

**This document should be read in conjunction with the proposed World Bank Policy to understand the proposed responsibilities of the World Bank (in the Policy) and the Borrowing Country (in the Standards).**

## ***SECOND DRAFT FOR CONSULTATION JULY 1 2015***

# **Environmental and Social Standard 8. Cultural Heritage**

## **Introduction**

1. ESS 8 recognizes that cultural heritage provides continuity in tangible and non-tangible forms between the past, present and future. People identify with cultural heritage as a reflection and expression of their constantly evolving values, beliefs, knowledge and traditions. Cultural heritage, in its many manifestations, is important as a source of valuable scientific and historical information, as an economic and social asset for development, and as an integral part of people's cultural identity and practice. ESS 8 aims to ensure that the Borrower protects cultural heritage throughout the project life-cycle.

2. This ESS sets out general provisions on risks and impacts to cultural heritage from project activities. ESS 7 sets out additional requirements for cultural heritage in the context of Indigenous Peoples. ESS 6 recognizes the social and cultural values of biodiversity. Provisions on Stakeholder Engagement and Information Disclosure are set out in ESS 10.

## **Objectives**

- To protect cultural heritage from the adverse impacts of project activities and support its preservation.
- To address cultural heritage as an integral aspect of sustainable development.
- To promote the equitable sharing of benefits from the use of cultural heritage.

## **Scope of Application**

3. The applicability of this ESS is established during the environmental and social assessment described in ESS1.

4. The term 'cultural heritage' encompasses tangible and intangible heritage, which may be recognized and valued at a local, regional, national or global level, as follows:

- Tangible cultural heritage, which includes movable or immovable objects, sites, structures, groups of structures, and natural features and landscapes that have archaeological, paleontological, historical, architectural, religious, aesthetic, or other cultural significance. Tangible cultural heritage may be located in urban or rural settings, and may be above or below land or under the water;
- Intangible cultural heritage, which includes practices, representations, expressions, knowledge, skills events or living traditions, ideas, beliefs, artistic and literary works.

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5. Based on the environmental and social assessment, the requirements of this ESS 8 will apply to all projects that are likely to have risks or impacts on cultural heritage. This will include a project which:
- (a) Involves excavations, demolition, movement of earth, flooding or other changes in the physical environment;
  - (b) Is located within a legally protected area or a legally defined buffer zone;
  - (c) Is located in, or in the vicinity of, a recognized cultural heritage site; or
  - (d) Is specifically designed to support the conservation, management and use of cultural heritage.
6. The requirements of ESS 8 apply to cultural heritage regardless of whether or not it has been legally protected or previously identified or disturbed.
7. The requirements of ESS 8 apply to intangible heritage only in so far as it relates to a physical component of a project.

### **Requirements**

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#### **A. General**

8. The environmental and social assessment, as set out in ESS1, will consider direct, indirect and cumulative project-specific risks and impacts on cultural heritage. Through the environmental and social assessment, the Borrower will determine whether the proposed activities of the project are likely to affect cultural heritage.
9. The Borrower will avoid impacts on cultural heritage. When avoidance of impacts is not possible, the Borrower will identify and implement measures to address impacts on cultural heritage in accordance with the mitigation hierarchy<sup>1</sup>. Where appropriate, the Borrower will develop a Cultural Heritage Management Plan.<sup>2</sup>
10. The Borrower will ensure that globally recognized practices for field-based study, documentation and protection of cultural heritage are implemented in connection with the project, including by contractors and other third parties.

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<sup>1</sup> Mitigation measures include strengthening the capacity of national and subnational institutions responsible for managing cultural heritage affected by the project; establishment of a monitoring system to track the progress and efficacy of these activities; establishment of an implementation schedule and required budget for the identified mitigation measures; and cataloguing of finds. Such measures will take into account the provisions in Section D for specific types of cultural heritage.

<sup>2</sup> The Cultural Heritage Management Plan will include an implementation timeline and an estimate of resource needs for each mitigation measure. This may be developed as a stand-alone document or, depending on the nature and the scale of the risks and impacts of the project, as part of the ESCP.

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11. The Borrower will ensure that a chance finds procedure<sup>3</sup> is included in all contracts relating to construction of the project, including excavations, demolition, movement of earth, flooding or other changes in the physical environment. The chance finds procedure will set out how chance finds associated with the project will be managed. The procedure will include a requirement to notify relevant authorities of found objects or sites by cultural heritage experts; to fence-off the area of finds or sites to avoid further disturbance; to conduct an assessment of found objects or sites by cultural heritage experts; to identify and implement actions consistent with the requirements of this ESS and national law; and to train project personnel and project workers on chance find procedures.

12. The Borrower will ensure that, where necessary, the environmental and social assessment involves the participation of cultural heritage experts. If the environmental and social assessment determines that the project may, at any time during the project life-cycle, have significant impacts on cultural heritage, the Borrower will involve cultural heritage experts to assist in the identification, valuation assessment and protection of cultural heritage.

### **B. Stakeholder Consultation and Identification of Cultural Heritage**

13. The Borrower will identify, in accordance with ESS10, stakeholders that are relevant for the cultural heritage that is known to exist or is likely to be encountered during the project life-cycle. Stakeholders will include, as relevant:

- (a) project affected parties, including individuals and communities, whose identity derives from the cultural heritage or who use or have used the cultural heritage within living memory; and
- (b) other interested parties, which may include national or local regulatory authorities that are entrusted with the protection of cultural heritage and nongovernmental organizations and cultural heritage experts, including national and international cultural heritage organizations.

14. The Borrower will carry out meaningful consultations<sup>4</sup> with stakeholders in order to identify cultural heritage that may be affected by the potential project; assign value<sup>5</sup> to cultural heritage affected by the project; develop an understanding of the potential risks and impacts; and explore avoidance and mitigation options.

### **Confidentiality**

15. The Borrower, in consultation with the Bank, project-affected parties (including individuals and communities) and cultural heritage experts, will determine whether disclosure of information regarding cultural heritage would compromise or jeopardize the safety or integrity of the cultural heritage or would

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<sup>3</sup> A chance finds procedure is a project-specific procedure which will be followed if previously unknown cultural heritage is encountered during project activities.

<sup>4</sup> The Borrower will support the inclusion and cooperation of the various stakeholders through a dialogue with the appropriate authorities, including the relevant national or local regulatory authorities entrusted with the protection of cultural heritage, to establish the most effective means for addressing the views and concerns of the stakeholders and involving them in the protection and management of the cultural heritage.

<sup>5</sup> The value of tangible cultural heritage is identified and assigned significance according to the value systems and interests of project affected parties (including individuals and communities) and other interested parties, who are concerned with the protection and appropriate use of the tangible heritage.

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endanger sources of information. In such cases, sensitive information may be omitted from public disclosure. If the project-affected parties (including individuals and communities) hold the location, characteristics, or traditional use of natural features with cultural heritage significance in secret, the Borrower will put in place measures to maintain confidentiality.

### **Stakeholders' Access**

16. Where the Borrower's project site contains cultural heritage or prevents access to previously accessible cultural heritage sites, the Borrower will, based on consultations with users of the site, allow continued access to the cultural site, or will provide an alternative access route. Access will be designed taking into account health, safety and security considerations.

### **C. Legally Protected Cultural Heritage Areas**

17. *As part of the environmental and social assessment, the Borrower will determine the presence of all listed legally protected cultural heritage areas affected by the project<sup>6</sup>. If the proposed project will be located within a legally protected area or a legally defined buffer zone, the Borrower will:*

- (a) Comply with local, national, regional or international cultural heritage regulations and the protected area management plans;
- (b) Consult the protected area sponsors and managers, project-affected parties (including individuals and communities) and other interested parties on the proposed project; and
- (c) Implement additional programs, as appropriate, to promote and enhance the conservation aims of the protected area.

### **D. Provisions for Specific Types of Cultural Heritage**

#### **Archaeological Sites and Material**

18. Archaeological sites comprise any combination of structural remains, artifacts, human or ecological elements and may be located entirely beneath, partially above, or entirely above the land or water surface. Archaeological material may be found anywhere on the earth's surface<sup>7</sup>, singly or scattered over large areas. Such material also includes burial areas<sup>8</sup>, human remains and fossils.

19. Where there is evidence of past human activity in the area of the project, the Borrower will conduct desk-based research and field surveys to document, map and investigate archaeological remains. The Borrower will document the location and characteristics of archaeological sites and materials

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<sup>6</sup> Examples include world heritage sites and nationally and sub-nationally protected areas.

<sup>7</sup> Most archaeological sites are hidden from view. Only rarely is there no archaeological material in any given area, even if such material is not known to or recognized by local people or recorded by national or international archaeological agencies or organizations.

<sup>8</sup> The burial areas referred to here are those unrelated to current populations living in the project area. For more recent burial places connected directly to project-affected peoples, appropriate mitigation measures can be defined in consultation with descendants and the project's social team.

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discovered during the project life-cycle and provide such documentation to the national or subnational cultural heritage authorities.

20. The Borrower will determine, in consultation with cultural heritage experts, whether archaeological material discovered during the project life-cycle requires: (a) documentation only; (b) excavation and documentation; or (c) conservation in place; and will manage the archaeological material accordingly. The Borrower will determine ownership and custodial responsibility for archaeological material in accordance with national and subnational law, and until such time as custody has been transferred, will arrange for identification, conservation, labeling, secure storage and accessibility to enable future study and analysis.

### ***Built Heritage***

21. Built Heritage refers to single or groups of architectural works in their urban or rural setting as evidence of a particular civilization, a significant development or a historic event. Built Heritage includes groups of buildings, structures and open spaces constituting past or contemporary human settlements that are recognized as cohesive and valuable from an architectural, aesthetic, spiritual or socio-cultural perspective.

22. The Borrower will identify appropriate mitigation measures to address the impacts on Built Heritage, which may include (a) documentation; (b) conservation or rehabilitation in situ; (c) relocation and conservation or rehabilitation. During any rehabilitation or restoration of cultural heritage structures, the Borrower will ensure that the authenticity of form, construction materials and techniques of the structure(s) are maintained.<sup>9</sup>

23. The Borrower will preserve the physical and visual context of individual or groups of historic structures by considering the appropriateness and effect of project infrastructure proposed for location within the range of sight.

### ***Natural Features with Cultural Significance***

24. Natural features may be imbued with cultural heritage significance. Examples include sacred hills, mountains, landscapes, streams, rivers, waterfalls, caves and rocks; sacred trees or plants, groves and forests; carvings or paintings on exposed rock faces or in caves; and paleontological deposits of early human, animal or fossilized remains.<sup>10</sup> The significance of such heritage may be localized in small community groups or minority populations.

25. The Borrower will identify, through research and consultation with project-affected parties (including individuals and communities), natural features with cultural heritage significance affected by the project, the people that value such features, and the individuals or groups with authority to represent and negotiate regarding the location, protection and use of the heritage place(s). The Borrower will determine whether it is possible to transfer the cultural heritage and/or sacred characteristics of a place

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<sup>9</sup> In compliance with applicable national and subnational laws and/or zoning regulations and in accordance with GIIP.

<sup>10</sup> Often the designation of cultural significance is kept secret, known only to a specific local population, and associated with ritual activities or events. The sacred character of such heritage may pose a challenge in determining how to avoid or mitigate damage. Natural cultural sites may contain archaeological material.

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to another location. If this is the case, the agreement that is reached regarding the transfer will respect and enable continuation of the traditional practices associated with such transfer.

### ***Movable Cultural Heritage***

26. Movable cultural heritage includes such objects as: historic or rare books and manuscripts; paintings, drawings, sculptures, statuettes and carvings; modern or historic religious items; historic costumes, jewelry and textiles; fragments of monuments or historic buildings; archaeological material; and natural history collections such as shells, flora, or minerals. Discoveries and access resulting from a project may increase the vulnerability of cultural objects to theft, trafficking or abuse. The Borrower will take measures to guard against theft and illegal trafficking of movable cultural heritage items affected by the project and will notify relevant authorities of any such activity.

27. The Borrower, in consultation with relevant cultural heritage authorities, will identify movable cultural heritage objects that may be endangered by the project and make provisions for their protection throughout the project life-cycle. The Borrower will inform religious or secular authorities or other custodians with responsibility for overseeing and protecting the movable cultural heritage objects of the schedule for project activities and alert them regarding the potential vulnerability of such items.

### **E. Commercialisation of Cultural Heritage**

28. Where a project intends to use cultural heritage, including knowledge, innovations or practices of project affected parties (including individuals and communities) for commercial purposes, the Borrower will inform the project affected parties of: (a) their rights under national law; (b) the scope and nature of the commercial development and the potential impacts; and (c) the potential consequences of such development and impacts.

29. The Borrower will not proceed with the project unless it: (a) carries out meaningful consultation as described in ESS10; (b) provides for fair and equitable sharing of benefits from commercialization of such cultural heritage, consistent with customs and traditions of the project affected parties; and (c) identifies mitigation measures according to the mitigation hierarchy.