeguard update and review must be disclosed during the consultation period, including documents related to the Bank Management commitments in response to the IEG evaluation of safeguards (2010)
- * The current safeguard policy review and update process must be expanded to incorporate assessment and consultation on the wider system of procedures and processes which impact on the ability of the Bank to implement existing (and proposed) safeguard standards, leading to a specific and dedicated section on implementation plan being included in the design of the new integrated safeguard system
- * A comprehensive review of staff incentives is needed, in tandem with the review of safeguard policy content
- * Appropriate resourcing plans and budgeting requirements need to be built in to the new architecture of the proposed future safeguard policy approach
- * Social and environmental safeguard planning should regularly occur, including assessment of and allocation of resources for staff hires, staff training and allocation of staff hours according to projected safeguard needs
- * Agile and effective complaints and grievance mechanisms need to be established early in the project cycle to enable rapid correction of implementation flaws, including inadequate screening, inaccurate social and environmental risk assessments and non-application of key policies
- * Review and reform monitoring and evaluation systems, including third party verification for key social standards

I. Intro and Needs Analysis

Experience both internal and external to the Bank over the past decades has revealed a huge range of implementation challenges that face the Bank in implementing the existing system of safeguards. These flaws in implementation have been observed since evaluations began in the 1980s¹, throughout the 1990s², in recent specific sector reviews across the decades³, in Independent Evaluation Group reports in 2010⁴ and 2013⁵, in numerous internal Bank reviews⁶, in Inspection Panel and Compliance Advisor Ombudsman findings as well as in countless civil society reports. These challenges will only be heightened by the adoption of a revised set of safeguards unless they are explicitly acknowledged and responded to in the formation of this new system. In this paper and more widely, we refer to 'implementation' as the use of safeguards and the attendant social and environmental risk assessment and management processes at every stage of Bank work. Implementation of safeguards in this paper therefore refers to the earliest stages of risk assessment, including country assistance strategy analytics, and continuing until long-term impacts have been evaluated.

Staff incentives to implement safeguards are simply insufficient. As a Bank-authored background paper argues "deficiencies in environmental safeguards specialists' staffing levels and skills mix are also created by the disincentives to pursuing safeguards work as a career path at the Bank."⁷ A 1992 report appropriately titled 'Effective Implementation: Key to Development' noted serious staff incentive problems: "a number of current staffing practices – with respect to career development, feedback to staff and signals from managers – mitigate against increased attention to project performance management".⁸ The most recent (2011) comprehensive review into safeguard implementation at the Bank found similarly that "staff promotions are slanted towards own-managed projects more than toward providing safeguard services."⁹ Although action has happened on staff incentives, prompted by the 1992 report as well as other internal reviews, more needs to happen as staff decisions to downplay or ignore safeguards continue to occur in World Bank and in IFC projects.¹⁰

Staff incentives and the decisions made by staff to downplay, under use or ignore safeguard implementation leads to a related concern. The Inspection Panel and Compliance Advisor Ombudsman have been very useful and active in identifying where staff members have misapplied or not implemented safeguards (at least in those projects for which complaints are

¹ World Bank (1987) *Tribal Peoples and Economic Development: a five year implementation review of OMS 2.34 (192-196)*, Office of Environmental and Scientific Affairs, World Bank, Washington DC.

² World Bank (1992) *Effective Implementation: Key to Development Impact*, Portfolio Management Task Force, World Bank, Washington DC.

³ Independent Evaluation Group (2013), *Managing Forest Resources for Sustainable Development: An Evaluation of World Bank Group Experience*, Washington DC

⁴ Independent Evaluation Group, (2010) *Safeguards and Sustainability Policies in a Changing World: An Independent Evaluation of World Bank Group Experience*, Washington DC

⁵ Independent Evaluation Group (2013), *Managing Forest Resources for Sustainable Development: An Evaluation of World Bank Group Experience*, Washington DC

⁶ Including most recently the OPCS Working Paper, *Implementation of the World Bank's Indigenous Peoples Policy: A Learning Review (FY 2006-2008)*, August 2011

⁷ Sanchez-Triana, Ernesto, Leonard Ortolano, Giovanni Ruta, Ghazal Dezfuli, Rahul Kanakia, (March 2011) "Implementation of Environmental Policies," World Bank 2010 Environment Strategy Background paper (unpublished manuscript).

⁸ World Bank (1992) *Effective Implementation: Key to Development Impact*, Portfolio Management Task Force, World Bank, Washington DC. (ii)

⁹ Independent Evaluation Group, (2010) *Safeguards and Sustainability Policies in a Changing World: An Independent Evaluation of World Bank Group Experience*, Washington DC, 36.

¹⁰ Notable in IFC projects was the decision to extend financing to the Wilmar Group, a decision that the CAO later described thus: "Because commercial pressures dominated IFC's assessment process, the result was that environmental and social due diligence reviews *did not occur as required*." CAO Audit of IFC, C-I-R6-Y08-FO96, p. 2 emphasis added. (June 19, 2009)

registered). However neither entity has the authority to sanction or discipline individual staff members for failures to implement safeguard policies. Given their independent mandates, this is perhaps appropriate; however internal Bank processes do not appear adequate to ensuring that serious failures in safeguard implementation result in staff sanctions.

The skill mix and staff training required to ensure that a sufficient level of knowledge about wider social and environmental concerns is insufficient. The Bank's own evaluations have found that "[t]he current level of staffing is not adequate to meet the increased demand for safeguards work."¹¹ Staff are not effectively allocated and often do not have the right skill mix for the safeguard tasks they are assigned.¹² These are not isolated examples, but consistent lessons emerging not only from Bank reviews and IEG evaluations, but also from the reports and findings of the Bank's independent Inspection Panel.

The required resources for effective implementation are often lacking. As the Environmental Strategy paper notes "existing budgetary arrangements ... lead to low levels of staffing during project supervision. Budgets for supervision are not sufficient to adequately meet safeguards support needs, which in turn inhibits the ability of the Bank to effectively target resources toward projects with relatively high environmental and social risk".¹³ The IEG highlighted this point numerous times in its evaluation of the existing safeguard system, noting also that Category B projects often fail to get sufficient supervision as constrained budgets are directed to the most high risk projects.¹⁴

Safeguard policies continue to be triggered in only a fraction of the projects to which they should be applied. The internal Learning Review of the Indigenous Peoples Policy published in 2011 failed to analyze whether the policy was triggered appropriately, although it did note that there is "some evidence to suggest better screening is necessary."¹⁵ Findings from the Inspection Panel have noted that at times risk assessments are simply not performed, or performed insufficiently, leading to high risk of significant harm. When triggered, policies are consistently applied at a lower standard than they should be. There are two issues at stake here. One is the categorization of projects, and the array of projects that have not been categorized appropriately. In one infamous example, the Transitional Support for Economic Recovery Credit Operation (TSERO)

¹¹ Sanchez-Triana, Ernesto, Leonard Ortolano, Giovanni Ruta, Ghazal Dezfuli, Rahul Kanakia, (March 2011) "Implementation of Environmental Policies," World Bank 2010 Environment Strategy Background paper (unpublished manuscript). This report continues: "Results from this analytic work found that, under the best scenario, the Bank-wide supply of safeguards operational support is around 3,000 staff weeks. Data collected during the course of this analytic work reveal that the total requirement for providing the minimum necessary safeguards operational support for the current portfolio would necessitate almost tripling the supply of staff time."

¹² From the same report: "Staff members interviewed consistently said that safeguards experts were generally selected on the basis of availability. When asked to clarify this point, interviewees explained that due to the perpetual shortage of environmental specialists, they drew on specialists in environmental units primarily for high-risk projects. If no environmental specialists were available, they would draw supplemental staff from a roster of consultants who would be mentored or backed up by a Bank staff member while performing safeguards tasks. Interviewees noted the absence of a structured approach for selecting relevant safeguard specialists (either Bank staff or consultants) when shortages existed in a region. As one interviewee put it, staff selection was done on an ad hoc basis."

¹³ Cited in Sanchez-Triana, Ernesto, Leonard Ortolano, Giovanni Ruta, Ghazal Dezfuli, Rahul Kanakia, (March 2011) "Implementation of Environmental Policies," World Bank 2010 Environment Strategy Background paper (unpublished manuscript). See also Whitford, P. and K. Mathur. 2008. *The Effectiveness of World Bank Support for Community-Based and -Driven Development*. Safeguard Policy Review. IEG Background Paper. Washington DC: IEG.

¹⁴ "The Bank's projects' budget does not include adequate funding for regular supervision of category B projects by environmental safeguards specialists." World Bank LCR. 2006. *Lessons from the Field. A Thematic Review of Safeguard Policy Implementation in Rural and Urban Water Supply and Sanitation, Community Driven Development, Biodiversity Conservation, Land Administration, Roads, and Health Sector Projects in Latin America and the Caribbean*. Unpublished Report. Washington, DC: World Bank.

¹⁵ OPCS Working Paper, Implementation of the World Bank's Indigenous Peoples Policy: A Learning Review (FY 2006-2008), August 2011 (p. 14, 15)

loan in the Democratic Republic of Congo (DRC), the Inspection Panel found that “there was a failure during project design to carry out the necessary initial screening to identify risks and trigger the safeguard policies so that crucial steps would be taken to address needs of the Pygmy peoples and other local people.”¹⁶

The second issue is that even where policies are triggered, their requirements are not followed or are imperfectly applied. Here we can turn to the Learning Review of OP4.10 once more. The Learning Review found that for projects triggering OP4.10 in the period under review, in projects which could possibly impact on rights to lands, water or other natural resources (34 in the total 59), only 8 addressed the issue adequately – less than a ¼ of the total. The review also found that for projects involving the commercial development of the lands and resources (natural or cultural) under the ownership of indigenous peoples, in nearly 1/3 of all these projects “this issue was not mentioned”.¹⁷ These findings add to the findings of the Inspection Panel in its 15-year review of its operations where it drew attention to failings in consultations conducted by Bank clients and noted that its investigations have “revealed noncompliance in application of the Bank’s Policy on Indigenous Peoples ... a significant issue has been shortcomings in consultations with the affected populations, and in particular, failure to adequately account for local structures of representation.”¹⁸ All this points to a system in which existing policy standards are inexpertly applied, often causing real risks to the peoples and environments to whom the project poses threats, or in which the projects are sited.

Clearly there is an urgent need for strengthened monitoring and evaluation systems. This was in fact the central finding of the IEG comprehensive review into World Bank Group safeguard and sustainability policies: “many projects with substantial environmental and social impacts remain of concern primarily because of inadequate supervision and follow-up. Policy implementation must be improved to get better results going forward.”¹⁹ As described by the IEG, these weaknesses are rooted in a “lack of specificity of monitoring indicators, underinvestment in a client’s monitoring capacity, and poor follow-up during supervision.”²⁰ Sector reviews have also noted a similar problem: “The monitoring and reporting systems of the World Bank forest sector operations are inadequate to verify whether its operations are supporting forest management in an environmentally and socially sustainable way.”²¹

The Bank is increasingly offering financing in loan instruments that do not require social and environmental impact assessments and plans, but rather rely on assessment of a social and environmental policy framework. These projects now make up about 1/3 of Bank lending, and supervision was assessed as satisfactory in only *half* of the projects relying on policy frameworks.²² As the IEG notes: “This is having the perverse effect of leaving the effects of safeguards unsupervised in a large number of projects”.²³ The use of social and environmental

¹⁶ Inspection Panel, Investigation Report, Democratic Republic of Congo, Report No. 40746-ZR (Aug. 2007), p. xvi

¹⁷ OPCS Working Paper, Implementation of the World Bank’s Indigenous Peoples Policy: A Learning Review (FY 2006-2008), August 2011 (emphasis added, page 26)

¹⁸ Inspection Panel at 15 Years, p. 72.

¹⁹ IEG (2011), *Evaluative Directions for the World Bank’s Safeguards and Sustainability Policies*, World Bank, Washington DC: p. 1

²⁰ Independent Evaluation Group, (2010) *Safeguards and Sustainability Policies in a Changing World: An Independent Evaluation of World Bank Group Experience*, Washington DC, 7

²¹ Independent Evaluation Group (2013), *Managing Forest Resources for Sustainable Development: An Evaluation of World Bank Group Experience*, Washington DC

²² IEG (2011), *Evaluative Directions for the World Bank’s Safeguards and Sustainability Policies*, World Bank, Washington DC: p. 6

²³ IEG (2011), *Evaluative Directions for the World Bank’s Safeguards and Sustainability Policies*, World Bank, Washington DC: p. 6

policy frameworks needs to be included in the safeguard update and review as an implementation concern.

Further to this, not all Bank financing is included in this safeguard update and review. Specifically, the Bank has excluded development policy loans (DPLs) which are intended to support “a country’s economic and sectoral policies and institutions.” DPLs are distinct from the Bank’s project-based lending, which is subject to the full suite of safeguard policies, as they are usually disbursed rapidly, in a single tranche.²⁴ Although there is a policy applicable to DPLs, OP 8.60, they are considered to be separate from the safeguard policy framework. OP 8.60 requires only an assessment of the likelihood of poverty and social impacts or significant environmental effects and “the borrower’s systems for reducing adverse effects and enhancing positive effects”.²⁵ It does not require the application of the Bank’s own suite of safeguards. In 2012 the Board approved a new loan instrument, Program for Results (P4R) which is likewise held to different (and minimal) environmental and social risk assessment standards.²⁶ Again the Bank has instituted a loan instrument which reduces supervision of environmental and social risk instead of improving the critically ineffective system in place for investment lending or spending time assessing options for improving supervision across the board. If the Bank is to develop a comprehensive approach to assessing the social and environmental risks of a given activity, such an approach should be consistent throughout the Bank, in all financing instruments.²⁷

Monitoring and evaluation problems emerge in part from inadequate supervision and a lack of appropriate indicators as the IEG notes. They also emerge from a lack of third party verification of both risks faced and impacts felt. This was assessed most clearly in relation to IFC processes where oversight responsibility is held primarily by borrowers, but was also a concern for IDA/IBRD projects.²⁸ The result of this lack of third party verification can be seen in the implementation of OP4.10 for indigenous peoples, where projects reviewed revealed that while high scores were achieved in a number of projects for the quality of the consultation process, these scores were unmatched by good scores for the existence of broad community support (BCS). Broad community support is assessed by Bank staff as being present, yet, in the projects reviewed which triggered OP4.10 BCS was able to be confirmed in NONE of the projects for which planning documents were available.²⁹

II. Necessary disclosures

In order for an effective and wide-ranging discussion to occur in the safeguard update and review process, there is a need for the Bank to be more forthcoming and transparent with some of the key documents dealing with lessons learnt from past implementation difficulties. As a preliminary step, the IEG Evaluation ‘Safeguards and Sustainability Policy in a Changing World’ from 2010 should be translated into some of the key languages used in borrower countries. This evaluation

²⁴ See Nancy Alexander, “Fostering Impunity or Accountability: Sweeping Changes at the World Bank-IDA,” (2010).

²⁵ World Bank Operational Policy 8.60: Development Policy Loans, paragraphs 10,11

²⁶ For a fuller discussion of concerns about the P4R process and the lack of application of safeguard policies, please see <http://www.forestpeoples.org/topics/world-bank/news/2011/12/world-bank-controversial-programming-results-p4r-proposal-raises-alar>

²⁷ For a fuller discussion of the need to include Development Policy Loans in the safeguard review and update please see the Bank Information Center and Global Witness primer ‘World Bank Safeguards & Development Policy Lending: A Primer on Why DPLs Should be Part of the Safeguard Review’, April 2013: <http://www.forestpeoples.org/sites/fpp/files/publication/2013/04/dpl-primer-april2013.pdf>

²⁸ IEG (2011), *Evaluative Directions for the World Bank’s Safeguards and Sustainability Policies*, World Bank, Washington DC: p. 1

²⁹ OPCS Working Paper, *Implementation of the World Bank’s Indigenous Peoples Policy: A Learning Review (FY 2006-2008)*, August 2011 (p. 23)

must be considered one of the primary source documents for the current safeguard update and review and provided in a more accessible form. Spanish, French, Indonesian and Portuguese versions should be produced and linked to the safeguard website.

As part of the Bank's response to this evaluation, Bank Management committed to a range of actions which have direct and pertinent bearing on the current safeguard update and review. A major part of this commitment was to conduct a 24 month review of global safeguard best practice, which has been the subject of an Access to Information request but has not been made publicly available.³⁰ This review would provide valuable evidence on which to base further discussions within the Bank and between the Bank and civil society and indigenous peoples on measures that are necessary to dramatically improve the Bank record on implementation of safeguards and how to structure a new integrated safeguard system so as to avoid some of the problems of the past. Management also committed in the same response to undertaking a review concerning current practices with respect to responsibility, accountability, incentives, staffing, and budgeting for safeguard processing and supervision. Documentation related to this work has also been formally requested but has not yet been provided by the Bank.³¹

Given the high importance placed on improving monitoring and evaluation in Bank practice by the IEG evaluation cited above, it is also important that the Bank share the guidance it is developing on monitoring and evaluating safeguard performance.³² Similarly an internal review on environmental risk categorization and the consistency (or otherwise) of Bank staff approaches to this has not been provided despite formal request.³³ Finally, and critically given the findings of the IEG regarding the use of social and environmental frameworks, the Bank also committed to Bank-wide review of the use of frameworks, examination of a variety of means to strengthen monitoring of such projects including, in appropriate situations, the use of third-party or community monitoring for selected projects.

All these documents form a valuable and indeed critical source of evidence which can contribute significantly to improving the consultations, discussions and debates about the current safeguard review and update process. We request that each of these be provided to civil society and indigenous peoples prior to the beginning of Phase II of consultation to ensure that it is possible to effectively and directly address implementation challenges in the updating of the Bank's approach to safeguards.

III. Required Reforms

Recommendations provided here are intended to give an indicative scope of what should be raised, discussed and consulted on in the safeguard review and reform process. They are not intended to be a comprehensive list, nor are they representative of all the proposals that civil society and indigenous peoples' organizations have to make to this process.

The areas in which significant reforms are necessary, and proposed approaches to such reforms, are:

1. Any new proposed integrated safeguard system must include a dedicated section on implementation and compliance. This section should contain, among other items, details

³⁰ Case Number AI2373 Request to World Bank Access to Information System on Nov. 28, 2012

³¹ Case Number AI2377 Request to World Bank Access to Information System on Nov. 28, 2012

³² Case Number AI2376 Request to World Bank Access to Information System on Nov. 28, 2012

³³ Case Number AI2375 Request to World Bank Access to Information System on Nov. 28, 2012

on resource allocation specific to the roll-out of the new system, new mechanisms or procedures to improve supervision of projects, mechanisms to improve compliance, both staff-level and at higher levels, and other reforms discussed below.

2. Agile corrective and remedial mechanisms need to be built into the integrated safeguard implementation process whereby affected individuals, communities and peoples can access project staff and remedial measures for harm caused and prevent additional harms. Such mechanisms must be established early in the project formulation to ensure that categorization and policy triggers in the screening phase can be appealed where necessary.
3. Open and transparent review and reform of staff incentives, including staffing rules and regulations for sanctions or discipline for failures to apply and implement safeguards effectively. This needs to include a review of the management of budgets related to the implementation of safeguards, placing the authority to allocate such resources in the hands of staff incentivized to push for strong safeguard outcomes and not simply resource efficiency.
4. Procedures for triggering policies and accurately screening for risk need to be reviewed as part of the safeguard update and review process and upgraded to be fit for purpose. Certain 'red flag' sectors (agribusiness expansion, large scale hydropower development, perhaps others) could be assigned Category A as a default, unless a case can be made for downgrading the rating.
5. Establish a significantly improved monitoring and evaluation system, designed to the specific supervision needs of all Bank lending instruments, including Development Policy Loans and Program for Results lending. Include independent third party verification procedures for key social standards, including free, prior and informed consent and for resettlement planning.
6. Review of the resource implications of the proposed integrated safeguard system must form part of the safeguard review and update. Resource implications should be publicly consulted and clear commitments to budgetary and other resource allocations should form part of the final integrated safeguard system as approved by the Board. Sufficient budgetary resources must be committed to the roll out of a new safeguard system and its ongoing implementation, a commitment that should form part of the Board approved revised safeguard system. An analysis of resource implications should consider the cost of building the capacity of recipient country governments to enable effective safeguard implementation.
7. Review of how safeguard planning takes place. National, regional and sectoral assessments of safeguard implementation needs (a 'safeguard business plan') should be established on a regular basis, assessing and allocating the required resources for staff hires, for staff training, for allocation of required staff hours to projected project needs and to provide a planning framework for essential thematic reviews and analytical work.