

**REVIEW AND UPDATE  
OF  
THE WORLD BANK'S SAFEGUARD POLICIES**

**ENVIRONMENTAL AND SOCIAL FRAMEWORK  
(PROPOSED THIRD DRAFT)**

*Strengthening the effectiveness of our safeguard policies to enhance the development outcomes of Bank operations.*

**July 20, 2016**

## Abbreviations and Acronyms

BP	Bank Procedures
CODE	Committee on Development Effectiveness
CSO	Civil society organization
ECR	External and Corporate Relations Vice Presidency
EHSG	Environmental, Health and Safety Guidelines
GENDR	Environment and Natural Resources Global Practice
GSURR	Social, Urban, Rural, and Resilience Global Practice
ESCP	Environmental and Social Commitment Plan
ESS	Environmental and Social Standard
ESF	Environmental and Social Framework
ESP	Environmental and Social Policy
ESRM	Environmental and Social Risk Management
FI	Financial intermediary
FPIC	Free, prior and informed consent
GHG	Greenhouse gas
IEG	Independent Evaluation Group
IFC	International Finance Corporation
ILO	International Labor Organization
IPF	Investment project financing
LEG	Legal Department
MDB	Multilateral development bank
MIGA	Multilateral Investment Guarantee Agency
OD	Operational Directive
OMS	Operational Manual Statement
OP	Operational Policy
OPCS	Operations Policy and Country Services
OPN	Operational Policy Notes
PforR	Program-for-Results
SDGs	Sustainable Development Goals
SEP	Stakeholder Engagement Plan

UN	United Nations
UNOHCHR	Office of the United Nations High Commissioner for Human Rights
WBG	World Bank Group

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# REVIEW AND UPDATE OF THE WORLD BANK'S SAFEGUARD POLICIES: PROPOSED ENVIRONMENTAL AND SOCIAL FRAMEWORK

## EXECUTIVE SUMMARY

### A. Overview and Background

1. **The World Bank Group's overarching goals are to end extreme poverty and promote shared prosperity in a sustainable manner in all partner countries.** The World Bank's environmental and social safeguard policies support these goals by promoting the sustainable use of resources and social inclusion. The third draft Environmental and Social Framework (ESF) presented in this paper is a modern, fit-for-purpose approach to safeguarding people and the environment in World Bank investment project financing (IPF). The ESF is presented with a recommendation for approval by the Board of Executive Directors, following endorsement by the Committee on Development Effectiveness (CODE).

2. **The World Bank's safeguard policies embody core values of the institution and have served the institution well for more than two decades.** The proposed ESF is designed to meet borrowers' new and varied needs in a world with new social and environmental challenges. The outcome of a multiyear process that included extensive global stakeholder engagement, the third draft ESF is an instrument that would help borrowers manage their environmental and social risks more effectively and more efficiently, cover more of those risks, and, therefore, make people and the environment affected by Bank-financed projects safer from any adverse impacts.

3. **The proposed ESF sets standards for sustainable development with the goal of *strengthening the effectiveness of the safeguard policies to enhance the development outcomes of Bank operations.*** The ESF preserves the core values and protections of the Bank's safeguard policies; enhances the scope of social issues covered; improves governance and efficiency through clearer roles and responsibilities, project boundaries, and requirements; and improves accountability and transparency through enhanced stakeholder engagement, clearer instructions on disclosure, and grievance mechanisms.

4. **The proposed ESF presents a more modern approach to environmental and social risk management that promotes better and more sustainable project outcomes.** It is informed by extensive internal and external consultations, in-depth analysis, and evaluations of the current safeguard system and the safeguards systems of other multilateral development banks (MDBs). While it attempts to reconcile the widely varying views of shareholders and stakeholders, the revised ESF proposed for Board approval has prioritized implementability and improved coverage of environmental and social issues in order to achieve more effective risk management outcomes. The ESF presents an opportunity for stakeholders to advance a common approach to promote sustainable development that responds to many different challenges, is applicable in varying contexts, and reflects the diversity of views in a multilateral development organization.

5. **The proposed ESF is better for development** as it boosts protections for the environment and the poorest and most vulnerable people, drives sustainable development through capacity- and institution-building and country ownership, and enhances efficiency for both the borrower and the Bank.

6. **The themes, issues, and requirements proposed in the ESF support the Sustainable Development Goals (SDGs) at the level of development** projects through the proposed requirements for non-discrimination, labor, biodiversity, resource efficiency, community health and safety, cultural heritage, and stakeholder engagement.

7. **Management seeks approval of the Board of Executive Directors of the proposed content of the draft Vision, Policy, and Standards.** If the Board approves this proposal, Management would proceed to finalize and issue the Environmental and Social Procedure and Bank Directive Addressing Risks and Impacts on Disadvantaged or Vulnerable Individuals or Groups to complete the new Environmental and Social Framework. The Framework would replace OP/BP 4.00, OP/BP 4.01, OP/BP 4.04, OP 4.09, OP/BP 4.10, OP/BP 4.11, OP/BP 4.12, OP/BP 4.36, and OP/BP 4.37. In finalizing the ESF, Management would also develop Guidance to support the implementation of the new Framework. Management will also assess the Bank's readiness to implement the proposed Framework and set a date for effectiveness. The use of the ESF would be mandatory for all new operations with Concept Notes on or after the date of effectiveness.

8. Management will disclose the draft ESF to the public for information upon submission of this paper to the Board of Executive Directors.

## **B. Proposed Environmental and Social Framework**

9. **Ten Environmental and Social Standards (ESSs) are proposed for IPF, providing comprehensive coverage of the broad range of issues raised by shareholders, stakeholders, and World Bank staff during the review and update process.** These ESSs establish the borrower's responsibilities to provide adequate protection for people and the environment in projects supported by the World Bank under OP 10.00, *Investment Project Financing*. The ESSs are harmonized to a large extent with those of other MDBs, in particular IFC and MIGA.

- ***ESS1: Assessment and Management of Environmental and Social Risks and Impacts*** is the overarching standard that provides the procedural basis for an integrated environmental and social assessment of investment projects in a risk-driven, outcome-based, and proportionate manner. It establishes the need to characterize how disadvantaged and vulnerable groups may be affected by projects and how impacts may be addressed. It introduces the concept of ecosystem services and measures to manage risks and impacts related to them. It builds on the existing OP/BP 4.01, *Environmental Assessment*, and, together with ESS10, applies to all investment projects. It broadens the scope of assessment by adding explicit requirements covering social risks and impacts. It provides clearer project definitions for borrowers and introduces a clear and actionable risk management system.

- **ESS2: Labor and Working Conditions** is the World Bank's first proposal to introduce a set of operational policy requirements for labor and working conditions in investment projects. The standard prohibits child and forced labor and supports freedom of association and collective bargaining. Taking into account the nature of different types of projects, workers, and suppliers, it includes proportional requirements for community labor projects, the provision of a grievance mechanism for project workers, and requirements relating to occupational health and safety.
- **ESS3: Resource Efficiency and Pollution Prevention and Management** incorporates key provisions of OP/BP 4.09, *Pest Management*, and addresses the efficient management of energy, water, raw materials, and other resources. It also requires borrowers to characterize and estimate emissions of air pollutants, including project-related greenhouse gas emissions.
- **ESS4: Community Health and Safety** focuses on projects' risks to and impacts on communities. It incorporates key provisions of OP/BP 4.37, *Safety of Dams*, and addresses the design and safety aspects of infrastructure, equipment, services, traffic, and hazardous materials. It includes requirements for the deployment of security personnel.
- **ESS5: Land Acquisition, Restrictions on Land Use and Involuntary Resettlement** maintains key provisions of OP/BP 4.12, *Involuntary Resettlement*, including the principles of compensation at replacement cost and assistance in restoring or improving livelihoods. It gives explicit recognition to the importance of exploring ways for affected people to share in the benefits of the project.
- **ESS6: Biodiversity Conservation and Sustainable Management of Living Natural Resources** incorporates key provisions OP/BP 4.04, *Natural Habitats*, and OP/BP 4.36, *Forests*, requiring borrowers to assess and take measures to mitigate the impacts of the project on biodiversity, including loss of habitat, degradation, and the introduction of invasive alien species. It also establishes principles to govern the sustainable use of living natural resources, such as forests and fisheries.
- **ESS7: Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities** maintains key provisions of OP/BP 4.10, *Indigenous Peoples*, while recognizing that some shareholders may use different terms to describe Indigenous Peoples. It requires Free, Prior, and Informed Consent in specified circumstances. For the purpose of ESS7, *consent* refers to the collective support of affected Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities.
- **ESS8: Cultural Heritage** reaffirms the objectives of OP/BP 4.11, *Physical Cultural Resources*, requiring projects to use chance finds procedures and other approaches to protect cultural heritage, and providing for consultation with affected communities. It broadens the definition and treatment of cultural heritage to include both tangible and, in specified circumstances, intangible cultural heritage.
- **ESS9: Financial Intermediaries** requires financial intermediaries (FIs) to put in place an environmental and social management system with associated procedures. ESS9 reflects existing FI requirements under OP 4.01 and OP 4.03, as well as IFC's approach to FI operations.

- **ESS10: Stakeholder Engagement and Information Disclosure** consolidates and improves provisions related to borrower engagement with stakeholders, including meaningful consultation, access to information, and grievance redress. It provides for ongoing dialogue between the borrower and stakeholders, including project-affected parties, throughout the life of a project, and lays out requirements for information disclosure and grievance redress.

### C. Implementation

10. **Management’s proposed approach to launching and implementing the ESF is intended to provide the Bank with capacity and systems to implement the proposed Environmental and Social Policy, Procedure, and Directive and to support borrowers in meeting the proposed ESSs for IPF.** Increased emphasis on capacity building would be necessary both for implementing the ESF and for improving the application of the Bank’s safeguard policies. The approach to capacity building is informed by experience with implementing safeguards in the current system, by the experience of IFC in implementing the Performance Standards, the African Development Bank in launching their revised safeguards in 2014, and the ongoing plans for the launch of the World Bank’s new Procurement Framework.

11. **The implementation approach includes a set of five concrete action areas with associated activities:** (1) managing change across the Bank with regard to how operations address and manage environmental and social risks; (2) strengthening capacity of the Bank and borrowers and providing sustained support to borrowers; (3) strengthening the Bank’s Environmental and Social Risk Management System and increasing the efficiency and effectiveness of staff in operations; (4) strengthening strategic partnerships with development partners; and (5) preparing for the transition from the current safeguard policies to the proposed ESF.

12. **It is envisaged that the ESF would be rolled out in four distinct phases:** a preparation phase of at least 15 months, a launch phase of approximately 6 months, an embedding phase of approximately 2 years, and a new steady operational state thereafter. It is also envisaged that the safeguard policies would run in parallel to the ESF for approximately seven years after the launch of the ESF, until all projects approved under the safeguard policies had closed. The ESF would launch only after a set of readiness indicators has been achieved and Management deems the Bank sufficiently prepared to implement the new requirements.



# REVIEW AND UPDATE OF THE WORLD BANK'S SAFEGUARD POLICIES: PROPOSED ENVIRONMENTAL AND SOCIAL FRAMEWORK

## I. INTRODUCTION

1. **This paper proposes, for approval by the Board of Executive Directors, and after endorsement from CODE, a modern approach to assessing and managing environmental and social risk in World Bank investment project financing (IPF).** The outcome of a multiyear process that included extensive global stakeholder engagement, the third draft ESF is an instrument that will help borrowers manage the environmental and social risks and impacts of Bank-financed projects more effectively and efficiently, as it provides more clarity and therefore more consistency in application, covers more of those risks, and provides people and the environment further protection from adverse impacts. It will also support both Bank and borrowers in realizing the Sustainable Development Goals (SDGs).

2. **The proposed ESF sets standards for sustainable development with the goal of strengthening the effectiveness of the safeguard policies to enhance the development outcomes of Bank operations.** The ESF:

- a) preserves the core values and protections of the Bank's safeguard policies;
- b) enhances the scope of environmental and social issues covered;
- c) improves governance and efficiency through clearer roles and responsibilities, clearer project boundaries, and clearer requirements; and
- d) improves accountability through enhanced stakeholder engagement and grievance mechanisms.

3. **The proposed ESF promotes development.** It supports the Bank's goals to end extreme poverty and promote shared prosperity in a sustainable manner in all partner countries, boosts protections for the environment and the poorest and most vulnerable people, drives sustainable development through capacity- and institution-building and country ownership, and enhances efficiency for both the borrower and the Bank. Better development outcomes would come from the wider coverage of social and environmental risks and impacts and an increased emphasis on sustainability and responsible use of resources. The ESF and the measures that will be put in place to implement it will, together, promote better development outcomes in Bank-financed projects (see Box 1).

### **Box 1. Promoting Better Development Outcomes in Investment Projects**

The proposed framework would promote better outcomes in projects financed by the World Bank through a range of features.

#### **Promoting sustainable development**

- Considering a greater range of environmental and social risks and potential impacts, which would lead to better-designed projects and more sustainable outcomes.
- Promoting the sustainable management of living natural resources.
- Promoting the SDGs at project-level.

#### **Increasing efficiency**

- Streamlining environmental and social risk management processes through clearer project boundaries and clearer roles and responsibilities.

#### **Building institutions**

- Strengthening borrower capacity through increased emphasis on hands-on support to borrowers, leading to stronger institutions and, thereby, more sustainable approaches to development.
- Systematizing capacity building in the context of using borrower frameworks to manage environmental and social risks.

#### **Strengthening partnerships**

- Promoting a stronger joint approach to development through partnerships with borrowers on environmental and social risk management and the use of borrower frameworks.
- Simplifying donor coordination through a common approach to risk management.

#### **Increasing access**

- Benefiting more people—especially the disadvantaged or vulnerable, who are more likely to be adversely affected by project impacts and are more limited than others in their ability to take advantage of project benefits.
- Formalizing the role of stakeholders in public consultations and project monitoring and empowering people by providing them with a more active role, including input into project design.

#### **Protecting livelihoods**

- Supporting the sustained livelihoods of people who depend on natural resources.
- Providing protections for project workers, including vulnerable workers such as persons with disabilities, women, migrant workers, contracted workers, and community workers.
- Improving the living conditions of poor and vulnerable people who are physically displaced, through the provision of adequate housing, access to services, and security of land tenure.

#### **Fostering resilience**

- Requiring emergency preparedness to help project-affected communities be more resilient against future shocks.
- Protecting communities and the environment against climate change impacts by requiring assessments and mitigation measures.
- Protecting communities and drivers against traffic-related risks.

4. **The themes, issues, and requirements proposed in the ESF support all SDGs.** The ESF, among many other Bank initiatives will enable the World Bank to contribute to the fulfillment of the SDGs at the level of development projects. In particular, the proposed requirements for non-discrimination, labor, biodiversity, resource efficiency, community health and safety, cultural

heritage, and stakeholder engagement promote the specific targets identified for each of the SDGs (Annex 1 provides a detailed description of how the proposed ESF supports the SDGs.).

5. **Management seeks approval of the Board of Executive Directors of the proposed content of the draft Vision, Policy, and Standards.** If the Board approves this proposal, Management would proceed to finalize and issue the Environmental and Social Procedure and Bank Directive Addressing Risks and Impacts on Disadvantaged or Vulnerable Individuals or Groups to complete the new Environmental and Social Framework. In finalizing the ESF, Management would also develop Guidance to support the implementation of the new Framework.

6. Management will disclose the draft ESF to the public for information upon submission of this paper to the Board of Executive Directors.

#### **A. Rationale for Reform and Mandate from CODE**

7. **The World Bank Group’s overarching goals are to end extreme poverty and promote shared prosperity in a sustainable manner in all partner countries.**<sup>1</sup> To achieve these goals, it is critical to support the sustainable use of resources, promote social inclusion, and pursue development opportunities for current and future generations.

8. **The World Bank’s safeguard policies embody core values of the institution and form the cornerstone of the World Bank’s efforts to protect people and the environment and to support sustainable development.** The current suite of safeguard policies was designed over time in a somewhat ad hoc fashion to help the World Bank address environmental and social issues arising from projects. These safeguard policies have served the World Bank, its borrowers, and the development community well over the past decades and have provided an international standard for managing environmental and social project risks. To meet borrowers’ new and varied needs in a world with new social and environmental opportunities and challenges, the World Bank launched an extensive review and update of these policies to develop a new Environment and Social Framework for IPF (“ESF” or “the Framework,” see Attachment 1). The review is led by OPCS and carried out with LEG, GSURR, GENDR,<sup>2</sup> and ECR, and with advice from other relevant units across the World Bank Group, including IFC and Cross-Cutting Solutions Areas. This review has been closely followed by member countries, international organizations, other MDBs, civil society, and other stakeholders.

9. **In September 2012, CODE endorsed an approach paper<sup>3</sup> outlining the objectives and scope of the review.** The approach paper identified the objective of the review as “*strengthening the effectiveness of the safeguard policies in order to enhance the development outcomes of Bank*

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<sup>1</sup> See World Bank Group Strategy, p. 5

([https://openknowledge.worldbank.org/bitstream/handle/10986/16095/32824\\_ebook.pdf](https://openknowledge.worldbank.org/bitstream/handle/10986/16095/32824_ebook.pdf))

<sup>2</sup> Sustainable Development Vice Presidency before the Bank’s reorganization into Global Practices.

<sup>3</sup> See “The World Bank’s Safeguard Policies: Proposed Review and Update. Approach Paper.” CODE2012-0041, <http://consultations.worldbank.org/Data/hub/files/consultation-template/review-and-update-world-bank-safeguard-policies/en/phases/safeguardsreviewapproachpaper.pdf>

*operations.*” This objective—which was based in part on the recommendations of an evaluation of the Bank’s safeguard policies by the Independent Evaluation Group (IEG)<sup>4</sup>—was to be achieved by building on the core principles of the safeguard policies to develop an integrated framework that responds to the changing contexts of borrowers and Bank operations and promotes environmentally and socially sustainable development with borrowers, development partners, cooperating institutions, practitioners, and citizens alike. The review was seen as an opportunity for the Bank to enhance how it (a) delivers environmental and social outcomes; (b) strengthens country systems and institutions; and (c) covers environmental and social risks. When endorsing the approach paper and acknowledging the growing role of the private sector, Executive Directors also tasked Management to explore the benefits of aligning the Bank’s approach to environmental and social sustainability with the IFC Sustainability Policy and the Performance Standards, to the extent appropriate for the public sector.

**10. Through the review and update process, the Bank sought to achieve the following outcomes:** renewing its partnership with borrowers; helping to address the environmental and social risks of the next decade; increasing its effectiveness, efficiency, and timeliness; and achieving policy harmonization, coherence, and alignment.

**11. The review is limited to the Bank’s eight environmental and social safeguard policies**—OP 4.01, *Environmental Assessment*; OP 4.04, *Natural Habitats*; OP 4.09, *Pest Management*; OP 4.10, *Indigenous Peoples*; OP 4.11, *Physical Cultural Resources*; OP 4.12, *Involuntary Resettlement*; OP 4.36, *Forests*; and OP 4.37, *Safety of Dams*—and OP 4.00, *Piloting the Use of Borrower Systems for Environmental and Social Safeguards*.

## **B. Structure of the Paper**

12. Following this introduction, Section II describes the World Bank’s approach to reviewing and updating the safeguard policies, including the outcomes of three extensive consultation phases. Section III describes the major issues that emerged during consultations and that Management proposes to resolve as described in this paper. Section IV introduces the third draft Framework, briefly summarizes stakeholder feedback, and lists changes that have been made since the second draft. Section V describes how the ESF would be implemented if it is approved by the Board of Executive Directors. Section VI presents conclusions and asks for approval from the Board of Executive Directors. Annex 1 lists the proposed requirements that will directly support the SDGs, Annex 2 provides a brief history of the World Bank’s safeguard policies, Annex 3 lists the projects that were road-tested during the third consultation phase, and Annex 4 provides a comparison of key provisions among MDBs.

13. In addition to this paper, the Board package also includes the third draft ESF, including the Vision for Sustainable Development and Environmental and Social Policy and Standards (for Board approval), the proposed Environmental and Social Procedure (for information), the proposed Bank Directive Addressing Risks and Impacts on Disadvantaged or Vulnerable

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<sup>4</sup> “Safeguards and Sustainability in a Changing World: An Independent Evaluation of World Bank Group Experience,” <http://go.worldbank.org/ZA4YFV9OLO>.

Individuals or Groups (for information), a draft approach to assessing borrower frameworks (for information), responses to 52 issues Executive Directors asked Management to discuss during Phase 3 Consultations, and a Summary of Phase 3 Consultations and Bank Management Responses.

## II. APPROACH TO REVIEW AND CONSULTATIONS

14. **The multiyear process of reviewing and updating the Bank’s safeguards involved three review phases**, with three extensive global multi-stakeholder consultations. Each review phase emphasized a different aspect—principles, Standards, and implementability.

### A. Phase 1: Principles, Objectives, and Format of a New Generation of Safeguard Policies

15. **From the outset, the Bank acknowledged that striking a balance among sometimes competing demands, needs, views, and aspirations would be among the main challenges of the reform effort.** However, it also acknowledged that a successful review and update process would have the potential to yield multiple benefits for the Bank, its shareholders, and its internal and external stakeholders.

16. **From October 2012 through April 2013, the Bank carried out global consultations on the approach paper**, reaching more than 2,000 stakeholders from over 40 countries across all regions and receiving 81 position papers from 1,257 signatory organizations, Indigenous Peoples leaders, and project-affected communities. This consultation phase focused on 10 thematic areas: areas for improvement with regard to the Bank’s safeguard policies, implementation issues and challenges, core principles to promote sustainable development, and such emerging areas as disabilities; labor and occupational health and safety; human rights; land tenure and natural resources; Free, Prior, and Informed Consent of Indigenous Peoples; gender; and climate change. The main messages from stakeholders referred to the implementation and supervision challenges of the existing policies and their frequent inconsistency with national law; the need for stronger impact assessment; the need to recognize country context and borrower institutions; the need to build borrower capacity; the importance of protecting the rights—including the human rights—of affected communities, vulnerable and marginalized groups, and Indigenous Peoples; the need to improve provisions for land issues and involuntary resettlement, integrate provisions for forests and natural habitats, consider all emerging areas, and provide for stronger stakeholder engagement; and the need for policy harmonization, especially within the World Bank Group (WBG).

### B. Phase 2: Proposed Standards

17. **After concluding the first consultation phase, the Bank drew on the findings of the 2010 IEG evaluation and of internal analyses, and on the consultation input, to develop the first draft Environmental and Social Framework (ESF).** The draft aimed to reconcile

competing views expressed by shareholders and stakeholders during consultations. The objective of the first draft ESF was to maximize development opportunities for all, particularly the poor and vulnerable, and to promote the well-being of all natural and living resources. The resulting Framework was intended to:

- a) Absorb existing requirements, but also reinforce responsibility through broader and more explicit requirements;
- b) Increase accountability, enhance decision making, and provide a tailored approach that takes into account the country and sector context;
- c) As appropriate, place less emphasis on front-loading during project preparation and more emphasis on better monitoring and supervision for the realization of agreed project commitments;
- d) Promote a project-based approach to using borrower frameworks, focusing on outcomes, rather than on borrower country systems; and
- e) Help countries implement the Environmental and Social Standards (ESSs).

18. **When the first draft ESF was presented to CODE on July 30, 2014,<sup>5</sup> Executive Directors agreed that Management should conduct a second round of consultations to seek input on the proposals and, in particular, on key changes that would strengthen their effectiveness.** Consultations held from July 31, 2014, through March 1, 2015, included around 2,000 participants from 65 countries in all Regions, including 54 borrower countries. Management received nearly 2,500 pages of feedback from stakeholders, including more than 130 position papers from governments, Indigenous Peoples leaders, and project-affected communities. Working groups of WBG staff carefully reviewed and analyzed the extensive feedback.

19. **Overall, shareholders and stakeholders agreed on the need to update the World Bank’s safeguard policies and considered the proposed Framework architecture to be appropriate.** However, views on the proposed standards and complex cross-cutting development issues varied widely. Human rights, non-discrimination, adaptive risk management, labor and working conditions, greenhouse gas (GHG) emissions and climate change, land acquisition and involuntary resettlement, Indigenous Peoples, and use of borrower frameworks emerged as the most discussed and most complex issues.

### **C. Phase 3: Implementability and Unresolved Issues**

20. **On June 30, 2015, Management presented to CODE a second draft ESF,<sup>6</sup> informed by the second phase consultations, which introduced a number of major changes to the first draft Standards.** This draft aimed to bridge the gap between the competing views of shareholders

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<sup>5</sup> “Review and update of the World Bank’s safeguard policies: Proposed Environmental and Social Framework (first draft).” CODE2014-0031

<sup>6</sup> “Review and update of the World Bank’s safeguard policies: Proposed Environmental and Social Framework (second draft).” CODE 23015-0039

and stakeholders on several standards and the cross-cutting development issues listed above. Executive Directors requested a third round of consultations, focusing on the implementability of the proposed Framework and on an indicative list of outstanding issues that needed further discussion.

21. **In response to Executive Directors’ request to focus the consultation on implementability from a borrower perspective, consultations were designed to focus on government officials and project implementation units in borrowing countries.** The consultations, held from August 4, 2015, through March 15, 2016, included 72 meetings in 31 countries (including 28 borrower countries), with close to 3,000 stakeholders from 93 countries. More than 300 Bank staff were involved in preparing and hosting consultation meetings. The Bank also hosted six expert focus groups—on non-discrimination, Indigenous Peoples, labor and working conditions, impact assessment, financial intermediaries, and religious concerns and considerations—and met with representatives from the International Labour Organization (ILO) and the United Nations Office of the High Commissioner for Human Rights (UNOHCHR).

### III. CROSS-CUTTING DEVELOPMENT ISSUES

22. **In mandating the third round of consultations on the draft ESF at the CODE meeting on July 1, 2015, the Executive Directors also provided an indicative list of 52 issues for Management to include in consultation meetings.** (A report on Management’s responses to these issues is included in this Board package. Summaries from all consultation meetings are published on the consultation website.<sup>7</sup>) Some of the issues included were items that needed clarification and that were explained in more detail to shareholders during consultation meetings; others pertained to provisions of the current safeguard policies that were carried forward into the draft ESF. Still other issues were cross-cutting development issues on which shareholders and stakeholders have varying views that need to be balanced, but that cannot be fully reconciled. This section discusses these cross-cutting issues.

23. **Borrowing governments discussed land acquisition and involuntary resettlement most frequently, specifically focusing on discrepancies between national laws and Bank requirements.** Particular concern was expressed about the proposed requirements regarding informal occupants: while the Bank proposes specific protections for them, many borrowing governments argued that their laws would not permit this treatment. Other issues frequently discussed included proposed requirements on labor and working conditions, Indigenous Peoples, climate change and GHG emissions, and environmental and social risk assessment and management.

24. **Land acquisition and involuntary resettlement was also the most frequently discussed issue during multi-stakeholder meetings in borrowing countries, here with a focus on the impacts of resettlement on vulnerable groups.** Civil society representatives and academics

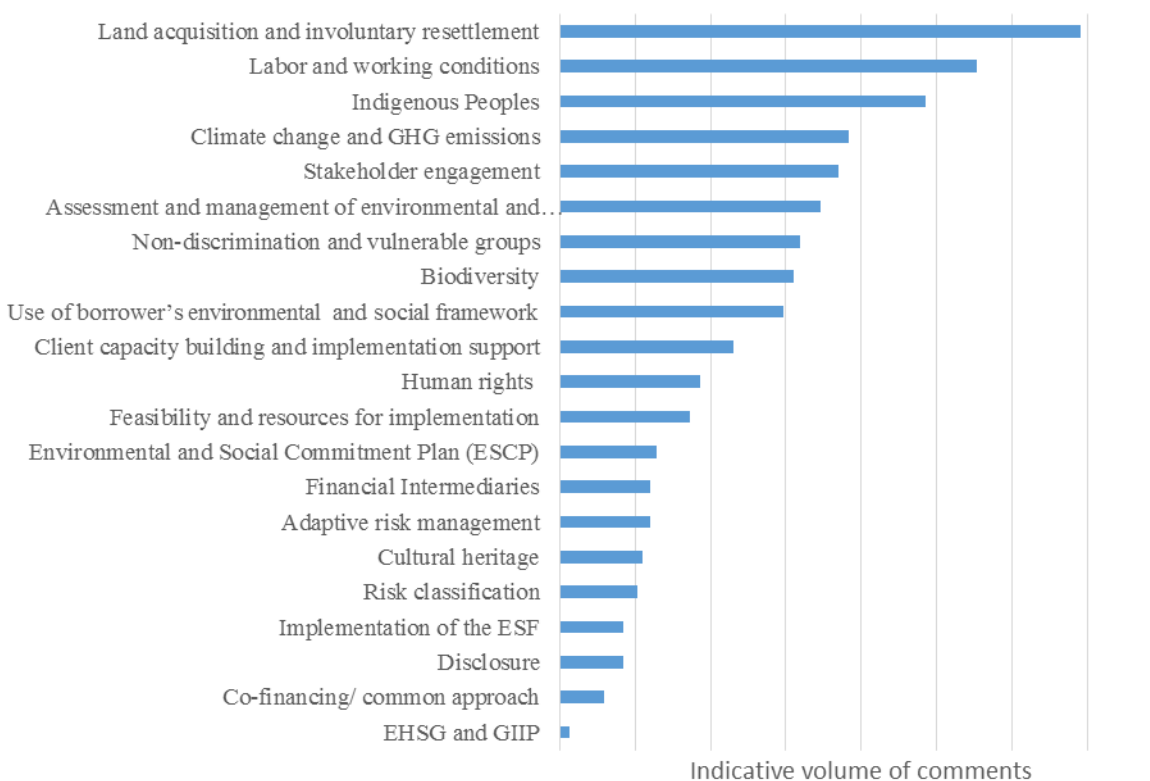
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<sup>7</sup> <http://consultations.worldbank.org/consultation/review-and-update-world-bank-safeguard-policies>

participated in these meetings, and government representatives and development partners were also present in some. Consultation participants in this group also frequently discussed Indigenous Peoples, labor and working conditions, stakeholder engagement, and non-discrimination and vulnerable groups.

25. **Consultation meetings in Part I countries usually included government and civil society representatives and academics.** They frequently discussed biodiversity, in particular offsets and no-go areas for certain Bank projects. Other frequently discussed issues included land acquisition and involuntary resettlement, labor and working conditions, stakeholder engagement, and climate change and GHG emissions. Figure 1 gives an aggregated impression of which topics received most attention by all consultation meeting participants.

**Figure 1. Emphasis on specific issues during consultation meetings**



*Note:* Bar size is based on the number of comments recorded for each issue during consultation meetings. The volume of comments represents the emphasis of discussions. Because different note-takers may have recorded comments differently, this chart can be seen only as indicative of the emphasis of discussions during consultation meetings.

### A. Implementability

26. **Borrowers' financial and technical ability to implement the proposed ESF is a core factor that will determine its success.** This is why the Executive Directors asked that the third consultation phase focus on issues of implementability and analyze the incremental effort that



might be needed to fulfill the proposed requirements, as compared to the requirements of the safeguard policies. This focus increased Management's understanding of the practical challenges of project implementation and helped it produce a third draft ESF that is more implementable and reduces processing times through greater clarity, while at the same time upholding effective protections for people and the environment affected by Bank-financed projects.

**27. Implementation challenges in IPF are often caused by low capacity in implementing agencies and a lack of experience among the environmental and social risk management consultants.** The ESF will help address this implementation challenge, in part, through recognizing the importance of enhanced Bank technical assistance to borrowers that need support when they carry out their assessments and prepare instruments, and through the ESF's proposed increased focus on building capacity in borrower countries, borrower agencies and institutions, and consultants.

**28. The effort required for projects under the safeguards regime varies widely, depending on the nature of the project and the capacity in the country.** Depending on project characteristics, processing the current safeguards requirements during project preparation for an environmental assessment (EA) Category A project ranges from 14 to 24 weeks of staff time (even more for the large transformational projects), and supervision from 10 to 25 weeks. For a Category B project, preparation can take between 6 and 11 weeks, and supervision between 5 and 8 weeks per year. Given this wide range of effort under the current policies, any estimates of additional effort for the proposed ESF can only be indicative. However, Management posits that some of the variation in preparation time will be remedied through more consistent application of provisions in the proposed ESF.

**29. To better understand the incremental effort likely to be required of the Bank and borrowers, Bank staff discussed 42 case studies with borrowers during consultations.**<sup>8</sup> The objective of this road-testing was to compare the effort needed to implement the requirements of the second draft ESF with the effort needed to implement the safeguard policies appropriately. The results, generally consistent across case studies, indicate that the overall additional effort the ESF would entail is, for the average project, not overly burdensome, and that there are opportunities to achieve operational efficiencies by both the Bank and borrowers. Overall effort would be higher for implementing ESS1, ESS2, and ESS10, but would generally not be higher (and could be lower due to efficiencies) for implementing ESS5, ESS6, ESS7, ESS8, and ESS9. Incremental effort to implement ESS3 and ESS4 is expected to be moderate. The road-testing highlights the fact that current practice already accounts for many of the proposed requirements: for example, projects with good environmental and social planning already factor in inclusion, stakeholder engagement, or labor risk in civil works. The extensive road-testing and consultations with Borrowers suggests that the incremental effort would be low for low risk projects and would be highest for the most

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<sup>8</sup> See Annex 3 for a list of the case studies; case studies are also published on a dedicated consultation website at <http://consultations.worldbank.org/consultation/review-and-update-world-bank-safeguard-policies>. It is important to note that these cases are a small sample of the Bank's lending portfolio and include mostly Category B projects. The results for this road-testing can therefore only give estimated of incremental effort, but not definitive findings. Moreover, the extent to which existing requirements were complied with and the quality of the environmental and social assessments varies widely across projects, causing further variability in the incremental effort required for current and future practice.

complex projects where the social and environmental aspects are most challenging. Thus, the proposed ESF, first and foremost, aims to standardize environmental and social risk management and make it more consistent across projects to achieve a common level of high quality in implementation.

**30. Incremental costs associated with the implementation of the proposed ESF will vary widely in accordance with the nature of the individual project and the project and country context.** The World Bank currently lends to 98 countries, each of which has developed systems and approaches for managing environmental and social issues that are particular to their operating context. Borrowers have differing levels of expertise and implementation capacity and will therefore incur different costs depending on the nature of the project and the sensitivity of the environment and social context. Borrower concerns with the potential incremental costs associated with the proposed ESF were an important consideration during Phase 3 consultations which focused on implementability from technical and operational perspectives. Many of the adjustments proposed in ESF 3 are meant to reduce the burden on Borrowers, including by shifting more of the burden onto the Bank whenever feasible and a greater commitment by the Bank to Borrower capacity building.

**31. Incremental costs need to be considered in the context of the additional benefits that would accrue through better, more timely and more sustainable development outcomes.** Unfortunately it is not possible to quantify the benefits associated with a strengthened framework and more effective implementation to allow for a traditional cost-benefit analysis so this can only be done qualitatively. Once a borrower has developed approaches to managing the requirements newly introduced by the ESF, these approaches would inform risk assessment and management in other projects, whether or not financed by the Bank. Initial investments would translate into medium- and long-term operational efficiencies, especially where borrowers invest in building frameworks that are likely to be able to address the risks and impacts of the project and enable the project to achieve outcomes that are materially consistent with the objectives of the ESSs. Similarly for the Bank, the initial costs of investing in new and increased expertise in specific areas will be offset by the long-term gain of improving the Bank's capacity to address a wide range of environmental and social issues.

**32. The additional Bank effort needed to implement the proposed ESF is determined by the requirements of the Policy, Procedures, and Directive** (see Section IV). The overall incremental effort is expected to be low for projects that are of Low or Moderate risk and higher for projects of Substantial and High risk, for which a broader set of issues will typically be considered as part of the Bank's environmental and social due diligence. As is suggested by IFC's experience,<sup>9</sup> it is expected that operational efficiencies will be achieved over time as experience is gained with the new framework.

**33. The ESF's proposed risk-based approach to managing environmental and social risks and impacts means that the degree of attention to an issue is proportional to risk.** For instance, assessments and mitigation measures would be tailored to the depth needed to understand and manage the potential risks of the particular project. The risk-focused approach may increase initial

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<sup>9</sup> IFC's Policy and Performance Standards on Social and Environmental Sustainability and Policy on Disclosure of Information: Report on the first three years of application. IFC, July 29, 2009.

costs in one area, but these costs may be offset by improved project performance and decreased costs in other areas. Moreover, the Bank is now working on establishing baseline estimates of the costs to fulfill the current Bank safeguard requirements and therefore cannot indicate specific changes in cost. IFC reached the same conclusion when implementing its Performance Standards. However, in a client evaluation three years after the launch of the Performance Standards, IFC found that implementation costs were broadly acceptable to clients.<sup>10</sup>

**34. Insight from the road-testing on implementation challenges was used to develop the third draft ESF.** Where the road-testing showed lack of clarity in the proposed requirements, the draft was revised to be clearer. Where the second draft ESF introduced requirements that were considered not feasible in the review of the case studies, Management made adjustments. These are reflected in the changes listed for each Standard in Section IV.

**35. Overall, Management concludes that the proposed ESF should require an acceptable overall increase in effort at steady state, which may be offset partially by efficiency gains in using the ESF, particularly through the fine-tuning of the procedures and increased Borrower capacity.** Management posits that the proposed approach to assessing and managing environmental and social risk can lead to the following:

- a) resource savings due to increased long-term improved project outcomes (savings can be significant where issues are identified and managed early in the process);
- b) resource savings through sustainable improvements in the capacity of specialists and borrowers; and
- c) better project implementation and less last-minute reaction to crises, and therefore more sustainable development outcomes, through consistent requirements across all projects.

**36. Notwithstanding the above, and as outlined in a subsequent section on implementation, the proposed ESF would require significant preparation work by the Bank,** a surge in effort over 3 years to develop and support the launch of substantial procedural preparation, change management, enhanced guidance, capacity building, system development as well as support and outreach. Surge costs would be incurred in FY17-19, peaking in FY18.

**37. The increased scope of assessment does not necessarily change the overall timeline for project preparation as most issues can be identified and managed simultaneously** (i.e., social assessment, labor assessment, assessment of critical habitats, and so on, would be conducted at the same time). Management recognizes that the mandate to address issues such as non-discrimination may, in the short term, require the preparation of more documents. In the long term, however, it is clear that this will lead to better development outcomes, as more people gain access to more equitable development benefits.

**38. While for some projects, the need for seasonal data may shift timelines, it is expected that the processing time needed to address safeguards requirements before Board approval can be reduced through the use of the Environmental and Social Commitment Plan (ESCP),**

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<sup>10</sup> Ibid.

**depending on the project context.**<sup>11</sup> The Bank's experience with delays in project preparation suggests that there is a wide variety of issues that can impact project preparation timeline and that there is no evidence to suggest that safeguards-related issues are the most prevalent. Good project preparation planning will reduce the risk of delays, including those associated with the preparation of safeguards instruments.

## **B. Borrower Capacity Building**

39. **In all three consultation phases, participants consistently emphasized the need to strengthen borrowers' capacity to identify and manage environmental and social risks, regardless of the launch of the proposed ESF.** This priority became a core focus of discussions during the third consultation phase. Borrowers, donors, shareholders, and stakeholders identified capacity building for borrowers as a central element in the Bank's effort to modernize its approach to environmental and social risk management. The extension of the scope of risk assessment and management and its proposed shift to an outcome-based, adaptive risk management approach will need to be accompanied by increased efforts to strengthen institutions in borrowing countries.

40. **Management recognizes the crucial importance of strong institutions and expertise in borrowing countries,** especially in the agencies that implement Bank-funded projects and among the professions that assess environmental and social risk. Limited capacity among borrower agencies and consultants is a key concern for the Bank. Bank staff invest considerable time and effort in helping borrowers' implementing agencies and consultants produce environmental and social risk management instruments that are fit for purpose. The ESF is designed to strengthen the partnerships between the Bank and its borrowers with the specific aim of building capacity in borrowing countries and in other relevant groups.

41. **Activities to strengthen borrowers' capacity will be identified on the basis of evident capacity gaps, the track record of existing programs, current and projected lending volumes, and the need for additional resources.** This work would be funded from a variety of sources—borrowing, reimbursable advisory services, donor funding, the Bank's budget, and, in some cases, the country's own resources. In addition, Management will seek to establish a multidonor trust fund for borrowers with low capacity, such as fragile and post-conflict countries.

42. **The approach to capacity building would be based on a needs assessment conducted in collaboration with the borrower** (see Section V of this paper). Capacity-building measures would include short-term awareness-raising and training on particular aspects of the ESF, especially with regard to the ESSs that borrowers are required to implement. This training would be delivered in selected countries over a period of 6 months after Board approval of the proposed ESF. Beyond this short-term effort, the Bank would engage in long-term, systematic institution building. This effort would be based on dialogue with governments, linked to the Borrower Framework Assessment process.

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<sup>11</sup> The total elapsed time for dealing with safeguards requirements is less than 50% of the average time of preparing a project from identification to Board approval.

43. **In addition to systematic support to borrowers, the Bank would provide capacity building for stakeholder groups involved in project delivery.** This program would comprise information sessions and training for stakeholders who wish to better understand the proposed ESF and its implications either for themselves or for their clients. It would include the following elements:

- a) a program focused on raising awareness and informing strategic partners (UN agencies, MDBs, bilateral partners) about the ESF and its implementation;
- b) a program for Indigenous Peoples, following up on commitments made during the consultations, comprising information and training sessions;
- c) a program for consultants, academics, and civil society organizations (CSOs) that are directly involved in supporting borrowers in implementing the proposed ESF, either as advisors or hired contractors, or in conducting monitoring and stakeholder outreach.

### C. Borrower Frameworks

44. **The World Bank and most of its shareholders endorsed the Paris Declaration, Accra Agenda for Action, and Busan Partnership for Effective Development Cooperation—agreements emphasizing that using and strengthening national systems in borrowing countries is a central development goal.** In the 2011 declaration of the Fourth High Level Forum on Aid Effectiveness in Busan, signatories committed to “Use country systems as the default approach for development cooperation in support of activities managed by the public sector, working with and respecting the governance structures of both the provider of development cooperation and the developing country” and to “Assess jointly country systems using mutually agreed diagnostic tools. Based on the results of these assessments, providers of development cooperation will decide on the extent to which they can use country systems. Where the full use of country systems is not possible, the provider of development cooperation will state the reasons for non-use, and will discuss with government what would be required to move towards full use, including any necessary assistance or changes for the strengthening of systems. The use and strengthening of country systems should be placed within the overall context of national capacity development for sustainable outcomes.”<sup>12</sup>

45. **In the spirit of this declaration, the proposed ESF aims to increase the use of borrower frameworks in Bank-financed projects in which their use leads to environmental and social outcomes that are materially consistent with the objectives of the proposed Standards.** The Bank and borrower would agree on the use of part or all of a borrower’s framework on a project-by-project basis, using a methodology for assessing borrower frameworks and identifying gaps in them and measures to close the gaps. An approach to assessing borrower frameworks is set out in an Information Note on Assessing the Borrower’s Environmental and Social Framework (included in the Board package). This approach will be tested and calibrated through experience and adjusted as necessary. Initially, to use available resources to carry out assessments economically, the Bank

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<sup>12</sup> See Busan Partnership for Effective Development Cooperation, Fourth High Level Forum on Aid Effectiveness, paragraph 19 (<http://www.oecd.org/dac/effectiveness/49650173.pdf>).

will target countries with demonstrated high capacity for assessment. Management will report on the progress of the implementation of the ESF annually and will include information on the assessment of borrower frameworks in these reports.

46. **At the request of the Borrower and where the Bank deems this to be feasible, the Bank may conduct an overview assessment of the Borrower’s existing policy, legal and institutional framework** for addressing environmental and social risks and impacts. This assessment would identify aspects of the existing framework where capacity building activities can contribute to strengthening the framework. It would inform, but not be a prerequisite for the Bank’s assessment of borrower frameworks for specific projects.

47. **Consultation participants frequently discussed the proposed use of Borrower frameworks.** Borrowers, especially those with strong national institutions, asked the Bank to lower the threshold for using borrower frameworks. Donor governments and CSOs expressed caution with regard to the Bank’s due diligence and monitoring role when borrower frameworks are used.

48. **The Bank recognizes that borrowers always use their frameworks for the approval and regulation of economic activities.** For the purposes of the ESF, three decisions would need to be made: (a) Should the use of the borrower’s framework be considered? (b) Would the use of all or part of the borrower’s framework result in outcomes that are materially consistent with the objectives of the ESSs? The Bank would make this assessment in consultation with the borrower. (c) Which gap-filling measures does the borrower need to implement to ensure that the use of its framework would result in outcomes that are materially consistent with the objectives of the ESSs? The gap-filling measures would be agreed between the Bank and the borrower and documented in the ESCP. The Bank will be required to exercise its fiduciary responsibility by reviewing environmental and social assessments and mitigation measures the borrower conducts using its own frameworks and will ensure that the residual risks and impacts of the project are acceptable to the Bank. Management will discuss this approach with experts in a dedicated workshop, test the approach and methodology with borrowers that have well-developed frameworks, and use this experience to finalize the approach laid out in Guidance. With this approach, using part or all of a borrower’s framework for specific projects is a means to build borrower institutions in a sustainable manner.

#### **D. Human Rights**

49. **Many of the investment projects the World Bank supports advance the realization of human rights expressed in the Universal Declaration of Human Rights, including through better health care, education, and social protection, and better access to such services.** Key values underlying human rights—such as respect for individual dignity, transparency, accountability, consultation, participation, and non-discrimination—also underlie the World Bank’s operational policies and practices. The World Bank intends to maintain the promotion of such values in its development initiatives and its interactions with borrowers. Within one year of the launch of the proposed ESF, Management will conduct a study of the extent to which the application of the ESF contributes to the achievement of these key values and of the SGDs.

50. **The treatment of human rights in the proposed ESF was widely discussed throughout all three consultation phases.** In the third consultation phase, human rights issues were raised mostly by donor governments and CSOs that supported expressly incorporating human rights in the ESF. Some borrowers challenged the proposal to expressly embed human rights in the ESF, noting conflicts with the World Bank’s mandate as set out in its Articles of Agreement and arguing that the ESF should not be used as vehicle to promote specific values or political aspirations. The Bank discussed human rights in particular in an expert focus group as part of the first consultation phase and in several meetings with UNOHCHR.

51. **Given the divergent views on human rights coverage in the ESF among shareholders and stakeholders, Management suggests that the current approach be maintained, with explicit reference to human rights in the Vision statement.** The proposed language articulates that the World Bank’s activities support the realization of human rights expressed in the Universal Declaration of Human Rights. Through the projects it finances, and in a manner consistent with its Articles of Agreement<sup>13</sup>, the World Bank will continue to support its member countries as they strive to progressively achieve their human rights commitments.

## **E. Indigenous Peoples**

52. **The first draft ESF expressly referred to obtaining the “Free, Prior, and Informed Consent” (FPIC) of Indigenous Peoples in several specific project-related circumstances.** While many stakeholders welcomed this introduction, a number of borrowers expressed concerns about the implementability of the concept and the potential of interrupting, delaying, or preventing projects when FPIC cannot be obtained. They also noted potential discrepancies between FPIC and national law.

53. **Throughout the review process, the Bank consulted extensively with Indigenous Peoples.** This engagement included 16 dedicated dialogue meetings between March 2013 and March 2016, high-level fora in April 2015 and February 2016, engagements at the sidelines of the United Nations Permanent Forum on Indigenous Issues, and discussions as part of multi-stakeholder consultations in consultation countries. Indigenous Peoples groups widely welcomed the introduction of FPIC. In response to Indigenous Peoples’ interest in FPIC and the concerns of some shareholders regarding the potential inconsistency between FPIC and national law, the definition of FPIC was revised. It is now clarified that, for the purpose of ESS7, *consent* refers to the collective support of affected Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities for the project activities that affect them, reached through a culturally appropriate process. It may exist even if some individuals or groups object to such project activities.

54. **A number of shareholders were concerned about the use of the term *Indigenous Peoples* and the terminology used in the proposed Indigenous Peoples Standard.** They argued that the use of the term posed potential conflicts with the effort set out in their constitutions to promote ethnic unity and build one national identity without identifying specific ethnic or

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<sup>13</sup> Especially Article III, Section 5 (b) and IV, Section 10.

indigenous groups. The Bank acknowledges the concerns about the concept of indigeneity in some African countries. The revised ESS7 therefore includes a new paragraph that highlights circumstances in which, because of national, historical, or cultural considerations, the application of the ESS will take account of the importance of fostering social cohesion and avoid actions that may undermine harmony between different groups. Following a discussion with representatives of some African countries and Indigenous Peoples representatives in Addis Ababa in February 2016, the title of the third draft ESS7 was changed to “Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities.” This change in the title reflects and builds on the flexibility in terminology that is already afforded by OP 4.10, *Indigenous Peoples*. (Section IV lists the substantive changes in the third draft ESS7.)

## **F. Non-Discrimination**

55. **Non-discrimination is a core principle of the proposed ESF.** ESS1 contains a provision requiring the borrower to assess and mitigate any risk of adverse project impacts through inadvertent or deliberate discrimination. The second draft ESF listed examples of vulnerable and disadvantaged groups that would have to be given special considerations when assessing the potential risk and impacts of Bank-financed projects. Throughout the review, the Bank engaged intensely with representatives of marginalized groups, in particular with groups representing persons with disabilities; members of the sexual orientation, gender identity and expression community; groups representing children’s interests; and religious groups.

56. **While shareholders universally accepted the principle of non-discrimination, many borrowing countries expressed concern about the explicit mention of examples of vulnerable groups.** For this reason, Management proposes to include in the ESF an affirmative reference to the principles of non-discrimination and inclusion. Management would list examples of vulnerable groups in a staff Directive that would be mandatory for Bank staff and subject to the Inspection Panel’s consideration if requests for inspection are filed with the Panel. Staff Guidance would also be provided on how to identify and address vulnerability and marginalization during social appraisal and throughout the project cycle.

## **G. Climate Change and GHG Emission Estimation**

57. **Climate change is among the most pressing development issues of this generation.** The World Bank recognizes the fundamental importance of this issue and has developed an institution-wide strategy to address it. The proposed ESF includes a range of climate change considerations, including GHG emission estimation in the proposed ESS3: Resource Efficiency and Pollution Prevention and Management, and climate change adaptation in ESS4: Community Health and Safety.

58. **The proposed ESS3 acknowledges the need to be mindful of the world’s diminishing resources and encourages improvements in resource efficiency.** In the second draft ESS3, the Bank proposed that borrowers estimate GHG emissions for projects that are expected to produce GHG emissions in excess of a threshold established by the Bank in Guidance. Some shareholders



criticized the lack of a numeric threshold in the Standard. Borrowers discussed the cost associated with estimating GHGs.

59. **Estimation of project GHGs is part of good international industry practice.** For borrowers it is the first step to considering alternatives and implementing technically and financially feasible and cost-effective options to avoid or reduce project-related GHG emissions during design and operation. GHG estimation will aid borrowers in identifying any cost-effective and technically feasible ways of improving resource efficiency, particularly the use of energy. Provided it is consistent with other Bank requirements, the estimated project-based GHG emissions will not be used as the sole criterion for deciding whether to proceed with project financing.

60. **In response to concerns about cost and technical constraints, the Bank clarified that borrowers are required to estimate gross GHG emissions as part of the characterization of the air emissions of contaminants, but not to quantify net emissions.** GHG emission estimations can be carried out using established methodologies, including national methodologies that have been developed in the context of international agreements, and tools at little or no cost. The Bank, as part of its ongoing commitment under IDA 17 and in accordance with its institutional mandate for GHG emissions accounting established in the WBG's Environment Strategy (2012) and Climate Change Action Plan (2016), will conduct GHG accounting of emissions for projects it finances, building on the emissions estimation data provided by the borrower. Under corporate mandate, GHG accounting is required for IPF operations in the following sectors for which the Bank has developed or adopted methodologies: energy, forestry, agriculture, transport, water, and urban. This also applies to sectors in which the Bank develops or adopts methodologies in the future as part of the WBG GHG accounting corporate mandate. GHG emission estimation will not be required for sectors or projects with diverse and small sources of emissions (for example, community-driven development projects) or with emissions that are not likely to be significant (for example, social protection projects).

61. **Management recommends that no emission threshold should be set in order to maintain the ability to apply the GHG emission estimation requirement where appropriate.** Details on sector-specific methodologies to estimate GHG emissions will be provided in Guidance. For sectors for which the Bank has not yet developed GHG accounting methodologies, the Bank will adopt a differentiated approach based on project risk classification.

62. **IDA18 will be a critical vehicle to finance and implement the WBG's Climate Change Action Plan and will help to scale up efforts on climate-smart cities, climate-smart land use, and energy efficiency and access.** It will help to mobilize resources and catalyze partnerships for addressing climate change issues. IDA18 will continue to deepen the mainstreaming of climate and disaster resilience into development, help to better engage the private sector, and promote benefits from low-emissions development pathways.

## H. Labor and Working Conditions

63. **Labor and working conditions are addressed in the proposed ESS2, which for the first time introduces a specific operational policy to address labor issues in Bank-financed projects.** ESS2 is derived from provisions of other MDBs and reflects the public sector nature of the World Bank's portfolio and its relationship to borrower governments. The standard builds on borrowing countries' commitments on international labor laws and conventions and focuses on requirements related to non-discrimination, child labor, forced labor, freedom of association, and the right to collective bargaining. The second draft Standard includes requirements for borrowers to ensure the compliance of various third-party employers and covers a wide range of workers.

64. **Labor was among the major issues discussed in all three consultation phases.** It was addressed in country consultation meetings and in focused meetings with ILO and international labor unions. The Bank hosted dedicated expert focus groups on labor issues in March 2013, January 2015, and September 2015.

65. **Many borrowing countries highlighted the difficulties of addressing labor issues associated with brokers, agents, and other intermediaries.** They also expressed concern about the consistency of the requirements with national laws. Some donors and ILO would like to see a reference to ILO's Declaration on Fundamental Principles and Rights at Work and the core labor principles laid out in it.

66. **Management maintains, as it did in the previous two review phases, that, to ensure that the ESF is a stand-alone document and not linked to changes in international agreements, the text of the ESF should not reference international agreements and instruments.** All core labor standards<sup>14</sup> are reflected in the proposed labor provisions. To respond to borrowers' concerns about implementability, the third draft Standard clarifies that the objective of supporting the principles of freedom of association and collective bargaining of workers would be required *in a manner consistent with national law*. This revised Standard also limits borrowers' responsibility vis-à-vis certain primary suppliers and clarifies that it is the borrower's responsibility to require the primary suppliers to take appropriate measures to comply with ESS2. Requirements for community labor have been tailored to be more appropriate to the nature of community labor. The requirements of ESS2 continue to be conditioned by proportionality based on project risks and impacts. (Section IV lists the changes made to the proposed ESS2.)

67. **There may be inconsistencies between the principles of non-discrimination and equal opportunity and national law.** In such cases there should be a 'best efforts' endeavor to carry out the project in accordance with these principles through the design of the project to the extent possible.

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<sup>14</sup> These are: freedom of association and the effective recognition of the right to collective bargaining, the elimination of forced or compulsory labor, the abolition of child labor and the elimination of discrimination in respect of employment and occupation. See [http://www.ilo.org/wcmsp5/groups/public/---ed\\_norm/---declaration/documents/publication/wcms\\_467653.pdf](http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_467653.pdf).

## IV. THE THIRD DRAFT ENVIRONMENTAL AND SOCIAL FRAMEWORK

68. **The third draft ESF aims to advance sustainable development through effective and more efficient risk management.** It represents the outcome of extensive internal and external consultations, in-depth analysis, and evaluations of the current safeguard system. It is designed to be a more modern approach to environmental and social risk management that promotes better project outcomes. It is informed by the safeguards systems of other MDBs, in particular the IFC's (as the Executive Directors mandated when they endorsed the approach paper for this review). It attempts to reconcile the widely varying views of shareholders and stakeholders, but makes clear decisions in favor of implementability and an improved coverage of environmental and social risk when views are not reconcilable. The ESF presents an opportunity for stakeholders to advance a common approach to promote sustainable development that responds to many different challenges, is applicable in varying contexts, and reflects the diversity of views in a multilateral development organization. There is no one-size-fits-all approach to managing environmental and social risks and impacts. The ESF presents an approach to tailoring risk instruments to project risks, impacts, and context. This section describes the principles underlying the proposed Framework and the structure of the Framework, outlines the objectives, and summarizes the content of its individual elements.

### A. Principles

#### 1. *Implementability*

69. **Borrowers' ability to implement the proposed requirements is a crucial factor for realizing the ambitions and aspirations of the Framework.** Section III described the focus of the third phase consultation on implementability, and Management's conclusions. The third draft ESF—the outcome of a 3- to 4-year process of developing a robust new generation of environmental and social standards that responds to new challenges—is balanced and implementable.

#### 2. *Outcomes-based approach*

70. **The proposed outcomes-based approach shifts the emphasis of environmental and social risk management from carrying out processes to achieving better development outcomes.** It allows for adaptive management of project risks and impacts, which will improve borrowers' ability to adjust projects to unexpected changes and will potentially reduce the need for legal restructuring of projects. Both internal and external evaluations of selected World Bank-financed projects have indicated deficiencies in the performance of projects that are caused by the current safeguard model, which tends to be more “front-loaded” and procedures-based in its approach to risk assessment and management: insufficient attention is sometimes given to monitoring and supervising projects and to assessing how people and communities have actually been affected by World Bank-financed projects. To address this, the ESF (a) establishes an outcomes-based approach that requires Bank staff to monitor projects in a manner proportionate

to risks and impacts; (b) requires borrowers to communicate with stakeholders during implementation on a continuing basis about how project environmental and social issues are affecting them and address their grievances appropriately; and (c) introduces a revised risk management approach under which borrowers' time-bound actions may be addressed in the legal agreement or ESCP.

### *3. Efficiency*

71. **The front-loading of risk assessment and preparation of largely generic instruments can extend project preparation time.** Preparing instruments early can also mean that they do not accurately reflect project realities on the ground. However, efficiency can be enhanced by systematically planning ahead and anticipating major environmental and social risks and impacts for projects even when they are still in the pipeline, and adequately preparing for managing the risks and impacts. The proposed Framework will help achieve efficiency gains in project processing through less front-loading, the timely preparation of instruments, better project planning to identify and manage environmental and social issues as early as possible, better scoping of projects with regard to environmental and social risks and impacts, and the use of part or all of the borrower's framework, as appropriate.

72. **Clearer project boundaries allow borrowers to better manage project-related environmental and social risks and impacts.** These changes, together with enhanced technical support from the World Bank, will lead to better risk management outcomes. The ESF takes borrower constraints into account as it allows for actions to be addressed in a timeframe acceptable to the Bank and with consideration of technical and financial feasibility. The potential use of borrower frameworks encourages borrowers' greater sense of project ownership and allows them to address risks and impacts in a more resource-efficient way. Assessment of borrower frameworks will identify areas where capacity building is required.

### *4. Accountability*

73. **The ESF includes a Standard dedicated to stakeholder engagement and information disclosure.** The proposed provisions strengthen the role of stakeholders in the risk management process throughout the project cycle.

74. **The proposed Framework includes systematic requirements for project-level grievance redress mechanisms commensurate to the nature of and risks associated with the project, thereby promoting borrowers' accountability.** Greater detail within the ESF provides borrowers with more clarity on World Bank requirements, on roles and responsibilities, and on decision-making processes. Provisions for disclosure and documentation are also clearer.

75. **The Bank's accountability is increased through clearer roles and responsibilities that define the Bank's due diligence in greater detail.** The new Policy, Procedure, and Directive provide clear and broader terms of responsibility for the Bank than are evident today in the fragmented and often redundant language set out in the eight safeguard policies and procedures.

## *5. Building capacity and institutions*

76. **Most countries have frameworks for managing environmental and social risks and impacts, but they reflect different levels of technical capacity.** Management recognizes that most borrowers' environmental and social management systems will need to be further developed to manage environmental and social risk more effectively. The ESF is designed to help borrowers build their institutions over time and develop capacity that will strengthen their approach to managing environmental and social risk. The Bank acknowledges that many borrowers cannot be expected to have frameworks in place that are equivalent to the Bank's. The Bank will work with borrower frameworks fully or partially as long as that use will achieve outcomes that are materially consistent with the objectives of the ESSs.

## *6. Harmonization*

77. **The ESF brings the World Bank's environmental and social requirements into close functional alignment with the requirements of IFC and MIGA, facilitating project cofinancing.** Although there are some differences between IFC's Performance Standards and the proposed ESSs that reflect the organizations' different mandates, the requirements of the WBG institutions will be more closely aligned with regard to structure and areas covered. The ESF is also more harmonized with the requirements of other MDBs and institutions that apply the Equator Principles. This means that, in cofinancing situations, it will be easier for borrowers to satisfy the often very similar requirements of different lending institutions. (Annex 4 compares MDBs' provisions regarding the issues most frequently discussed by shareholders during consultations: Indigenous Peoples, human rights, non-discrimination, labor, climate change and GHG emissions, use of borrower frameworks, and disclosure requirements.)

## *7. Partnerships*

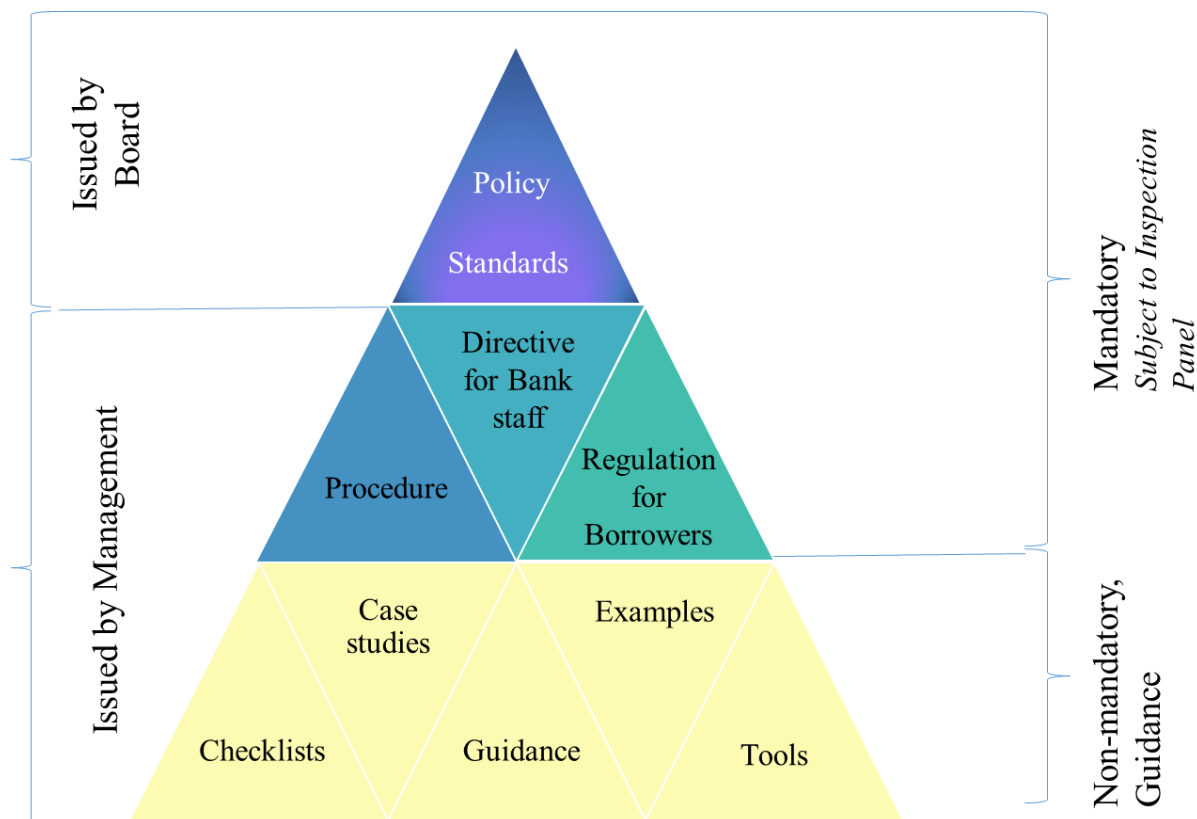
78. **The proposed ESF is built on the concept of the Bank as a global development partner.** It strengthens the Bank's partnership with borrowers by encouraging the increased use of borrower frameworks and close cooperation with borrowers to build and strengthen their environmental and social risk management capacity. ESS10 proposes a systematic approach to continuous stakeholder engagement and meaningful consultations that aims to establish and maintain partnerships among borrowers, project-affected parties, and interested stakeholders. The proposed common approach referred to in the Policy and in ESS1 should facilitate new possibilities for cooperation with development partners when the Bank jointly finances projects. Structured dialogue with strategic partners will leverage both internal and external expertise and knowledge. The Bank has already entered into partnerships with the International Union for Conservation of Nature to cooperate on issues pertaining to biodiversity; with the Asian Development Bank to cooperate on the assessment and use of borrower frameworks, and with ILO to cooperate on issues pertaining to labor and working conditions.

## **B. Structure**

79. **The proposed ESF comprises the Vision for Sustainable Development, Environmental and Social Policy, Environmental and Social Procedure, Bank Directive Addressing Risks**

**and Impacts on Disadvantaged or Vulnerable Individuals or Groups for information, and Environmental and Social Standards for Borrowers.** The documents conform to the World Bank’s Policy and Procedures Framework (see Figure 2). The ESF replaces OP/BP 4.00, *Piloting the Use of Borrower Systems to Address Environmental and Social Safeguard Issues in Bank-Supported Projects*; OP/BP 4.01, *Environmental Assessment*; OP/BP 4.04, *Natural Habitats*; OP 4.09, *Pest Management*; OP/BP 4.10, *Indigenous Peoples*; OP/BP 4.11, *Physical Cultural Resources*; OP/BP 4.12, *Involuntary Resettlement*; OP/BP 4.36, *Forests*; and OP/BP 4.37, *Safety of Dams*.<sup>15</sup> The content of the existing documents has been reviewed and, as appropriate, incorporated into the ESF. If approved by the Board, the ESF would apply to World Bank IPF. Instrument-specific provisions for addressing environmental and social considerations, namely those for Program-for-Results (PforR) operations and development policy operations, will continue to be set out in the relevant instrument-specific operational requirements.

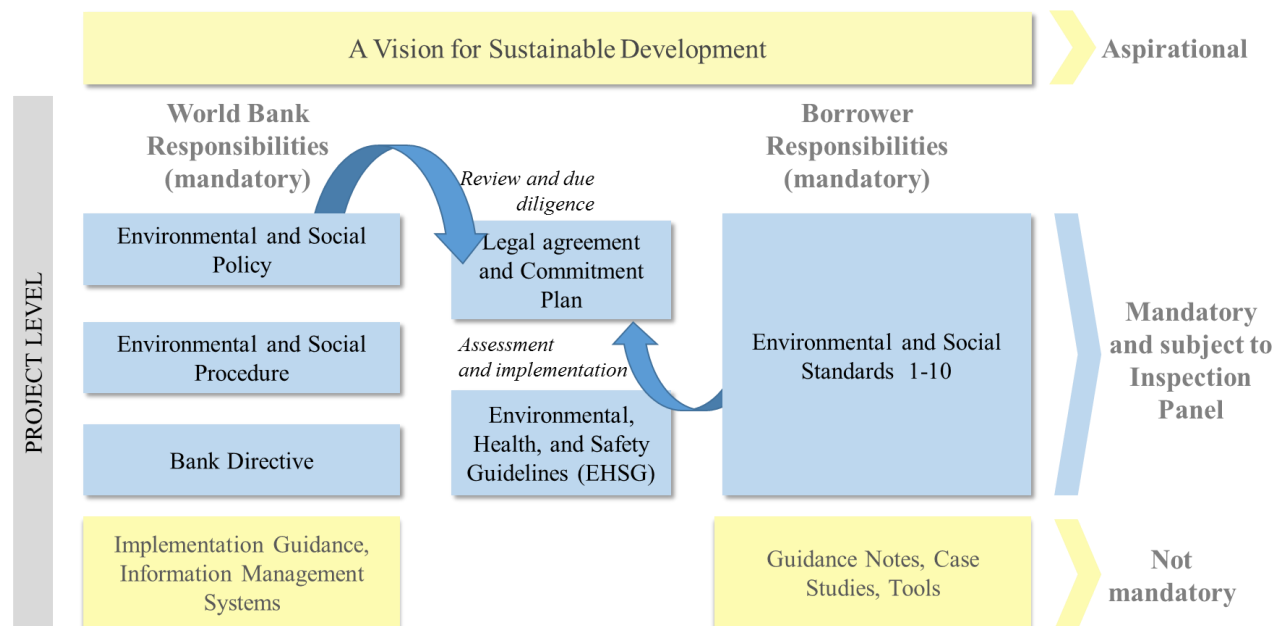
**Figure 2. Policy and Procedures Framework supporting the ESF**



<sup>15</sup> At this time, the review does not affect OP4.03 (World Bank Performance Standards for Private Sector Activities); OP7.50 (Projects on International Waterways); and OP7.60 (Projects in Disputed Territories).

80. The overall ESF package provided to the Board of Executive Directors includes an aspirational Vision and the mandatory aspects of the Framework (Policy, Environmental and Social Standards for Borrowers, Procedure; and Directive; see Figure 3).

Figure 3. Structure of the proposed Framework



### 1. Vision for sustainable development

81. The Vision for Sustainable Development articulates the World Bank’s objectives of setting strong standards for IPF, promoting the achievement of sustainable development outcomes in World Bank-supported projects. The Vision sets out the World Bank’s commitment to environmental sustainability, including stronger collective action to support climate change mitigation and adaptation. It recognizes that social development and inclusion are critical for all of the World Bank’s development interventions. For the World Bank, inclusion means empowering all people to participate in, and benefit from, the development process and removing barriers against those who are often excluded from the development process. The Vision emphasizes that the World Bank’s activities support the realization of human rights expressed in the Universal Declaration of Human Rights. Through the projects it finances, and in a manner consistent with its Articles of Agreement, the World Bank will continue to support its member countries as they strive to progressively achieve their human rights commitments.

### 2. Requirements for the Bank: Environmental and Social Policy (ESP), Bank Directive Addressing Risks and Impacts on Disadvantaged or Vulnerable Individuals or Groups

82. The proposed Policy clarifies and brings together in one place the roles and responsibilities of the World Bank, which were previously set out in eight different operational policies and related procedures. The ESP specifies the World Bank’s environmental

and social requirements in relation to IPF projects it supports. It describes the principles of the environmental and social requirements for the World Bank and provides more clarity on the environmental and social risks and impacts that the World Bank considers in its due diligence. It requires borrowers to structure projects so that they meet the ESSs in a manner and timeframe acceptable to the World Bank, taking into account borrowers' technical and financial constraints and allowing for progressive realization, but it also ensures that no project components are allowed to proceed unless appropriate environmental and social risk management is in place. It introduces a risk-based classification system to enhance consistency and decision-making.

**83. Consultations focused on many of the provisions in the ESP, and a number of changes were made to reflect consultation input.** Main changes:

- The list of examples of disadvantaged or vulnerable groups has been moved to the Directive.
- The revised ESP reflects a more equitable dynamic between the Bank and borrowers with regard to borrower frameworks: the decision on the use of borrower frameworks will be made jointly by the Bank and the borrower rather than by the Bank alone, as in the second draft ESF. A clarification has been added that the decision to use the borrower's framework does not relieve the Bank of any of its due diligence obligations and that key information about the use of the borrower's environmental and social framework will be disclosed as early as possible.
- The ESCP, a legal agreement between the Bank and the borrower, will be agreed between the Bank and the borrower. The ESCP is to be disclosed as early as possible, and before project appraisal.
- A clarification has been added that the Bank will review any revision of the ESCP that is made as part of adaptive risk management, including changes resulting from modifications in the design of a project or from project circumstances.
- A clarification has been added that the Bank will disclose documentation related to the environmental and social risks and impacts of projects of High and Substantial risk before Board appraisal.
- Language has been added to define circumstances in which the project-related documents for projects of High and Substantial risk will be prepared and disclosed after Board approval.

**84. The third draft ESF includes a newly developed Directive for Bank staff to consider the non-discrimination principle during project appraisal.** The Directive gives instructions to Bank staff regarding due diligence obligations with regard to assessing and managing risks and impacts falling on disadvantaged or vulnerable individuals or groups. It defines "disadvantaged or vulnerable" as individuals or groups who may be more likely to be adversely affected by project impacts because of their physical or personal attributes. It lists examples, which are illustrative and not exhaustive, and mandates that projects need to be scoped for issues of vulnerability that need to be addressed. When scoping for vulnerability risks, Bank staff should not place people (including themselves) in a position of risk, and they are not to be a vehicle for values other than those of the country the project is situated in. The consideration of non-discrimination issues should also be carried out in a culturally sensitive manner. A list of examples of grounds for



vulnerability was removed from the Policy and ESS1 in response to borrowers' concerns about its consistency with national laws and with religious, social, and cultural values and norms. The Directive places a responsibility on staff to consider the extent to which the project addresses issues related to the non-discrimination principle.

85. **It is envisaged that the Directive will be issued by the World Bank Group President.** The provisions set out in the Directive are mandatory for Bank staff and subject to investigations by the Inspection Panel.

86. **The Procedure provides Management's instructions to World Bank staff on applying the Policy.** It regulates accountability and the decision-making processes for environmental and social risk management across the World Bank and is intended to ensure that risk management support is handled effectively. It addresses implementation issues such as the timing of the completion of risk assessment and mitigation measures, risk classification, mitigation hierarchy, disclosure, assessment of borrower frameworks, decisions on technical and financial feasibility, accountabilities, roles and responsibilities, and other instructions necessary for the effective application of the ESF.

### *3. Requirements for Bank and Borrowers: ESCP and EHSG*

87. **To facilitate project preparation and support compliance throughout the life of a project, the World Bank and the borrower will agree on an ESCP.** The ESCP sets out the project commitments and is part of the financing agreement. It supports actionable risk management through adherence to the ESSs throughout the lifetime of the project, including, as necessary, dated covenants that are commonly used in the financing agreements of other development finance institutions, including IFC.

88. **The ESCP constitutes a binding document as part of the legal agreement between the World Bank and the borrower.** It summarizes and consolidates in a clear and unambiguous manner the material measures and actions that are required for a project to achieve compliance with the ESSs and the timeframe in which they must be implemented. The ESCP takes into account the findings of the environmental and social assessment, the World Bank's environmental and social due diligence, and the results of engagement with stakeholders. It forms the basis for monitoring the environmental and social performance of the project, defines the means and frequency of reporting on the implementation of measures and actions required to achieve compliance with ESSs, and specifies any aspects of the national environmental and social framework that are to be used.

89. **The World Bank Group's Environmental, Health, and Safety Guidelines (EHSG) consist of technical reference documents with general and industry-specific examples of good international industry practice.** While the EHSG are mandatory, they allow the Bank to consider the borrower's technical or financial constraints.

### *4. Requirements for Borrowers: Environmental and Social Standards (ESSs)*

90. **The third draft ESF includes a version of the proposed ESSs that has been revised to reflect consultation feedback and internal analysis.** Management believes that the revised Standards present an appropriate position that balances the differing views expressed during

consultations with what is practical and implementable. This position is also grounded in the operational experience of Bank staff.

91. **The ESSs presented in this section are linked with each other and should not be read in isolation.** ESS1 and ESS10 are the key process ESSs. The remaining Standards address specific themes. Many of the Standards are further elaborated upon in the EHSG.

### **ESS1: Assessment and Management of Environmental and Social Risks and Impacts**

92. **ESS1 is the overarching standard that, together with ESS10, applies to all projects and considers the use of the borrower’s existing environmental and social framework.** It sets out the requirements for the borrower, which relate to environmental and social assessment and management and monitoring of investment projects. ESS1 provides clarity on key definitions, such as “project” and “associated facilities.” It introduces a clear and actionable risk management system through the ESCP, which forms part of the legal agreement. It also moves closer to a harmonized approach with other development partners on management of environmental and social risks. ESS1 describes the mitigation hierarchy and is informed by the ecosystem services concept.

#### *a) Issues discussed during third phase consultations*

93. **Consultations with borrowers focused on the non-discrimination principle anchored in ESS1 and on the use of borrower frameworks.** As was discussed in Section III, borrowers, especially those with strong national frameworks for environmental and social risk management, asked that the Bank adopt a relatively low threshold for using borrower frameworks. However, a small number of donor governments and CSOs expressed concern about the Bank’s due diligence when borrower frameworks were used. The discussion about non-discrimination was also described in Section III. While donor governments and CSOs called for wide-ranging and explicit protections for specific vulnerable groups, borrowing governments were concerned about the consistency of ESS1 with national regulations and cultural values. Borrowers discussed requirements for the ESCP, cumulative and indirect impacts, project boundaries, associated facilities, primary suppliers, and requirements for including third-party specialists, with an emphasis on implementability. Other items listed as issues for consultation—the common approach, risk classification, and adaptive risk management—were not as widely discussed.

#### *b) Changes in the third draft of ESS1 as compared to the second draft*

94. **Following consultations, the following main changes were made to the proposed ESS:**

- Changes made to the proposed ESP are reflected in ESS1 as appropriate.

- A clarification has been added that the requirement to compensate for significant residual impacts may include measures to assist affected parties to improve or at least restore their livelihoods as relevant in a particular project setting.
- Definitions for direct and indirect impacts have been added along with a clarification that indirect impacts do not include induced impacts.
- A clarification has been made that under the mitigation hierarchy the borrower will offset or compensate for significant residual impacts, where technically and financially feasible. Additional explanations have been added to provide more clarity on the meaning of the phrase “technically and financially feasible.”
- The revised ESS1 provides more clarity that the requirements for subprojects are proportionate to their risk and that an initial screening will be deemed sufficient for projects with multiple small subprojects with minimal or no adverse risks and impacts.
- A clarification has been added that the assessment and mitigation for risks and impacts related to primary suppliers are limited to ESS2 and ESS6, and is proportionate to the borrower’s control or influence over such primary suppliers.
- Additional explanations have been added regarding “associated facilities” and “cumulative impact” to provide more clarity on project boundaries.
- A clarification has been added that the retention of independent specialists for project monitoring will be agreed between the Bank and the borrower and set out in the ESCP.

## **ESS2: Labor and Working Conditions**

95. **ESS2 is derived from provisions of other MDBs and reflects the public sector nature of the World Bank’s operations and its relationship to borrower governments.** The standard builds on borrower countries’ existing commitments to international labor laws and conventions and focuses on requirements related to non-discrimination, child labor, forced labor, freedom of association, and the right to collective bargaining. It reflects the core principles of ILO’s Fundamental Principles and Rights at Work. ESS2 applies to workers employed directly by the borrower to work specifically in relation to the project, and to contractors, primary supply chain workers, and workers involved in community labor. It clearly establishes the requirement for a grievance mechanism for workers and for worker health and safety provisions, reflecting the World Bank Group’s EHS&G.

### *a) Issues discussed during third phase consultations*

96. **During consultations, borrowers, ILO, and international labor unions extensively discussed the implementability of the proposed labor provisions.** Borrowers debated the practicality of requirements regarding third-party employers, community labor, primary suppliers, and grievance mechanisms. Another major concern was the consistency of the requirements with national law. Donors and nongovernmental organizations that are active on labor issues argued for

a reference to ILO's Declaration on Fundamental Principles and Rights at Work and the core labor principles laid out in it. They also discussed the term of "harmful child labor," arguing that it should not be implied that child labor could be harmless in certain circumstances. Some borrowing governments emphasized that it should be possible for children to be involved in, for example, their family's agriculture businesses and activities if this involvement is not harmful to their development.

*b) Changes in the third draft of ESS2 as compared to the second draft*

**97. Following consultations, the following main changes were made to the proposed ESS:**

- The words "in a manner consistent with national law" have been added to the objective of supporting the principles of freedom of association and collective bargaining.
- An objective to "provide project workers with accessible means to raise workplace concerns" has been added.
- A sentence has been added to clarify that discrimination or retaliation against project workers who participate, or seek to participate, in workers' organizations and collective bargaining is to be avoided.
- The protection of "community workers" has been added to the objectives of ESS2. A clearer explanation has been added of the circumstances in which community labor may be used. The application of all requirements of ESS2 may not be appropriate for community workers.
- The term "harmful" child labor has been deleted to harmonize with ILO's conventions. All other requirements regarding child labor are maintained.
- Regarding the requirement for borrowers to exert "all" reasonable efforts to ascertain that contractors are "reputable" and legitimate, "all" has been deleted and "reputable" has been replaced with "reliable" to provide more clarity on the requirement.
- The borrower's responsibility has been limited to focus on requiring primary suppliers to take necessary measures on occupational health and safety and child and forced labor. The requirement to monitor primary suppliers has been removed.
- The text has been amended to clarify that a grievance mechanism will be provided to "direct workers and contracted workers" instead of "all project workers" and that the grievance mechanism is proportionate to the nature and scale, and to the risks and impacts, of the project.

**ESS3: Resource Efficiency and Pollution Prevention**

**98. ESS3 acknowledges the need to be mindful of the world's diminishing resources and encourages improvements in resource efficiency.** The standard sets out project-level requirements relating to resource efficiency, clean production, and pollution prevention and management. It requires borrowers to implement measures for improving efficiency in the

consumption of energy, water, and other resources and material inputs. It also requires borrowers to estimate their GHG emissions and to consider options to reduce them. ESS3 incorporates existing World Bank requirements, including those of OP 4.09, *Pest Management*, and addresses the generation and treatment of wastes, hazardous materials, and pesticides. The requirements of ESS3 carry on the principles of technical and financial feasibility from the Bank's safeguard policies.

*a) Issues discussed during third phase consultations*

99. **The estimation of GHG emissions was at the core of discussions around ESS3.** This topic was described in Section III. Borrowers focused on the cost and effort associated with requirements to estimate GHG emissions for projects. Donors saw a need for including a numeric threshold above which emission estimation would be required.

*b) Changes in the third draft of ESS3 as compared to the second draft*

100. **Following consultations, the following main changes were made to the proposed ESS:**

- Two new objectives were added to reflect the content of the ESS: “to avoid or minimize generation of hazardous and non-hazardous waste” and “to minimize and manage the risks and impacts associated with pesticide use.”
- A clarification has been added that the estimation of air pollution is part of the environmental and social assessment of the project. The Bank will provide assistance to a borrower that does not have the capacity to estimate GHG emissions, for example relating to IDA or to projects affected by fragility, conflict, or violence. In providing this assistance the Bank may carry out GHG estimation on behalf of the borrower, at the Bank's cost, or may provide technical assistance for using estimation methodologies.
- The scope of the estimation requirement has been limited: it does not apply to projects that have diverse and small sources of emissions (for example, community-driven development projects) or those for which emissions are not likely to be significant (for example, projects in social protection).

#### **ESS4: Community Health and Safety**

101. **ESS4 consolidates into one standard the existing practices related to the impacts of projects on communities.** It incorporates OP/BP 4.37, *Safety of Dams*, and also captures many of the World Bank's provisions regarding the design and safety aspects of infrastructure, equipment, products, services, traffic, and hazardous materials. It requires borrowers to develop and implement measures to address possible community exposure to disease as a consequence of project activities and to address emergencies through contingency planning. ESS4 includes requirements on security personnel (both government and private) that are similar to the provisions of some other MDBs.

*a) Issues discussed during third phase consultations*

102. **ESS4 was not a major focus of the consultation and was also not included in the indicative list of issues for consultations.** Stakeholders pointed out the needs to ensure that communities are effectively prepared to respond to disasters and to address climate change adaptation. There were requests for clarifications of safety measures for dams and for the mitigation of risk related to dams. Some borrowers argued that the requirement to hire international dam experts is not appropriate if comparable domestic independent experts are available.

*b) Changes in the third draft of ESS4 as compared to the second draft*

103. **Following consultations, the following main changes were made to the proposed ESS:**

- Two new objectives were added to reflect the content of the ESS, namely to (a) “promote quality and safety, and considerations relating to climate change, in the design and construction of infrastructure” and (b) “avoid or minimize community exposure to project-related traffic and road safety risks, diseases and hazardous materials.”
- A clarification has been added that the assessment of the project’s risks and impacts on the community includes those on the vulnerable.
- A clarification has been added that the concept of universal access applies to projects that involve provision of services to communities, where technically and financially feasible.
- To allow the inclusion of national experts, ESS4 has been amended to state that dam safety panel members must have recognized international expertise in their field, rather than being “internationally known experts.”
- A clarification has been added that ESS4 allows for a risk-based approach, and the requirements applicable to dams with negligible risks have been clarified. The timing of preparation of dam safety reports has been clarified.
- Requirements for traffic and road safety have been clarified.

**ESS5: Land Acquisition, Restrictions on Land Use, and Involuntary Resettlement**

104. **ESS5 applies to all situations in which land is acquired for a project, or restrictions on land use are imposed.** It provides direction on the treatment of public land, land titling activities, access to common resources (marine and aquatic resources, forest products, freshwater, hunting and gathering, grazing and cropping areas), and voluntary transactions. ESS5 prohibits forced evictions. It requires a single resettlement instrument, which can be adapted to the circumstances of the project. It addresses the rights of different categories of affected people, including those without legal right or claim to the land they occupy, and includes gender considerations. It allows compensation to be paid into escrow under specified circumstances. It specifies the treatment of squatter landlords and indirect impacts on livelihoods. ESS5 builds on OP 4.12, *Involuntary Resettlement*, which has served the Bank well for many years.

*a) Issues discussed during third phase consultations*

105. **While ESS5 was discussed widely during consultations, discussions focused on only a few specific aspects of land acquisition and resettlement.** This is reflected in the proposed changes to ESS5. The majority of comments from donors and CSOs focused on the timing of the preparation and disclosure of relevant documents and the coverage of resettlement caused by associated activities (“downstream impacts”). Both are matters treated in the proposed Policy and in ESS1. Other topics discussed include the treatment of resettlement as sustainable development programs and impacts on livelihoods that do not directly result from land acquisition or restrictions on land use. The majority of comments from borrowing governments focused on compensation for informal occupants.

*b) Changes in the third draft of ESS5 as compared to the second draft*

106. **Following consultations, the following main changes were made to the proposed ESS:**

- The language of the fifth objective in ESS 5 has been adjusted to state that resettlement activities will be conceived and executed as “sustainable development programs, providing sufficient investment resources to enable displaced persons to benefit directly from the project.” This reflects the language in OP 4.12, and replaces the term “development opportunities” used in the second draft.
- It has been clarified that compensation and other resettlement assistance for people deriving income from multiple illegal buildings (“squatter landlords”) may be reduced in certain circumstances.
- The definition of “forced evictions” makes it clear that where lawful and ESS-compliant acquisition processes have been followed and people still refuse to relinquish the land, the borrower may use eminent domain, compulsory acquisition, or similar powers, provided these measures follow national law and respect due process.
- The definition of “land acquisition” has been expanded to cover situations in which project impacts render land physically unusable or inaccessible, even when the legal acquisition of land is not involved.
- Language adapted from OP 4.12 has been added, indicating that ESS5 would not apply to restrictions on access to natural resources that a community itself may choose to apply in the context of a community-based project, provided certain conditions are met.
- The criteria governing the use of escrows have been tightened to reduce the chances that people may be displaced before receiving or being offered compensation.

**ESS6: Biodiversity Conservation and Sustainable Management of Living Natural Resources**

107. **ESS6 addresses the range of biodiversity issues currently covered by OP/BP 4.04, *Natural Habitats*, and OP/BP 4.36, *Forests*.** In line with the provisions of other MDBs, it establishes a proportionate approach to biodiversity protection and encourages the sustainable use

of living natural resources. The standard addresses all habitats and requires borrowers to assess and take measures to mitigate the impacts of the project on biodiversity, including such impacts as loss of habitat, degradation, invasive alien species, over-exploitation, hydrological changes, nutrient loading, and pollution. ESS6 includes specific requirements for critical habitats (and aligns the definition of critical habitats with the definition used by IFC) and for legally protected and internationally recognized areas for biodiversity. It permits biodiversity offsets in limited circumstances. When borrowers purchase primary production, ESS6 includes requirements relating to primary suppliers.

*a) Issues discussed during third phase consultations*

108. **Borrowers' discussion of the proposed ESS6 focused mostly on the implementability of the requirements regarding primary suppliers and ecosystem services.** They also discussed the consistency of the proposed provisions with national laws. Donor governments and CSOs focused on biodiversity offsets.

*b) Changes in the third draft of ESS6 as compared to the second draft*

109. **Following consultations, the following main changes were made to the proposed ESS:**

- The requirements on ecosystem services have been removed and integrated into ESS1 to clarify that the borrower will assess the risks and impacts on ecosystem services as part of its environmental and social assessment and will apply the mitigation hierarchy specified in ESS1.
- To strengthen the emphasis on prior steps in the mitigation hierarchy for managing impacts on biodiversity, a clarification has been added that offsets would be considered only on an exceptional basis in cases of impacts on critical habitats. Qualified experts will assist in the design and implementation of offsets, to ensure that offsets can be reasonably expected to meet the requirements of ESS6. A commitment not to support projects that would involve significant conversion or degradation of critical natural habitats is carried over from the current policy.
- A definition of net gains has been added, clarifying that net gains are additional conservation outcomes that can be achieved for the biodiversity values for which the natural or critical habitat was designated.
- A distinction has been introduced between industrial-scale operations and small producers with regard to the application of all ESS6 requirements.
- A requirement from OP 4.36 has been introduced, requiring that industrial-scale commercial forest harvesting operations must be certified under an independent forest certification system.
- A reference to IFC's Good Practice Note on "Improving Animal Welfare in Livestock Operations" and clarifications on animal welfare have been added.



## **ESS7: Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities**

110. **The proposed ESS7 aims to address implementation challenges and consolidate a range of stakeholder views.** The Standard applies when Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities are present in or have a collective attachment to the project area, regardless of potential risks or impacts. It sets out criteria for identifying Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities. It requires borrowers to take appropriate measures to protect Indigenous Peoples and historically underserved traditional local communities that are in voluntary isolation. ESS7 prohibits forced evictions of Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities. It requires borrowers to conduct meaningful consultation with Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities. In three specific circumstances (impacts on lands and natural resources under traditional ownership, use, or occupation; relocation from such land; and significant impacts on cultural heritage) it also requires borrowers to obtain the FPIC of affected Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities.

### *a) Issues discussed during third phase consultations*

111. **Borrowing shareholders discussed the proposed ESS7 mainly with regard to the terminology used in the title of the ESS and the definition of FPIC.** Many African shareholders saw the potential for ethnic tensions caused by singling out specific groups. They also pointed out that under some constitutions, countries may not make distinctions among population groups based on ethnic origin. Borrowers in Africa and in Latin America were also concerned that FPIC could be interpreted as having a veto function, leading to the cancelation of projects if not all Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities agreed. Among donors and civil society, ESS7 was discussed with a focus on the need for a strong FPIC that reflects the progress Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities have made in the past decades with regard to the recognition and protection of their unique rights.

### *b) Changes in the third draft of ESS7 as compared to the second draft*

112. **Following consultations, the following main changes were made to the proposed ESS:**

- The words “/Sub-Saharan African Historically Underserved Traditional Local Communities” have been added to the title, but it has also been made clear that the use of this title does not broaden the scope of application of the Standard.
- A new paragraph has been added that emphasizes the different terminologies that may be used in a national context to describe Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities. These terms reflect the terminology available under OP 4.10 (with the addition of “Sub-Saharan African Historically

Underserved Traditional Local Communities”). This paragraph also makes it clear that regardless of the terminology used, ESS7 applies to a distinct social and cultural group that is identified by specific criteria also set out in ESS7.

- Borrowers may request the Bank to use an alternative terminology for the Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities as appropriate to the national context of the Borrower. The requirements of ESS7 apply to all such groups regardless of which terminology is used.
- A new paragraph emphasizes that the environmental and social assessment of the project supports the identification of measures to address concerns that project activities may exacerbate tensions between different ethnic or cultural groups.
- The revised ESS7 clarifies that *consent* refers to the collective support of affected Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities for the project activities that affect them, reached through a culturally appropriate process. It may exist even if some individuals or groups object to such project activities.
- A clarification was added that FPIC will be applied to Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities’ cultural heritage only when projects have significant impacts on cultural heritage that is material to the identity or cultural, ceremonial, or spiritual aspects of Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities’ lives.
- The revised ESS7 clarifies that the Bank may follow national processes during project screening for the identification of Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities where these processes meet the requirements of the Standard.

## **ESS8: Cultural Heritage**

113. **ESS8 applies to all projects that are likely to have adverse impact on cultural heritage.** It requires projects to use a chance finds procedure and other approaches for the protection of tangible and intangible cultural heritage. ESS8 requires that relevant stakeholders be consulted about cultural heritage. It identifies different types of cultural heritage and sets out specific requirements when the project will use cultural heritage for commercial purposes.

### *a) Issues discussed during third phase consultations*

114. **Cultural heritage was not among the issues that were widely discussed during consultations.** Borrowers remarked that the inclusion of intangible cultural heritage could increase the effort required by the borrower to manage related risks. A suggestion was made to limit the requirements to where intangible cultural heritage is used for commercial purposes. CSOs and academics discussed the challenges of addressing the full range of issues that fall under the

definition of “intangible cultural heritage” and the relationship between the proposed ESS8 and the 2003 UNESCO Convention for the “Safeguarding of the Intangible Cultural Heritage.”

*b) Changes in the third draft of ESS8 as compared to the second draft*

**115. Following consultations, the following main changes were made to the proposed ESS:**

- To reflect the scope of the ESS, the “promotion of meaningful consultation with stakeholders regarding cultural heritage” has been added as an objective.
- The definition of intangible cultural heritage has been revised to harmonize with the 2003 UNESCO Convention for the “Safeguarding of the Intangible Cultural Heritage,” which was ratified by 167 countries.
- The requirements for intangible cultural heritage have been clarified, and it has been specified that ESS8 applies to intangible cultural heritage only if a physical component of a project will have a material impact on such cultural heritage or if a project intends to use such cultural heritage for commercial purposes.
- The requirement of “assign value” of cultural heritage has been replaced with “consider significance” of cultural heritage.

**ESS9: Financial Intermediaries**

**116. In response to stakeholders’ interest in and concerns over how environmental and social considerations can and should be taken into account in intermediated lending, the World Bank has consolidated and provided further detail on existing policy provisions related to financial intermediaries (FIs) into one Standard that also addresses the FI’s organizational capacity and risk management function.** ESS9 aims to strike a balance between what is practical and implementable, especially in less developed countries, and the need to ensure environmental and social responsibility in FI lending. The Standard requires an FI to put in place environmental and social procedures commensurate with the nature of the FI and the level of risks and impacts associated with the project and potential subprojects. The FI is required to meet the requirements of ESS2 and ESS9 for its own operations and to screen, appraise, and monitor all subprojects. ESS9 requires that all subprojects meet national environmental and social requirements. In addition, subprojects involving more than minor risks and impacts related to resettlement, adverse risks or impacts on Indigenous Peoples, or significant risks or impacts on the environment, community health, biodiversity, or cultural heritage will apply the relevant requirements of the ESSs. FIs are required to submit annual reports to the World Bank on their environmental and social performance.

*a) Issues discussed during third phase consultations*

117. **ESS9 was mainly discussed by CSOs and by a small number of donor governments.** Concern was expressed about the Bank's due diligence when risks are managed by a FI. Stakeholders argued that FIs would need to be held to the same standards as borrowers. Those Borrowers, who discussed ESS9, focused on the practicality of borrower oversight of FIs.

*b) Changes in the third draft of ESS9 as compared to the second draft*

118. **Following consultations, the following main changes were made to the proposed ESS:**

- A clarification has been added that when FI subprojects are likely to have minimal or no adverse environmental or social risks or impacts, the FI will apply national law.
- FIs will require that their subprojects conduct stakeholder engagement as set out in ESS10, in a manner proportionate to the risks and impacts of the subprojects. This is in contrast to the second draft that placed the requirement on the FI.
- The requirements for disclosure by FIs have been adjusted to address concerns about compliance with confidentiality under national laws. FIs will be required to disclose a summary of the elements of their Environmental and Social Management System. Sub-borrowers are required to disclose any project-related documents and environmental and social monitoring reports required by the ESSs and for any FI subprojects categorized as high risk in accordance with the FI's own categorization system.
- A section has been added to define requirements related to FIs' organizational capacity and competency.

**ESS10: Information Disclosure and Stakeholder Engagement**

119. **ESS10 recognizes that engagement with stakeholders, including affected communities and workers, is essential to achieving sustainable development outcomes in projects.** It responds to the concerns that stakeholders, especially project-affected parties, are not sufficiently engaged in project-related matters after Board approval and therefore often do not have a say during implementation. It also aims to improve the overall quality of stakeholder engagement. ESS10 requires borrowers to conduct stakeholder engagement proportionate to the nature and scale of the project throughout the life of the project. Borrowers are required to identify stakeholders and develop and disclose an appropriate stakeholder engagement plan. ESS10 sets out requirements on how engagement should take place, including meaningful consultation with all stakeholders; requires borrowers to inform project-affected parties of changes in the project that will affect them; and requires that a grievance mechanism be established to address stakeholder concerns.

*a) Issues discussed during third phase consultations*

120. **Borrowers discussed the implementability of the requirements to develop and disclose a Stakeholder Engagement Plan (SEP) that is proportionate to the project risks and impacts.** They also argued that only project-affected parties should be considered as stakeholders, and that they should be identified by the borrower. Civil society stakeholders called for more specific requirements for grievance mechanisms and for referencing the Inspection Panel in ESS10. Overall, they asked for requirements for extensive and ongoing stakeholder participation, including third-party monitoring, throughout the project lifecycle. The timing and nature of documents disclosed in relation to a project's environmental and social risk management was also discussed with regard to ESS10. This issue is addressed in ESS1 and appropriately reflected in ESS10.

*b) Changes in the third draft of ESS10 as compared to the second draft*

121. **Following consultations, the following main changes were made to the proposed ESS:**

- It has been clarified, in the objectives of the Standard, that materials will be disclosed in a timely way and in an understandable and accessible format.
- The requirements for disclosure have been adjusted to reflect the disclosure provisions in the ESP and in ESS1.
- A clarification has been added that borrowers will disclose their record of stakeholder engagement as part of the environmental and social assessment.
- The SEP will be developed by the borrower in consultation with the Bank, and the draft SEP will be disclosed as early as possible, and before project appraisal. The borrower will consult on the SEP. When the SEP is modified significantly, the updated SEP will also be disclosed.
- The list of examples of vulnerable or disadvantaged individuals or groups has been moved to a Directive.

*5. Guidance for the World Bank and Borrowers*

122. **The new proposed ESF is broader and, at the same time, clearer than the World Bank's safeguard policies.** The package presented to the Board includes all mandatory materials for the World Bank and borrowers. Mandatory elements will be supplemented by additional non-mandatory Guidance. For example, Guidance will address issues such as mainstreaming the consideration of disability concerns in project appraisal, the elderly, children, ecosystem services, determining technical and financial feasibility, and assessing the adequacy of environmental and social assessments and other documents. The Bank will also provide case studies and an appraisal toolkit.

123. **Management conducted an extensive review of existing Guidance throughout the World Bank Group and among key development partners.** This material will form the basis of the knowledge pool for ESF implementation. Gaps have been identified and will be filled as Management prepares for launching the ESF. New Guidance will be developed with experts (through workshops), other international financial institutions, civil society partners, and other relevant groups.

## **6. Other Related Policies**

124. **The adoption of the proposed ESF will require appropriate adjustments to OP 10.00, Investment Project Financing, to the World Bank's Access to Information policy, and to OP4.03, Performance Standards for Private Sector Activities,** to reflect terminology and timelines introduced in the ESF. Relevant parts of the Accountability and Decision Making (ADM) Framework may also need to be revised.

## **V. IMPLEMENTATION**

125. **The approach to implementing the ESF is informed extensively by IFC's experience in launching the Performance Standards in 2006 and updating them in 2012.** It has also been informed by the experience of the African Development Bank in launching their safeguards review in 2014, and by the ongoing plans for the launch of the World Bank's new Procurement Framework. The implementation approach is designed to both support the launch and rollout of the proposed ESF and improve the implementation of the safeguard policies.

126. **Management proposes that the implementation approach be finalized after Board approval.** The implementation of IFC's Performance Standards, for instance, was planned after Board approval. The implementation of the recently revised Procurement Framework was outlined before Board approval, but the implementation details were developed afterwards. At the same time, Executive Directors have repeatedly emphasized the need for detailed planning of ESF implementation at an early stage. Management, therefore, proposes an implementation approach that provides the main elements that can be shared with Executive Directors at this point of the process, but detailed plans will be rolled out over time.

127. **The objective of Management's proposed approach to implementing the ESF is to provide the Bank with capacity and systems to implement the proposed Environmental and Social Policy, Procedure, and Directive and to support borrowers in meeting the proposed ESSs for IPF.** The implementation approach includes a set of five concrete action areas with associated activities:

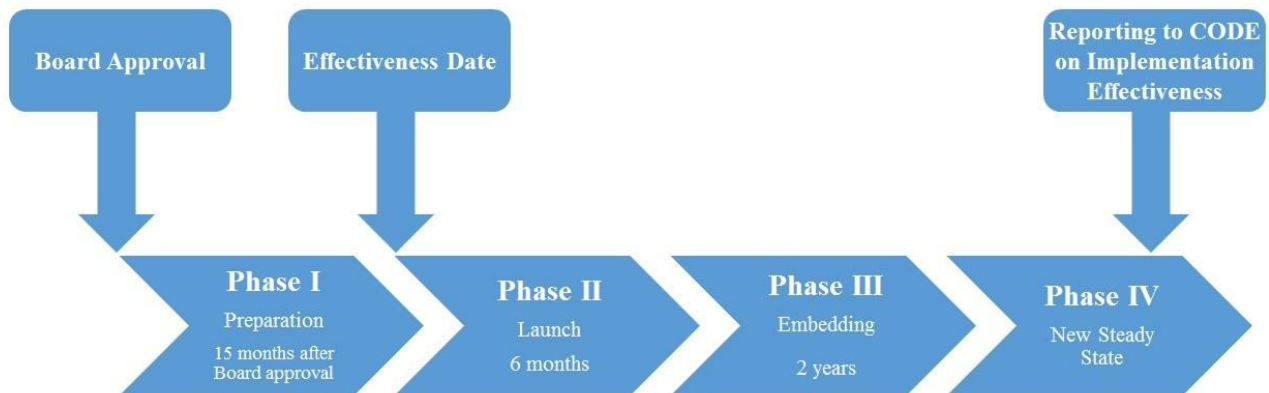
- a) ***Managing change across the Bank with regard to how operations address and manage environmental and social risks:*** needs assessment to define the existing barriers and enabling factors for change; adjustments, where needed, to internal organization and

incentives; appropriate governance structure; communication to support change management.

- b) **Strengthening capacity and providing sustained support to borrowers:** ESF training for borrowers, project implementation support, addressing long term Borrower needs through the Country Partnership Framework, regional capacity-building programs, guidance materials, knowledge resources, and a public sector portal for environmental and social risk management.
- c) **Strengthening Bank capacity and systems:** an internal learning program, guidance materials, professional accreditation system for staff and key consultants on integrated environmental and social risk management, strengthened professional development and talent management, and strengthened Environmental and Social Risk Management systems and processes, including enhanced IT systems and tools.
- d) **Strengthening strategic partnerships with development partners:** strengthened partnerships with borrowers, MDBs, other donors, including development of a common approach, and civil society to support borrower programs.
- e) **Preparation for transition** from the current regime of safeguard policies to the proposed ESF, while both systems run in parallel.

128. **If approved by the Board, it is envisaged that the ESF would be rolled out in four distinct phases** (see Figure 4). The safeguard policies would run in parallel to the ESF for about seven years after launch of the ESF (the average length of an infrastructure project is seven years). If the Concept Note of a project is dated before the launch of the ESF, the project would be governed by the current policies. In specific cases, and if requested by the Borrower, Management may decide that a project can use the ESF, as an “early adopter,” before the effectiveness date of the ESF if the project is at concept stage and preparation can proceed in accordance with the Standards.

**Figure 4. Implementation phases**



129. **If the ESF is approved by the Board, an Implementation Team will be established to manage the implementation process.** An appropriate governance structure will be established to

supervise, advise, and implement the launch and roll-out process. The structure for governance, management, and delivery will rely on existing institutional arrangements as much as possible, will apply lessons learned from the roll-out of the recently approved Procurement Framework, and would integrate relevant staff from OPCS, LEG, GSURR, and GENDR. It will be designed to deliver best practice project management, maintain the involvement of key stakeholders and supporting staff, and allow sufficient oversight to give Executive Directors and Senior Management confidence that the Bank is taking an efficient, coordinated, and collaborative approach to implementation. This section provides a brief overview of the main aspects of the planned implementation.

#### **A. Managing Change in Relation to the ESF**

130. **Management recognizes that a systematic change management effort within the Bank will be needed to create an environment in which the different new aspects of the proposed ESF can be implemented effectively in the long term.** This will require a culture change and a revised approach to incentivizing staff. The change management approach will focus on supporting the successful implementation of the ESF by helping to ensure an environment that is conducive to adopting, implementing, and sustaining the new ways of working.

131. **Change management will involve the Bank’s leadership, environmental and social risk management leadership, and resourcing decision-makers** in taking stock of current organizational arrangements, culture, incentives, leadership practices, and resources to identify and carry out adjustments that will better support the realization of the ESF. Adjustments may focus on role definitions, role relationships, and leadership strategies to provide the right types of incentives and the right levels of support to front-line staff in the different phases of implementation. The goal is to establish, maintain, or strengthen monitoring and decision-making structures in all relevant Bank units, so that more experienced environmental and social staff will be assigned to higher-risk projects.

132. **The successful implementation of the ESF is also dependent on the capacity of individual staff to think and react in new ways and on the commitment of individuals to function in redefined ways.** Once the Board approves the ESF, a skills inventory and needs assessment will be conducted to identify change management activities to address culture and behavioral change among operations staff.

133. **The change management approach will be supported by capacity building and communication and outreach.** Periodic evaluations will test the uptake of new behaviors and the establishment of a new culture—values and behavior—for environmental and social risk management. The insights from these evaluations will be used to improve the change management approach.



## **B. Strengthening Client Capacity and Providing Sustained Support to Borrowers**

134. **Borrowers' needs regarding capacity building vary according to existing capacity, institutional and legal frameworks, country contexts, and borrower expectations.** The Bank's approach to borrower capacity building, therefore, needs to be tailored and respond to short-term information needs as well as long-term institutional needs. The goal of building Borrowers' capacity is to support them carrying out their roles and responsibilities set out in the proposed ESF.

135. **The approach to capacity building would be tailored through a country dialogue process and address immediate training needs as well as long-term institutional needs.** The result would be a 2-pronged approach, consisting of focused, short-term interventions aimed at providing basic understanding of the ESF and a broader, long-term program.

136. **Long-term capacity building would support the New Steady State, providing sustained support to borrowers.** This aspect of the capacity-building program will be developed in dialogue with governments and, as appropriate, linked to the assessment of borrower frameworks carried out by the Bank to determine if all or part of a borrower's framework can be used for environmental and social risk management in projects. Capacity building will be carried out in several forms:

- a) project-by-project support, taking into account the project's environmental and social risks and impacts;
- b) support for the development/strengthening and maintenance of borrower frameworks;
- c) support through strategic regional capacity-building programs;
- d) training to support organizations that work with borrowers on project delivery;
- e) access to knowledge resources, such as tools, guidelines, a help-desk, and support for borrower communities of practice; and
- f) long-term Advisory Services.

137. **Capacity-building efforts will also target stakeholders who need to better understand the ESF because they are involved in the project cycle as affected parties or interested stakeholders, or are involved in monitoring project performance**—for example, development partners, Indigenous Peoples, consultants, academics, and CSOs. Groups that are directly involved in project implementation will be prioritized for capacity building.

## **C. Strengthening the Bank's Capacity and Systems**

138. **OPCS, LEG, GENDR, and GSURR are now working to improve the coherence of the Bank's planning and programming approach for the implementation of the safeguard policies** and will continue irrespective of the Board's action on the proposed ESF. This effort aims to establish functionally integrated and effective environmental and social management systems for safeguards and the ESSs within the Bank. It will provide the building blocks for a structured

management system for environmental and social risks that will be applied when implementing the ESF.

139. **Developing improved IT platforms for environmental and social risk management is part of this effort.** These systems, some of which already exist, will help to better document the Bank's due diligence process, monitor project performance, provide data for quality assurance, support disclosure, analyze and report on portfolio-level issues and trends, and capture lessons from experience.

140. **Successful implementation of the ESF will require the establishment of a new professional accreditation system for environment and social specialists.** The current distinct accreditation systems for social and environmental safeguards will be integrated to create a system that better encourages synergies between the disciplines, is more rigorous in its entry and assessment criteria, and is more in line with similar international professional accreditation processes.

141. **The Bank will also strengthen the career framework for environmental and social risk management professionals to support the overall development of talent.** This recognition of environmental and social risk management as a viable career path for Bank staff will encourage individuals to seek a career in environmental and social risk management, increase the size of the talent pool, and provide opportunities for junior staff to gain the field experience they need to become seasoned senior professionals.

#### **D. Strengthening Strategic Partnerships**

142. **Management plans to use strategic partnerships to support multiple operational aspects of ESF implementation (e.g., skills and capacity building for Bank and borrowers).** The goal is to leverage the knowledge of Bank partners to deliver high-quality capacity-building and implementation support for borrowers. In addition, the Bank will seek to develop a common approach to the assessment and management of environmental and social risks and impacts of jointly financed projects, with key MDBs and bilateral partners.

143. **The Bank already has formal and informal partnerships with a number of organizations.** The implementation of the ESF will be accompanied by a strategic and systematic approach to establishing and managing these relationships with development partners, relevant multi-stakeholder initiatives, and other types of stakeholders.

#### **E. Transition and Preparing for Launch**

144. **Once approved by the Board, the ESF will run in parallel with the safeguards policies until all projects approved under the current safeguards regime have been completed.** Given the average length of Bank-financed projects, it is anticipated that both systems will run in parallel for seven years after the launch of the ESF.

145. **If the Board approves the ESF, Management will begin planning a timeline for the rollout of the ESF.** While preparing for launching the ESF, Management will assess the Bank’s readiness to implement the new Framework and set an effectiveness date. Table 1 lists proposed readiness indicators; failure to meet Tier 1 indicators would result in a delay of the effectiveness date, while failure to meet a combination of Tier II indicators would do the same.

**Table 1. Proposed readiness indicators**

<p><b>Start of Phase I: Preparation Phase</b></p>	<p><b><i>Tier I indicators</i></b></p> <ul style="list-style-type: none"> <li>• Multi-year budget for preparation and launch agreed and in place, for the relevant units</li> <li>• Terms of reference (ToR) ready for hiring: <ul style="list-style-type: none"> <li>- consultants to support completion of guidance notes</li> <li>- firms and individual consultants to prepare training materials and train trainers</li> <li>- consultant to complete pilot and manuals for finalizing new Professional Environmental and Social Risk Management (ESRM) Accreditation System</li> </ul> </li> <li>• ToRs and hiring plan ready for hiring staff to carry out capacity strengthening activities</li> </ul> <p><b><i>Tier II Indicators</i></b></p> <ul style="list-style-type: none"> <li>• Change Management Plan completed</li> <li>• Guidance for transition completed</li> <li>• Risk Management Plan in place</li> <li>• Plan for strengthening ESRM System in place</li> <li>• Plan for strengthening strategic partnerships completed within 2 months after Board approval</li> </ul>
<p><b>Phase I: Six months prior to planned launch and effectiveness date</b></p>	<p><b><i>Tier I indicators</i></b></p> <ul style="list-style-type: none"> <li>• Adequate multi-year budget for preparation and launch agreed and in place, funds released for use</li> <li>• ESF Implementation Unit set up and staffed</li> <li>• Capabilities in place to address new issues</li> <li>• New professional accreditation system pilot completed, manuals and personnel in place to begin rolling out new accreditation process</li> <li>• Pool of 60 trained trainers in place</li> <li>• Common Approach in place with two organizations (for example, AsDB and IDB)</li> </ul> <p><b><i>Tier II indicators</i></b></p> <ul style="list-style-type: none"> <li>• Change Management Plan in place</li> <li>• All existing electronic training material updated and operational and training materials developed and piloted for the following training programs</li> <li>• First e-learning module in place plus test for ESF basics training</li> <li>• Training programs scheduled for 20% of borrower countries</li> <li>• Training programs scheduled for 100% of GH and GG level staff</li> <li>• Staff training completed: <ul style="list-style-type: none"> <li>- ESF orientation sessions for Bank staff completed in all Global</li> </ul> </li> </ul>

	<p>Practices</p> <ul style="list-style-type: none"> <li>- E-learning module in place, tested, and piloted</li> <li>• Launch materials designed and production process planned</li> <li>• Approach for strengthening partnerships with key organizations completed</li> <li>• Common Approach negotiated and agreed with at least 2 external partners</li> <li>• New custom-built ESRM workflow management system designed and build contract awarded</li> <li>• Bank ESF documentation: <ul style="list-style-type: none"> <li>- ESF Procedure and Directive for Bank staff completed and circulated, and training scheduled</li> <li>- The Bank’s Environmental and Social Review Summary (ESRS) for project concept and appraisal stages revised to reflect ESF requirements</li> <li>- Environmental and Social Commitment Plan and all other templates developed and pilots completed</li> <li>- Guidance notes developed and publication date fixed</li> <li>- Bank’s model legal agreements revised to reflect the ESF</li> </ul> </li> </ul>
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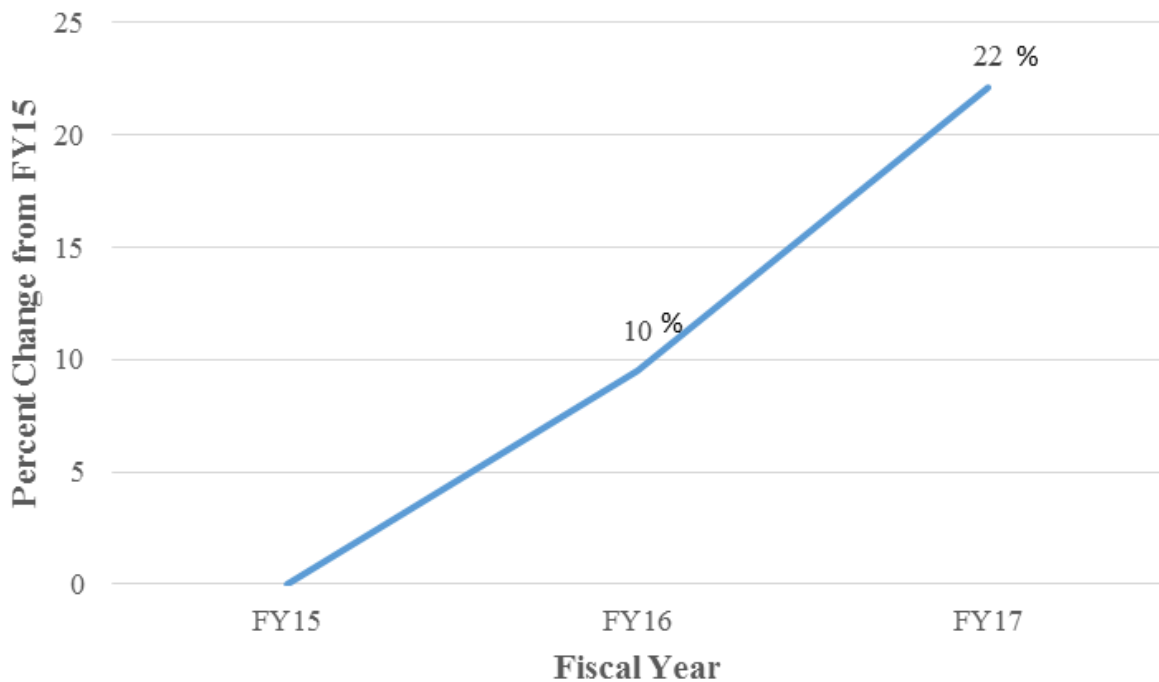
146. **Projects under implementation or prepared with approved project Concept Notes before the effectiveness date will apply the safeguard policies throughout the project cycle.** In specific cases, and if requested by the borrower, Management may decide that a project can use the ESF, as an “early adopter,” before the effectiveness date of the ESF.

147. **While both systems run in parallel, additional support will be provided to Bank staff to ensure the continued timely delivery of environmental and social risk management services.** The OPCS safeguards help-desk will support the implementation of both systems. Training will be provided on the current policies and the new Framework in parallel for at least three years after Board approval of the ESF. Safeguard Advisors and Regional Safeguard Coordinators will continue to support and mentor staff with regard to both policy sets, as needed.

**F. Resourcing**

148. **Management commits to adequately funding the implementation of the ESF.** Since 2014, the Bank has made systematic efforts to strengthen the environmental and social safeguards support for Bank operations. Accordingly, by FY17 the Bank increased the budget for social and environmental safeguards by 22% from the baseline budget of \$42M in FY15 to close resourcing gaps and support effective implementation of the safeguard policies (see Figure 5). The planned budget increase for FY2017 is about US\$5M above the FY16 budget, resulting in an estimated budget of US\$51M.

**Figure 5. Budget increase for Safeguards FY15-17 (in per cent)**



149. **It is expected that operational efficiencies for both Bank and borrowers would be achieved over time.** The proposed approach to assessing and managing environmental and social risk in IPF should lead to:

- a) resource savings due to increased long-term improved project outcomes (savings can be significant where issues are identified and managed early in the process);
- b) resource savings through sustainable improvements in the capacity of environmental and social specialists and borrowers; and
- c) better project implementation and better planning, and therefore more sustainable development outcomes through consistent requirements across all projects.

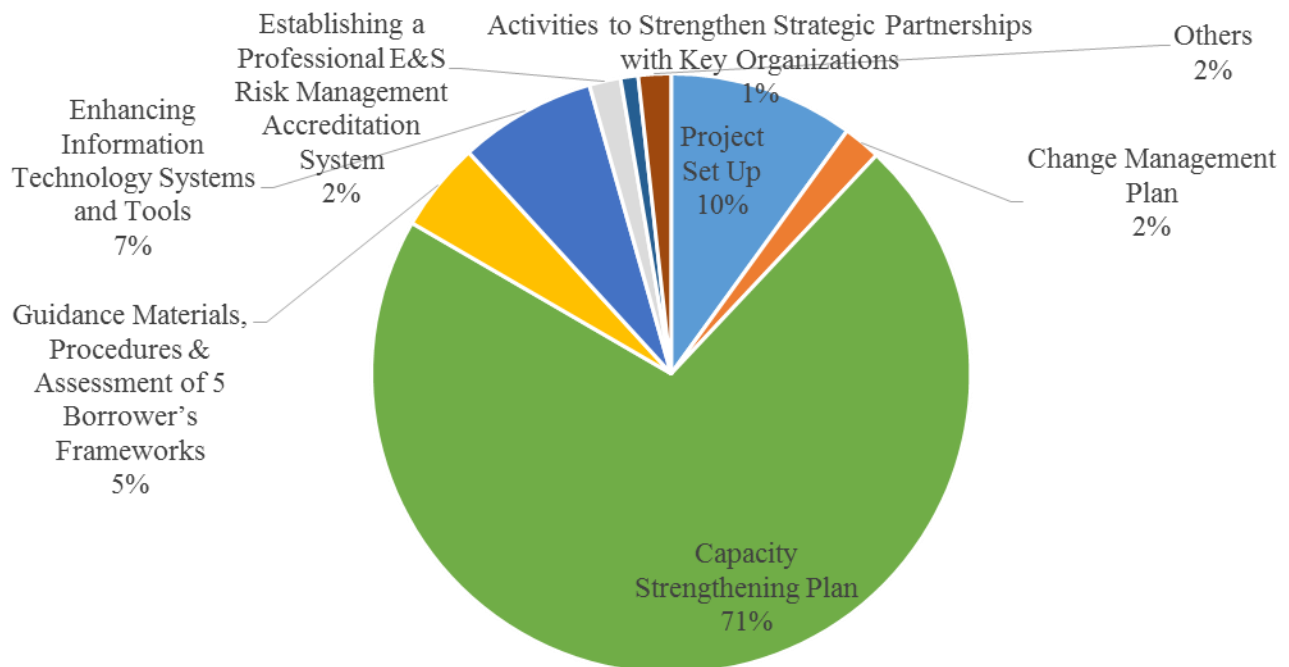
150. **While the adoption of the proposed ESF should, in the long term, create efficiencies for both Bank and borrowers, short-term initial investments would be needed to set up the Bank to implement the ESF and to support borrowers to do the same.** The implementation of the proposed ESF would require resources (a) to prepare, launch, and embed the Framework (one-time surge costs); (b) run a long-term borrower capacity-building program after the ESF has been established; and (c) finance the new operational steady state while it runs in parallel with the safeguard policies and after they have been retired (additional recurrent and incremental costs from FY18 onwards associated with implementing the substance of the ESF). The highest expenditure would be expected for FY18.

### 1. Surge cost for launching and embedding the ESF

151. **If approved by the Board, the proposed ESF would require significant preparation work by the Bank before it is launched.** It would require substantial procedural preparation, change management, enhanced guidance, capacity building, and support and outreach. If approved by the Board in early FY17, surge costs in the range of US\$5-9 million per year would be incurred in FY17-20 (with peak year expected in FY18) for the following activities (the expected composition of funding is illustrated in Figure 6):

- a) Project set-up, including creation of an ESF implementation unit;
- b) Implementation of change management activities;
- c) Capacity strengthening for borrowers and the Bank;
- d) Development of guidance materials, procedures, and tools for borrowers and Bank staff;
- e) Assessment of a preliminary set of borrower frameworks;
- f) Development of enhanced systems and processes within the Bank;
- g) Establishment of the new accreditation system;
- h) Activities for strengthening strategic partnerships with key organizations; and
- i) Other management activities (for instance, managing transition arrangements, monitoring and evaluation, corporate communications).

**Figure 6. Estimated composition of surge costs**



## *2. Long-term borrower capacity building*

152. **Management envisages establishing a long-term borrower capacity-building program after the ESF is embedded.** Capacity building is already included in the surge funding, but additional resources would be required from FY21 to FY24. This program, described above, would potentially be supported through alternative sources of financing—borrowing, reimbursable advisory services, donor funding, and the country’s own resources—in addition to Bank budget. In addition, Management would seek to establish a multi-donor trust fund to support capacity building for Borrowers in fragile and post-conflict situations and for Borrowers with low capacity.

## *3. Resource implications for the new steady state*

153. **Additional resources would be needed for the new steady state to cover, in particular, the fixed costs associated with hiring additional staff for new areas covered by the ESF, as well as variable and overhead costs required to deliver project support across the Bank’s IPF pipeline and portfolio.** Incremental costs would be associated with:

- a) Broader scope of practice due to new topic areas (labor, community health and safety, stakeholder engagement), new processes (ESCP, risk classification, social assessment), and the assessment of borrowers’ ES frameworks;
- b) A risk-driven approach to inform environmental and social decision-making throughout the entire project life cycle, enhanced risk-based supervision and implementation support, and quality assurance, including monitoring and appraisal of high-risk operations;
- c) Increased targeted hands-on support for situations of fragility, conflict, and violence and for operations in countries with low capacity;
- d) Systematic grievance redress support;
- e) Enhanced approach to knowledge and learning for Bank and borrowers; and
- f) More transformational projects with more significant and demanding social issues, requiring increased management support.

154. **The additional recurrent and incremental costs for the new operational steady state is expected to be 20-25% (US\$10-13M) over the FY17 baseline.** The increase would be absorbed gradually over a four-year period (FY18-21).

## **Monitoring and Evaluation**

155. **The success of the ESF will be measured through a monitoring and evaluation program** (see Figure 7). The effectiveness of the Implementation approach will be measured by its ability to deliver the project outcomes expected from applying the ESF: (a) strengthen sustainable outcomes in IPF, (b) enhance protections and promote development outcomes for people and the environment, (c) strengthen borrowers’ institutional capacity to develop and sustain good environmental and social management practice, and (d) increase the efficiency and effectiveness of environmental and social risk management.

**Figure 7. Approach to measuring the effectiveness of the ESF after launch**



156. **Management will identify a set of performance metrics and indicators to assess the key components of the implementation approach with regard to their development impact.** Management will report annually to CODE on the results from monitoring and evaluation, starting one year after the ESF goes into effect, with a fuller review of implementation effectiveness after five years.

## VI. CONCLUSION AND RECOMMENDATION

157. **It is imperative to modernize and update the World Bank's system of managing environmental and social risk.** With the proposed ESF, the Bank responds to new challenges and issues, improves the consistency and quality of environmental and social appraisal, and strengthens implementation support to borrowers. The proposed ESF will focus on outcomes that promote sustainable development, provide effective and efficient protections for people and the environment affected by Bank-financed projects, and respond to challenges in borrowing countries that have evolved since the safeguard policies were developed and that may develop in the next years. Most of all, it will be implementable and will, therefore, contribute significantly to realizing the World Bank Group's goals and to building borrower institutions. Many of the proposed changes are necessary to improve the Bank's performance regarding its current safeguard policies, irrespective of the launch of the ESF.



158. **The proposed ESF supports the Bank’s goals to end extreme poverty and promote shared prosperity in a sustainable manner in all partner countries.** It boosts protections for the environment and the poorest and most vulnerable people, drives sustainable development through capacity- and institution-building and country ownership, and enhances the efficiency of appraising environmental and social risks and impacts for both the borrower and the Bank. Thus, the ESF and the measures that will be put in place to implement it will, together, promote better development outcomes in Bank-financed projects.

159. **Better development outcomes would come from the wider coverage and effective management of social and environmental risks and an increased emphasis on sustainability and responsible use of resources.** The proposed Standards help to increase the access of poor people—especially of the disadvantaged or vulnerable—to development benefits. The proposed requirements better protect livelihoods, contribute to better living conditions, and foster the resilience of communities.

160. **The proposed ESF is the outcome of an extensive stakeholder engagement effort, possibly the largest any MDB has ever undertaken.** Listening to a very large group of stakeholders means listening to many different and often mutually exclusive views. With the third draft ESF the Bank has achieved a balance between protections and implementability. The ESF is a truly multilateral framework; not all stakeholders will find responses to all of their issues. The World Bank is a community of 189 countries that are committed to bringing about better lives for the world’s population and protecting the planet and its biodiversity. Management recognizes that the review and update of the World Bank’s safeguard policies generates strong views among shareholders and stakeholders on a wide array of issues. While Management recognizes, respects, and appreciates all viewpoints expressed during consultations, it is Management’s responsibility to present a proposal that balances differing views and interests, aspirations, and development practice.

161. **Management seeks approval of the Board of Executive Directors of the proposed content of the draft Vision, Policy, and Standards.** If the Board `es this proposal, Management would proceed to finalize and issue the Environmental and Social Procedure and Bank Directive Addressing Risks and Impacts on Disadvantaged or Vulnerable Individuals or Groups to complete the new Environmental and Social Framework. The Framework would replace OP/BP 4.00, OP/BP 4.01, OP/BP 4.04, OP 4.09, OP/BP 4.10, OP/BP 4.11, OP/BP 4.12, OP/BP 4.36, and OP/BP 4.37. In finalizing the ESF, Management would also develop Guidance to support the implementation of the new Framework.

162. Management will disclose the draft ESF to the public for information upon submission of this paper to the Board of Executive Directors.

## ANNEX 1. THE PROPOSED ESF'S CONTRIBUTION TO ACHIEVING THE SDGs

<b>Sustainable Development Goal<sup>1</sup></b>	<b>ESF contribution<sup>2</sup></b>
SDG 1: End poverty in all its forms everywhere	<ul style="list-style-type: none"> <li>• Promotes equal rights to resources and services through the proposed non-discrimination principle (ESS1 and Policy)</li> <li>• Promotes policy harmonization with other development partners, which can enhance development cooperation</li> </ul>
SDG 2: End hunger, achieve food security and improved nutrition and promote sustainable agriculture	<ul style="list-style-type: none"> <li>• Promotes sustainable and resilient agricultural practices that increase productivity and production, help maintain ecosystems, and strengthen adaptation to climate change through requirements for assessment of broader environmental and social risks and impacts (ESS1) and the sustainable management of living natural resources (ESS6)</li> </ul>
SDG 3: Ensure healthy lives and promote well-being for all at all ages	<ul style="list-style-type: none"> <li>• Promotes clean air and water through proposed requirements for pollution prevention and management (ESS3)</li> <li>• Promotes the responsible management of hazardous materials (ESS3, ESS4)</li> </ul>
SDG 4: Ensure inclusive and equitable quality education and promote lifelong learning opportunities	<ul style="list-style-type: none"> <li>• Promotes equal and inclusive access of disadvantaged or vulnerable groups to development benefits through the proposed non-discrimination principle (ESS1 and Policy)</li> <li>• Promotes universal access, including for disadvantaged or vulnerable groups (ESS4)</li> <li>• Promotes inclusive engagement of disadvantaged or vulnerable groups through proposed stakeholder engagement requirements (ESS10)</li> </ul>
SDG 5: Achieve gender equality and empower all women and girls	<ul style="list-style-type: none"> <li>• Promotes inclusion and equality for women and girls and their access to resources and services through the proposed non-discrimination principle (ESS1 and Policy)</li> </ul>
SDG 6: Ensure availability and sustainable management of water and sanitation for all	<ul style="list-style-type: none"> <li>• Promotes water-use efficiency, water resources management, and better water quality through proposed requirements for resource efficiency and pollution prevention and management (ESS3) and community health and safety (ESS4)</li> </ul>

<sup>1</sup> See <https://sustainabledevelopment.un.org>

<sup>2</sup> In relation to specific targets identified by the United Nations for each SDG.

	<ul style="list-style-type: none"> <li>Promotes the protection of water-related ecosystems through proposed requirements for protecting and conserving marine and other aquatic ecosystems (ESS6)</li> </ul>
SDG 7: Ensure access to affordable, reliable, sustainable and modern energy for all	<ul style="list-style-type: none"> <li>Promotes energy efficiency through proposed requirements for resource efficiency (ESS3)</li> </ul>
SDG 8: Promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all	<ul style="list-style-type: none"> <li>Promotes global resource efficiency in consumption and production through proposed requirements for resource efficiency (ESS3)</li> <li>Promotes the decoupling of economic growth from environmental degradation through proposed requirements for resource efficiency (ESS3) and for the conservation of biodiversity and habitats (ESS6)</li> <li>Promotes the eradication of forced labor and the prohibition and elimination of child labor through proposed labor requirements (ESS2)</li> <li>Promotes the protection of labor rights and safe and secure working environments through proposed labor requirements (ESS2)</li> </ul>
SDG 9: Build resilient infrastructure, promote inclusive and sustainable industrialization and foster innovation	<ul style="list-style-type: none"> <li>Promotes the development of reliable, sustainable, and resilient infrastructure through proposed requirements for infrastructure and equipment design and safety (ESS4)</li> </ul>
SDG 10: Reduce inequality within and among countries	<ul style="list-style-type: none"> <li>Promotes equal opportunity and the inclusion of all through the proposed non-discrimination principle (ESS1 and Policy)</li> </ul>
SDG 11: Make cities and human settlements inclusive, safe, resilient and sustainable	<ul style="list-style-type: none"> <li>Promotes efforts to protect the world's cultural heritage through proposed requirements on tangible and intangible cultural heritage (ESS8)</li> <li>Promotes an increase in the number of human settlements adopting plans towards inclusion, resource efficiency, and mitigation of and adaptation to climate change through relevant proposed requirements (ESS1, ESS3, ESS4, and Policy)</li> </ul>
SDG 12: Ensure sustainable consumption and production patterns	<ul style="list-style-type: none"> <li>Promotes the sustainable management and efficient use of natural resources through proposed requirements for resource efficiency (ESS3) and the sustainable management of living natural resources (ESS6)</li> <li>Promotes the environmentally sound management of chemicals and wastes through proposed requirements for the management of hazardous and non-hazardous wastes, chemicals, and hazardous materials (ESS3, ESS4)</li> </ul>

<p>SDG 13: Take urgent action to combat climate change and its impacts</p>	<ul style="list-style-type: none"> <li>• Promotes the mitigation of climate change impacts through proposed requirements to assess and mitigate climate impacts and impacts on ecosystem services (ESS1, Policy, ESS4), manage long- and short-term climate pollutants (ESS3), consider climate change in the design and construction of infrastructure (ESS4), and assist communities in their ability to handle extreme weather events and natural disasters (ESS4)</li> </ul>
<p>SDG 14: Conserve and sustainably use the oceans, seas and marine resources for sustainable development</p>	<ul style="list-style-type: none"> <li>• Promotes the sustainable management and protection of marine and coastal ecosystems through proposed requirements for protecting and conserving marine and other aquatic ecosystems (ESS6)</li> </ul>
<p>SDG 15: Protect, restore and promote sustainable use of terrestrial ecosystems, sustainably manage forests, combat desertification, and halt and reverse land degradation and halt biodiversity loss</p>	<ul style="list-style-type: none"> <li>• Promotes the conservation, restoration, and sustainable use of terrestrial and inland freshwater ecosystems and their services through proposed requirements for protecting and conserving terrestrial and aquatic ecosystems and habitats (ESS6) and assessing and mitigating impacts on ecosystem services (ESS4)</li> <li>• Promotes the sustainable management of forests and reduced degradation of natural habitats through proposed requirements for the conservation of biodiversity and habitats, including forests (ESS6)</li> <li>• Promotes measures to prevent the introduction and mitigate the impact of invasive alien species (ESS6)</li> </ul>
<p>SDG 16: Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels</p>	<ul style="list-style-type: none"> <li>• Promotes public access to information through proposed requirements for stakeholder engagement and disclosure (ESS1, ESS10)</li> <li>• Promotes non-discriminatory policies for sustainable development through the proposed non-discrimination principle (ESS1)</li> </ul>
<p>SDG 17: Strengthen the means of implementation and revitalize the global partnership for sustainable development</p>	<ul style="list-style-type: none"> <li>• Promotes and enhances support to capacity building in developing countries to support national plans to implement measures in support of the SDGs</li> </ul>

## ANNEX 2. THE CURRENT SAFEGUARD POLICIES

- 1. The World Bank’s safeguard policies embody the institution’s core values.** They form the cornerstone of the World Bank’s efforts to protect people and the environment and ensure sustainable development. They have served the World Bank, its borrowers, and the development community well over the past several decades and have provided an international standard for managing environmental and social project risks. To meet borrowers’ new and varied needs in a world with new social and environmental challenges, the World Bank launched an extensive review and update of these policies in 2012.
- 2. Assessing and managing the negative environmental and social impacts of World Bank-financed projects has been a core concern of the institution for more than 40 years.** Beginning in the 1970s, the World Bank steadily increased its attention to the environmental and social risks and opportunities associated with the development process. In 1984, the World Bank issued an Operational Manual Statement (OMS) on Environmental Aspects of World Bank Work, outlining the World Bank’s policies and procedures relating to projects, technical assistance, and other aspects of its work that could have environmental implications. The term “environmental” was interpreted widely to include both natural and social conditions and the well-being of current and future generations.
- 3. The World Bank has developed an extensive body of provisions to assess and mitigate environmental and social risks in its operations.** Following the World Bank’s reorganization in 1987, Operational Directives (ODs) gradually replaced the OMSs, frequently incorporating policy previously contained in the OMSs<sup>1</sup> and also setting out new policy. Environmental assessment was initially addressed in OD 4.00, Annex A,<sup>2</sup> which was later replaced by OD 4.01, *Environmental Assessment*. In 1992, issues related to the comprehensiveness of the ODs and a desire on the part of World Bank Management to streamline and clarify practices and accountabilities led to a decision to gradually replace ODs by Operational Policies (OPs) and Bank Procedures (BPs), whose content would be binding on borrowers and World Bank staff. Additional environmental and social policies were subsequently added to address specific environmental and social issues in Bank operations.
- 4. The current suite of safeguard policies was designed to help the World Bank address environmental and social issues arising from projects that finance goods, works, and services in a broad range of sectors.** They also apply to technical assistance activities supported by the World Bank and to the recipient-executed activities supported by trust funds it administers. In 1997, the World Bank grouped 10 Operational Policies as “safeguard policies”—6 environmental, 2 social, and 2 legal policies<sup>3</sup>—to support compliance during project preparation and implementation.

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<sup>1</sup> Before the World Bank’s 1984 reorganization, the operational policies were contained mainly in OMSs and Operational Policy Notes, which were both issued by the Office of the Senior Vice President, Operations, under the authority of the President.

<sup>2</sup> OD 4.00, Annex A: Environmental Assessment (1989).

<sup>3</sup> OP 4.01, *Environmental Assessment*; OP 4.04, *Natural Habitats*; OP 4.09, *Pest Management*; OP 4.10, *Indigenous Peoples*; OP 4.11, *Physical Cultural Resources*; OP 4.12, *Involuntary Resettlement*; OP 4.36, *Forests*; OP 4.37, *Safety of Dams*; OP 7.50, *Projects on International Waterways*; and OP 7.60, *Projects in Disputed Territories*. OPs 7.50 and

5. **A 2010 evaluation conducted by the World Bank’s Independent Evaluation Group (IEG) more than 20 years after the requirement for environmental assessment was first introduced showed that the safeguard policies have been effective in avoiding or mitigating negative impacts.** The IEG also identified a need to adapt the safeguard policies to reflect the changing context in which the World Bank operates, including a rapidly changing business environment and new lending modalities, as well as evolving best practices and borrower needs.<sup>4</sup> IEG recommended a stronger focus on using the safeguard policies to support environmentally and socially sustainable development; assess a wider range of potential social risks and impacts; improve supervision; and support more efficient and effective approaches to monitoring, evaluation, and completion reporting. Following the IEG report, Management committed to undertake a comprehensive update and consolidation of the World Bank’s safeguard policies.

6. **The proposed Environmental and Social Framework that has been developed during this process provides a more coherent and consistent set of requirements.** The Framework clearly distinguishes World Bank and borrower obligations, addresses gaps and inconsistencies, and clearly delineates values, policy statements, borrower requirements, and procedural aspects.

7. **Environmental and social requirements need to be tailored to the nature of specific financial instruments.** Therefore, approaches to addressing environmental and social considerations related to development policy and Program-for-Results operations are embedded in the operational policies governing these instruments (OP/BP 8.60 and OP/BP 9.00) and are not covered by the proposed Framework. Policy-level instruments require a different approach to managing environmental and social risk. The World Bank has conducted retrospectives of both the development policy and Program-for-Results instruments, including their environmental and social aspects.

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7.60 are not part of the safeguard update. The review also does not include OP 4.03, *World Bank Performance Standards for Private Sector Activities*.

<sup>4</sup> *Safeguards and Sustainability in a Changing World: An Independent Evaluation of World Bank Group Experience*, <http://go.worldbank.org/ZA4YFV9OLO>

### ANNEX 3. CASE STUDIES ROAD-TESTED DURING PHASE 3 CONSULTATIONS

Country in which consultation was held	Case Study presented
Afghanistan	National Solidarity Program III
	Trans-Hindukush Road Connectivity Project
Bangladesh	Integrated Agriculture Productivity Project
	Investment Promotion and Financing Facility Project
Belgium	Lebanon Water Supply Augmentation Project
	Bangladesh Investment Promotion and Financing Facility Project
Brazil	Projeto de Desenvolvimento Regional
Cameroon	Agriculture Investment and Market Development Project
China	Yunnan Urban Environmental Project
	Kunming Urban Rail Project
Egypt	Power Generation Development (Giza North)
	Integrated Sanitation and Sewerage Infrastructure II
Ethiopia	Ethiopia Water Supply Hygiene and Sanitation Project
	Ethiopia Expressway Development Support Project
Honduras	Programa de Competitividad Rural - COMRURAL
India	Eastern Dedicated Freight Corridor-II
	Tamil Nadu Sustainable Urban Development Project
	Punjab State Road Sector Project
Indonesia	Western Indonesia Road Improvement Project (WINRIP)
	General example of large infrastructure project in Indonesia
Jordan & Iraq	Jordan Second Education Reform for Knowledge Economy II
	Iraq Transport Corridors Project
Kenya	Kenya Northern Corridor Transport Improvement Project
	Kenya Informal Settlements Improvement Programme
	Mozambique Greater Maputo Water Supply Expansion Project
Lebanon	Lebanon Water Supply Augmentation Project
	Lebanon Municipal Services Emergency Project
Madagascar	Projet de Pôle de Croissance Intégrée II
	Projet d'Urgence de Préservation des Infrastructures et Réduction de la Vulnérabilité
Mexico	Proyecto sobre Bosques y Cambio Climático
Morocco	Social and Integrated Agriculture Project (ASIMA)
	Noor Ouarzazate Concentrated Solar Power Plant Project
Niger	Niger Disaster Risk Management and Urban Development Project
Nigeria	Commercial Agriculture Development Project
	Lagos Urban Transport Project 2
Peru	Proyecto Línea 2 Metro de Lima
Rwanda	Rwanda Land Husbandry, Water Harvesting and Hillside Irrigation Project
	Rwanda Feeder Roads Development Project
South Africa	Eskom Investment Support Project
St. Lucia	Disaster Vulnerability Reduction Project
Tajikistan	Tajikistan Second Public Employment for Sustainable Agriculture and Water Resources Management Project

Tanzania	Tanzania Second Central Corridors Project and Additional Financing
	Burundi Infrastructure Emergency Resilience Project
Turkey	Turkey Municipal Services Project
	Turkey Private Sector Renewable Energy and Energy Efficiency Project
USA	Lebanon Water Supply Augmentation Project
	Bangladesh Investment Promotion and Financing Facility Project
Uzbekistan	Dushanbe Second Water Supply Project
Vietnam	Mekong Delta Region Urban Upgrading Project
	Haiphong Urban Transport Project



**ANNEX 4. COMPARISON OF MDB PROVISIONS ON KEY CROSS-CUTTING SAFEGUARDS ISSUES**

<b>Bank proposal</b>	<b>IFC</b>	<b>AIIB</b>	<b>AsDB</b>	<b>AfDB</b>	<b>EBRD</b>
<b>Indigenous Peoples/ FPIC</b>					
<p>Titled “Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities,” applies when Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities are present in or have a collective attachment to the project area; in specified circumstances requires Free, Prior, and Informed Consent (FPIC), which refers to the collective support of affected Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities for the project activities that affect them, reached</p>	<p>Dedicated standard on “Indigenous Peoples” requires FPIC in specified circumstances.</p>	<p>Dedicated standard on “Indigenous Peoples” requires free, prior, and informed consultation (FPICon), defined as “evidence of broad community support of these Indigenous Peoples on the outcome of the negotiations.” Allows use of FPIC in those countries where it is the standard.</p>	<p>Requires consent of IPs for specified circumstances, which refers to broad community support.</p>	<p>No dedicated standard and no requirement for FPIC. Indigenous Peoples may be included in risk assessment in certain higher-risk cases, if they are considered to be a “vulnerable group.”</p> <p>AfDB notes that there should be an effort to better understand the meaning of the term Indigenous Peoples in the context of Africa.</p>	<p>Requires FPIC in specified circumstances: “consent refers to the process whereby the affected community of Indigenous Peoples arrive at a decision, in accordance with their cultural traditions, customs and practices.”</p>

<p>through a culturally appropriate process. It may exist even if some individuals or groups object to such project activities.</p>					
<b>Human rights</b>					
<p>Proposed language in non-mandatory Vision statement: “the World Bank’s activities support the realization of human rights expressed in the Universal Declaration of Human Rights. Through the projects it finances, and in a manner consistent with its Articles of Agreement (especially Article III, Section 5 (b) and IV, Section 10), the World Bank seeks to avoid adverse impacts and will continue to support its member countries as they strive to progressively achieve their human rights commitments.”</p>	<p>Language in policy and performance standard: “IFC recognizes the responsibility of business to respect human rights, independently of the state duties to respect, protect, and fulfill human rights. This responsibility means to avoid infringing on the human rights of others and to address adverse human rights impacts business may cause or contribute to. [...] Each of the Performance Standards has elements related to human rights dimensions that businesses may face in the course of their operations.”</p>	<p>Language on human rights mirrors the language of the Bank’s first draft ESF: “...seeks, through the Projects it finances, to be supportive of these human rights and to encourage respect for them, in a manner consistent with its Articles of Agreement.”</p>	<p>Only one reference to human rights in its safeguards, in relation to Indigenous Peoples. The language is similar to that in the Bank’s OP 4.10, <i>Indigenous Peoples</i>. There is no general reference to human rights.</p>	<p>Language in Preamble: “...views economic and social rights as an integral part of human rights, and accordingly affirms that it respects the principles and values of human rights as set out in the UN Charter and the African Charter of Human and Peoples’ Rights. [...] The AfDB encourages member countries to observe international human rights norms, standards, and best practices on the basis of their commitments made under the International Human Rights Covenants and the African Charter of Human and Peoples’ Rights.”</p>	<p>The mandate of the EBRD contains an explicit commitment to human rights. EBRD’s policy states: “The EBRD recognises the responsibility of clients and their business activities to respect human rights and that this is an integral aspect of environmental and social sustainability. This responsibility involves respecting human rights, avoiding infringement on the human rights of others, and addressing adverse human rights impacts that their business activities may cause, or to which they may contribute” (para 9).</p>

<b>Non-discrimination</b>					
ESF introduces non-discrimination principle. A mandatory Directive for Bank staff lists a number of examples of possible disadvantaged or vulnerable groups, including persons who may be discriminated against on the basis of their sexual orientation and gender identity.	Lists sexual orientation as an example of possible grounds for discrimination.	Requires addressing nondiscrimination, but does not include LGBTI as example.	Lists examples of vulnerable groups, but does not include LGBTI.	Lists sexual orientation as an examples for vulnerability.	Lists sexual orientation as an example of possible grounds for discrimination.
<b>Labor</b>					
Covers direct workers, third parties, projects involving community labor, and workers engaged by primary suppliers. Builds on existing borrower commitments to international labor laws and conventions and Includes requirements related to non-discrimination, child labor, forced labor, freedom of association, and the right to collective bargaining.	Covers broadly the same types of workers as the proposed Bank standard, except for the community labor. Requirements broadly equivalent to proposed Bank standard. IFC's Performance Standards apply only to the private sector.	Includes reference to consistency with national law with regard to freedom of association, right to collective bargaining, and access to grievance mechanisms. Coverage of workers is narrower than Bank proposal.	Covers occupational health and safety; no reference to core labor standards, but exclusion list includes production or activities involving forced and child labor.	Broadly equivalent to Bank proposal. Coverage of workers not clearly specified.	Broadly equivalent to Bank proposal. Refers to fundamental principles and rights of workers and references core labor standards. While EBRD's Performance Requirements apply to both the private and public sectors, most EBRD clients are private sector.

<b>Climate change and GHG emissions</b>					
Acknowledges the need to be mindful of the world's diminishing resources and encourages improvements in resource efficiency. Provides support to certain borrowers and projects for estimating GHG emissions and requires the consideration of options to reduce them.	Includes provision that for "projects that are expected to or currently produce more than 25,000 tons of CO <sub>2</sub> -equivalent annually, the client will quantify direct emissions from the facilities owned or controlled within the physical project boundary."	References Paris Agreement, no numerical threshold for GHG emission accounting, commitment to finance GHG emission measurement upon client's request.	Requirements for GHG emission accounting in "projects that are expected to or currently produce significant quantities of greenhouse gases," footnote specifies 100,000 CO <sub>2</sub> -equivalent annually.	Requirement for GHG emission accounting, but no threshold.	Includes threshold of 25,000 tons of CO <sub>2</sub> -equivalent annually for GHG emission measurement.
<b>Use of borrower frameworks</b>					
Proposal to support the use of the borrower's existing environmental and social framework for projects, if the borrower is likely to be able to address the risks and impacts of the project and the project is likely to achieve objectives that are materially consistent with the proposed standards.	N/A (private sector clients)	Requirement similar to Bank's: If the client requests, AIIB may decide to use all or part of the client's environmental and social management system if they determine "that the relevant parts of this system are adequate" to address risks "in a manner materially consistent with the objectives" of the framework.	Specifically authorizes use of country or borrower systems through equivalence and acceptability check. Systematically engaged in technical assistance to support strengthening of country systems.	Intends the process of assessing project impacts to strengthen country risk-management systems. To this end, it requires borrowers to conduct the risk assessment in manner "that complies with existing country systems for assessing and managing environmental risk in addition to the AfDB's requirements."	N/A

<b>Disclosure</b>					
<p>Requirement for borrower to ensure that sufficient information about risks and impacts is made available in a timely manner, in an accessible place, and in a form and language understandable to project-affected parties and other interested parties prior to project appraisal; if the Bank intends to disclose project-related documents after Board approval, the Bank will provide, where possible, a rationale for post-Board approval and details on these documents in the PAD</p>	<p>Core documents to be disclosed (no timeframe specified).</p>	<p>Draft core documents for sovereign-backed loans to be disclosed prior to or early during appraisal (no timeframe specified), other documentation to be disclosed “in a timely manner.”</p>	<p>Requirement to disclose draft environmental impact assessment reports for Category A projects 120 days before Board consideration; other draft documents before project appraisal; final documents upon receipt; and resettlement and Indigenous Peoples monitoring reports during project implementation upon receipt.</p>	<p>Disclosure early in project preparation; for Category 1 projects requirement to disclose final documents for public sector projects 120 days before Board consideration and for private sector projects 60 days before Board consideration. For all Category 2 projects, 30 days disclosure required. Financial intermediaries always treated like Category 1 private sector.</p>	<p>Core documents to be disclosed in a manner that is accessible and culturally appropriate. Disclosure for Category A public sector projects 120 days before Board consideration and 60 days for private sector projects.</p>

*Note: IFC: International Finance Corporation; AIIB: Asian Infrastructure Investment Bank; AsDB: Asian Development Bank; AfDB: African Development Bank; EBRD: European Bank for Reconstruction and Development*

# **Attachment 1**

## **Proposed Environmental and Social Framework (Third Draft) (for Board approval)**



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# **WORLD BANK**

## ***Environmental and Social Framework***

### ***Setting Environmental and Social Standards for Investment Project Financing***

**PROPOSED THIRD DRAFT**

**July 20, 2016**

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## Abbreviations and Acronyms

BP	Bank Procedures
CDD	Community-Driven Development
CO <sub>2</sub>	Carbon Dioxide
DUC	Dam Under Construction
EHSGs	World Bank Group Environmental, Health and Safety Guidelines
EIA	Environmental Impact Assessment
ERP	Emergency Response Plan
ES	Environmental and Social
ESA	Environmental and Social Assessment
ESCP	Environmental and Social Commitment Plan
ESMF	Environmental and Social Management Framework
ESMP	Environmental and Social Management Plan
ESMS	Environmental and Social Management System
ESS	Environmental and Social Standard
FI	Financial Intermediary
FPIC	Free, Prior and Informed Consent
GHG	Greenhouse Gas
GIIP	Good International Industry Practice
GRS	Grievance Redress Service
IBRD	International Bank for Reconstruction and Development
IDA	International Development Association
IPM	Integrated Pest Management
IVM	Integrated Vector Management
NGO	Nongovernmental Organization
O&M	Operation and Maintenance
OHS	Occupational Health and Safety
OP	Operational Policy
PMP	Pest Management Plan
RHA	Risk Hazard Assessment
SEP	Stakeholder Engagement Plan
SESA	Strategic Environmental and Social Assessment

## Overview of the World Bank Environmental and Social Framework<sup>1</sup>

1. The World Bank Environmental and Social Framework sets out the World Bank's commitment to sustainable development, through a Bank Policy and a set of Environmental and Social Standards that are designed to support Borrowers' projects, with the aim of ending extreme poverty and promoting shared prosperity.
2. This Framework comprises:
  - A ***Vision for Sustainable Development***, which sets out the Bank's aspirations regarding environmental and social sustainability;
  - The ***World Bank Environmental and Social Policy for Investment Project Financing***, which sets out the mandatory requirements that apply to the Bank; and
  - The ***Environmental and Social Standards***, together with their Annexes, which set out the mandatory requirements that apply to the Borrower and projects.
3. The ***World Bank Environmental and Social Policy for Investment Project Financing*** sets out the requirements that the Bank must follow regarding projects it supports through Investment Project Financing.
4. The ***Environmental and Social Standards*** set out the requirements for Borrowers relating to the identification and assessment of environmental and social risks and impacts associated with projects supported by the Bank through Investment Project Financing. The Bank believes that the application of these standards, by focusing on the identification and management of environmental and social risks, will support Borrowers in their goal to reduce poverty and increase prosperity in a sustainable manner for the benefit of the environment and their citizens. The standards will: (a) support Borrowers in achieving good international practice relating to environmental and social sustainability; (b) assist Borrowers in fulfilling their national and international environmental and social obligations; (c) enhance non-discrimination, transparency, participation, accountability and governance; and (d) enhance the sustainable development outcomes of projects through ongoing stakeholder engagement.
5. The ten Environmental and Social Standards establish the standards that the Borrower and the project will meet through the project life-cycle, as follows:
  - Environmental and Social Standard 1: Assessment and Management of Environmental and Social Risks and Impacts;
  - Environmental and Social Standard 2: Labor and Working Conditions;
  - Environmental and Social Standard 3: Resource Efficiency and Pollution Prevention and Management;

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<sup>1</sup> This Overview is for information only, and does not form part of the Environmental and Social Framework.

## Overview of the World Bank Environmental and Social Framework

- Environmental and Social Standard 4: Community Health and Safety;
- Environmental and Social Standard 5: Land Acquisition, Restrictions on Land Use and Involuntary Resettlement;
- Environmental and Social Standard 6: Biodiversity Conservation and Sustainable Management of Living Natural Resources;
- Environmental and Social Standard 7: Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities;
- Environmental and Social Standard 8: Cultural Heritage;
- Environmental and Social Standard 9: Financial Intermediaries; and
- Environmental and Social Standard 10: Stakeholder Engagement and Information Disclosure.

6. Environmental and Social Standard (ESS) 1 applies to all projects for which Bank Investment Project Financing is sought. ESS1 establishes the importance of: (a) the Borrower's existing environmental and social framework in addressing the risks and impacts of the project; (b) an integrated environmental and social assessment to identify the risks and impacts of a project; (c) effective community engagement through disclosure of project-related information, consultation and effective feedback; and (d) management of environmental and social risks and impacts by the Borrower throughout the project life-cycle. The Bank requires that all environmental and social risks and impacts of the project be addressed as part of the environmental and social assessment conducted in accordance with ESS1. ESS2–10 set out the obligations of the Borrower in identifying and addressing environmental and social risks and impacts that may require particular attention. These Standards establish objectives and requirements to avoid, minimize, reduce and mitigate risks and impacts, and where significant residual impacts remain, to compensate for or offset such impacts.

7. The Bank will issue a ***Bank Directive Addressing Risks and Impacts on Disadvantaged or Vulnerable Individuals or Groups***, which will set out mandatory requirements on Bank staff relating to the identification of disadvantaged or vulnerable individuals or groups, and the process whereby differentiated measures will be developed to address the particular circumstances of such individuals or groups.

8. The Bank will also issue an ***Environmental and Social Procedure***, which will set out Management-approved mandatory environmental and social procedures which apply to projects supported by Investment Project Financing. The Environmental and Social Procedure will describe how the Bank conducts its due diligence of a project being proposed for Bank support.

9. The Framework will also be accompanied by non-mandatory ***guidance and information tools*** to assist Borrowers in implementing the Standards, Bank staff in conducting due diligence and implementation support, and stakeholders in enhancing transparency and sharing good practice.

## Overview of the World Bank Environmental and Social Framework

10. The **World Bank Access to Information Policy**, which reflects the Bank's commitment to transparency, accountability and good governance, applies to the entire Framework and includes the disclosure obligations that relate to the Bank's Investment Project Financing.

11. Borrowers and projects are also required to apply the relevant requirements of the **World Bank Group Environmental, Health and Safety Guidelines (EHSGs)**.<sup>2</sup> These are technical reference documents, with general and industry specific examples of Good International Industry Practice (GIIP).

12. The Framework includes provisions on grievance redress and accountability. A Bank-supported project will include a number of mechanisms for addressing concerns and grievances arising in connection with a project. Project-affected parties will have access, as appropriate, to project grievance mechanisms, local grievance mechanisms, the Bank's corporate Grievance Redress Service (<http://www.worldbank.org/GRS>; email: [grievances@worldbank.org](mailto:grievances@worldbank.org)) and the World Bank Inspection Panel. After bringing their concerns directly to the World Bank's attention and giving Bank Management a reasonable opportunity to respond, project-affected parties may submit their complaint to the World Bank's independent Inspection Panel to request an inspection to determine whether harm has occurred as a direct result of World Bank non-compliance with its policies and procedures. The World Bank Inspection Panel may be contacted by email at [ipanel@worldbank.org](mailto:ipanel@worldbank.org) or via its website at <http://www.inspectionpanel.org/>.

13. This Framework replaces the following Operational Policy (OP) and Bank Procedures (BP): OP/BP4.00, Piloting the Use of Borrower Systems to Address Environmental and Social safeguard Issues in Bank-Supported Projects, OP/BP4.01, Environmental Assessment, OP/BP4.04, Natural Habitats, OP4.09, Pest Management, OP/BP4.10, Indigenous Peoples, OP/BP4.11, Physical Cultural Resources, OP/BP4.12, Involuntary Resettlement, OP/BP4.36, Forests, and OP/BP4.37, Safety of Dams. This Framework does not replace OP/BP4.03, Performance Standards for Private Sector Activities, OP/BP7.50, Projects on International Waterways, and OP/BP7.60, Projects in Disputed Territories.

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<sup>2</sup> [http://www.ifc.org/wps/wcm/connect/Topics\\_Ext\\_Content/IFC\\_External\\_Corporate\\_Site/IFC+Sustainability/Sustainability+Framework/Environmental,+Health,+and+Safety+Guidelines/](http://www.ifc.org/wps/wcm/connect/Topics_Ext_Content/IFC_External_Corporate_Site/IFC+Sustainability/Sustainability+Framework/Environmental,+Health,+and+Safety+Guidelines/)

# A Vision for Sustainable Development

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## A Vision for Sustainable Development

1. The World Bank Group Strategy<sup>1</sup> sets out the corporate goals of ending extreme poverty and promoting shared prosperity in all its partner countries. Securing the long-term future of the planet, its people and its resources, ensuring social inclusion, and limiting the economic burdens on future generations will underpin these efforts. The two goals emphasize the importance of economic growth, inclusion and sustainability – including strong concerns for equity.
2. Inspired by this vision, the World Bank Group is globally committed to environmental sustainability, including stronger collective action to support climate change mitigation and adaptation, recognizing this as essential in a world of finite natural resources. This is reflected in the various Bank Group's thematic strategies<sup>2</sup> for the coming decade. These strategies recognize that all economies, particularly developing ones, still need to grow, but they need to do so sustainably, so that income-producing opportunities are not pursued in ways that limit or close off opportunities for future generations. It recognizes that climate change is affecting the nature and location of projects, and that World Bank-financed projects should reduce their impact on the climate by choosing alternatives with lower carbon emissions. The World Bank works on climate change because it is a fundamental threat to development in our lifetime. The World Bank is committed to supporting its client countries to manage their economies, to decarbonize and invest in resilience, while ending poverty and boosting shared prosperity.
3. Equally, social development and inclusion are critical for all of the World Bank's development interventions and for achieving sustainable development. For the Bank, inclusion means empowering all people to participate in, and benefit from, the development process. Inclusion encompasses policies to promote equality and non-discrimination by improving the access of all people, including the poor and disadvantaged, to services and benefits such as education, health, social protection, infrastructure, affordable energy, employment, financial services and productive assets. It also embraces action to remove barriers against those who are often excluded from the development process, such as women, children, persons with disabilities, youth and minorities, and to ensure that the voice of all can be heard. In this regard, the World Bank's activities support the realization of human rights expressed in the Universal Declaration of Human Rights. Through the projects it finances, and in a manner consistent with its Articles of Agreement<sup>3</sup>, the World Bank seeks to avoid adverse impacts and will continue to support its member countries as they strive to progressively achieve their human rights commitments.
4. The World Bank uses its convening ability, financial instruments, and intellectual resources to embed this commitment to environmental and social sustainability across all its activities, which range from the Bank's global engagement in issues such as climate change, disaster risk management, and gender equality, to ensuring that environmental and social considerations are reflected in all sector strategies, operational policies, and country dialogues.

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<sup>1</sup> See the *World Bank Group Strategy 2013* at

[http://imagebank.worldbank.org/servlet/WDSContentServer/IW3P/IB/2013/10/09/000456286\\_20131009170003/Rendered/PDF/816970WP0REPLA00Box379842B00PUBLICO.pdf](http://imagebank.worldbank.org/servlet/WDSContentServer/IW3P/IB/2013/10/09/000456286_20131009170003/Rendered/PDF/816970WP0REPLA00Box379842B00PUBLICO.pdf)

<sup>2</sup> For example, *Toward a Green, Clean and Resilient World for All: A World Bank Group Environment Strategy 2012-2022*, which envisions a green, clean and resilient world for all.

<sup>3</sup> Especially Article III, Section 5 (b) and IV, Section 10.

## A Vision for Sustainable Development

5. At the project level, these global aspirations translate into enhancing development opportunities for all, particularly the poor and vulnerable, and promoting the sustainable management of natural and living resources. Therefore, within the parameters of a project, the Bank seeks to:

- Avoid or mitigate adverse impacts to people and the environment;
- Conserve or rehabilitate biodiversity and natural habitats, and promote the efficient and equitable use of natural resources and ecosystem services;
- Promote worker and community health and safety;
- Ensure that there is no prejudice or discrimination toward project-affected individuals or communities and give particular consideration to Indigenous Peoples, minority groups, and those disadvantaged or vulnerable, especially where adverse impacts may arise or development benefits are to be shared;
- Address project-level impacts on climate change and consider the impacts of climate change on the selection, siting, planning, design and implementation and decommissioning of projects; and
- Maximize stakeholder engagement through enhanced consultation, participation and accountability.

6. The Bank's vision goes beyond 'do no harm' to maximizing development gains. Where the Borrower's environmental and social assessment has identified potential development opportunities associated with the project, the Bank will discuss with the Borrower the feasibility of including these opportunities in the project. Where appropriate, such opportunities may be utilized to promote further development.

7. The Bank will also work with Borrowers to identify strategic initiatives and goals to address national development priorities, where appropriate, as part of country engagement. In supporting such development priorities, the Bank will seek cooperative relationships with Borrowers, donors and other international organizations. The Bank will maintain dialogue on environmental and social issues with donor governments, international organizations, countries of operation and civil society.

8. The Bank recognizes that the achievement of sustainable development is dependent on effective collaboration with everyone who has a stake in the development outcome of a project, including public and private sector development partners. The Bank is committed to the use and development of borrower's frameworks to avoid unnecessary duplication of effort, build national capacity and achieve development outcomes that are materially consistent with the objectives of the Environmental and Social Framework. The Bank is committed to open dialogue, public consultation, timely and full access to information, and responsive grievance mechanisms.

9. This Environmental and Social Framework converts these aspirations and principles into practical, project-level applications within the context of the Bank's mandate as set out in its Articles of Agreement. While this Framework will not by itself guarantee sustainable development outcomes, its proper

## **A Vision for Sustainable Development**

implementation will ensure the application of standards that provide a necessary foundation for that objective, and provide a leading example for activities outside the scope of Bank-supported projects.

**World Bank**

**Environmental and Social Policy for  
Investment Project Financing**

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# World Bank Environmental and Social Policy for Investment Project Financing

## Purpose

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1. This Environmental and Social Policy for Investment Project Financing<sup>1</sup> sets out the mandatory requirements of the Bank<sup>2</sup> in relation to the projects it supports through Investment Project Financing.<sup>3</sup>

## Objectives and Principles

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2. The Bank is committed to supporting Borrowers<sup>4</sup> in the development and implementation of projects that are environmentally and socially sustainable, and to enhancing the capacity of Borrowers' environmental and social frameworks to assess and manage the environmental and social risks<sup>5</sup> and impacts<sup>6</sup> of projects. To this end, the Bank has defined specific Environmental and Social Standards (ESSs), which are designed to avoid, minimize, reduce or mitigate the adverse environmental and social risks and impacts of projects. The Bank will assist Borrowers in their application of the ESSs to projects supported through Investment Project Financing in accordance with this Environmental and Social Policy for Investment Project Financing (Policy).

3. To carry out this Policy, the Bank will:

- (a) Undertake its own due diligence of proposed projects, proportionate to the nature and potential significance of the environmental and social risks and impacts related to the project;
- (b) As and where required, support the Borrower to carry out early and continuing engagement and meaningful consultation with stakeholders,<sup>7</sup> in particular affected communities, and in providing project-based grievance mechanisms;

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<sup>1</sup> This Policy replaces the following Operational Policy (OP) and Bank Procedures (BP): OP/BP4.00, *Piloting the Use of Borrower Systems to Address Environmental and Social Safeguard Issues in Bank-Supported Projects*, OP/BP4.01, *Environmental Assessment*, OP/BP4.04, *Natural Habitats*, OP4.09, *Pest Management*, OP/BP4.10, *Indigenous Peoples*, OP/BP4.11, *Physical Cultural Resources*, OP/BP4.12, *Involuntary Resettlement*, OP/BP4.36, *Forests*, and OP/BP4.37, *Safety of Dams*. This Policy does not replace OP/BP4.03, *Performance Standards for Private Sector Activities*, OP/BP7.50, *Projects on International Waterways*, and OP/BP7.60, *Projects in Disputed Territories*.

<sup>2</sup> In this Policy, unless the context requires otherwise, the term "Bank" means IBRD and/or IDA (whether acting on its own account or in its capacity as administrator of trust funds funded by donors).

<sup>3</sup> See OP 10.00, *Investment Project Financing*. Investment Project Financing is comprised of Bank Loans and Bank Guarantees, as defined in OP 10.00.

<sup>4</sup> In this Policy, unless the context requires otherwise, the term "Borrower" means a borrower or recipient of Bank financing for an investment project, and any other entity responsible for the implementation of the project.

<sup>5</sup> Environmental and social risk is a combination of the probability of certain hazard occurrences and the severity of impacts resulting from such an occurrence.

<sup>6</sup> Environmental and social impacts refer to any change, potential or actual, to: (i) the physical, natural, or cultural environment, and (ii) impacts on surrounding community and workers, resulting from the project activity to be supported.

<sup>7</sup> Further requirements for Borrowers on stakeholder engagement are set out in ESS10.

## World Bank Environmental and Social Policy for Investment Project Financing

- (c) Assist the Borrower in identifying appropriate methods and tools to assess and manage the potential environmental and social risks and impacts of the project;
- (d) Agree with the Borrower on the conditions under which the Bank is prepared to provide support to a project, as set out in the Environmental and Social Commitment Plan (ESCP);<sup>8</sup> and
- (e) Monitor the environmental and social performance of a project in accordance with the ESCP and the ESSs.<sup>9</sup>

4. The environmental and social risks and impacts which the Bank will take into account in its due diligence are project-related and include the following:

- (a) Environmental risks and impacts, including: (i) those identified in the World Bank Group Environmental, Health, and Safety Guidelines (EHSGs);<sup>10</sup> (ii) those related to community safety (including dam safety and safe use of pesticides); (iii) those related to climate change and other transboundary or global risks and impacts; (iv) any material threat to the protection, conservation, maintenance and restoration of natural habitats and biodiversity; and (v) those related to ecosystem services and the use of living natural resources, such as fisheries and forests; and
- (b) Social risks and impacts, including: (i) threats to human security through the escalation of personal, communal or inter-state conflict, crime or violence; (ii) risks that project impacts fall disproportionately on individuals or groups who, because of their particular circumstances, may be disadvantaged or vulnerable;<sup>11</sup> (iii) any prejudice or discrimination toward individuals or groups in providing access to development resources and project benefits, particularly in the case of those who may be disadvantaged or vulnerable; (iv) negative economic and social impacts relating to the involuntary taking of land or restrictions on land use; (v) risks or impacts associated with land and natural resource tenure and use, including (as relevant) potential project impacts on local land use patterns and tenurial arrangements, land access and availability, food security and land values, and any corresponding risks related to conflict or contestation over land and natural

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<sup>8</sup> The ESCP is addressed in Section E.

<sup>9</sup> See OP 10.00 for details on monitoring requirements.

<sup>10</sup> The Environmental, Health, and Safety Guidelines (EHSGs) are technical reference documents with general and industry-specific statements of Good International Industry Practice. The EHSGs contain the performance levels and measures that are generally considered to be achievable in new facilities by existing technology at reasonable cost. For complete reference, consult *the World Bank Group Environmental, Health, and Safety Guidelines*, [http://www.ifc.org/wps/wcm/connect/Topics\\_Ext\\_Content/IFC\\_External\\_Corporate\\_Site/IFC+Sustainability/Sustainability+Framework/Environmental,+Health,+and+Safety+Guidelines/](http://www.ifc.org/wps/wcm/connect/Topics_Ext_Content/IFC_External_Corporate_Site/IFC+Sustainability/Sustainability+Framework/Environmental,+Health,+and+Safety+Guidelines/)

<sup>11</sup> Disadvantaged or vulnerable refers to those who may be more likely to be adversely affected by the project impacts and/or more limited than others in their ability to take advantage of a project's benefits. Such an individual/group is also more likely to be excluded from/unable to participate fully in the mainstream consultation process and as such may require specific measures and/or assistance to do so. This will take into account considerations relating to age, including the elderly and minors, and including in circumstances where they may be separated from their family, the community or other individuals upon whom they depend.

## World Bank Environmental and Social Policy for Investment Project Financing

resources; (vi) impacts on the health, safety and well-being of workers and project-affected communities; and (vii) risks to cultural heritage.

5. Projects supported by the Bank through Investment Project Financing are required to meet the following Environmental and Social Standards:

- Environmental and Social Standard 1: Assessment and Management of Environmental and Social Risks and Impacts;
- Environmental and Social Standard 2: Labor and Working Conditions;
- Environmental and Social Standard 3: Resource Efficiency and Pollution Prevention and Management;
- Environmental and Social Standard 4: Community Health and Safety;
- Environmental and Social Standard 5: Land Acquisition, Restrictions on Land Use and Involuntary Resettlement;
- Environmental and Social Standard 6: Biodiversity Conservation and Sustainable Management of Living Natural Resources;
- Environmental and Social Standard 7: Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities;
- Environmental and Social Standard 8: Cultural Heritage;
- Environmental and Social Standard 9: Financial Intermediaries; and
- Environmental and Social Standard 10: Stakeholder Engagement and Information Disclosure.

6. The Environmental and Social Standards are designed to help Borrowers to manage the risks and impacts of a project, and improve their environmental and social performance, through a risk and outcomes based approach. The desired outcomes for the project are described in the objectives of each ESS, followed by specific requirements to help Borrowers achieve these objectives through means that are appropriate to the nature and scale of the project and proportionate to the level of environmental and social risks and impacts.

## World Bank Environmental and Social Policy for Investment Project Financing

### Scope of Application

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7. This Policy and the ESSs apply to all projects supported by the Bank through Investment Project Financing.<sup>12 13</sup> The Bank will only support projects that are consistent with, and within the boundaries of, the Bank's Articles of Agreement and are expected to meet the requirements of the ESSs in a manner and within a timeframe acceptable to the Bank.

8. For the purpose of this Policy, the term "project" refers to the activities for which the Bank support referred to in paragraph 7 above is sought by the Borrower, as defined in the project's legal agreement between the Borrower and the Bank.<sup>14</sup> Projects may include new facilities or activities and/or existing facilities or activities, or a combination of the same. Projects may include subprojects.

9. Where the Bank is jointly financing a project with other multilateral or bilateral funding agencies<sup>15</sup>, the Bank will cooperate with such agencies and the Borrower in order to agree on a common approach for the assessment and management of environmental and social risks and impacts of the project. A common approach will be acceptable to the Bank, provided that such approach will enable the project to achieve objectives materially consistent with the ESSs.<sup>16</sup> The Bank will require the Borrower to apply the common approach to the project. The Bank will also coordinate with such agencies so that the Bank and the Borrower may be able to disclose one set of project-related materials for stakeholder engagement.

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<sup>12</sup> These are projects to which OP/BP 10.00, *Investment Project Financing*, applies. The World Bank Environmental and Social Policy for Investment Project Financing does not apply to operations supported by Development Policy lending (for which the environmental and social provisions are set out in OP/BP 8.60, *Development Policy Lending*), or those supported by Program-for-Results Financing (for which the environmental and social provisions are set out in OP/BP 9.00, *Program-for-Results Financing*).

<sup>13</sup> These projects may include technical assistance supported by the Bank through Investment Project Financing, whether provided through a stand-alone project or as part of a project. The requirements set out in paragraphs 14-18 of ESS1 will be applied to technical assistance activities as relevant and appropriate to the nature of the risks and impacts. The terms of reference, work plans or other documents defining the scope and outputs of technical assistance activities will be drafted so that the advice and other support provided is consistent with ESSs 1-10. Activities implemented by the Borrower following the completion of the project that are not financed by the Bank, or activities that are not directly related to the technical assistance, are not subject to the World Bank Environmental and Social Policy for Investment Project Financing.

<sup>14</sup> The scope of activities for which Investment Project Finance can be provided, together with the approval process, is set out in OP 10.00.

<sup>15</sup> Such agencies will include IFC and MIGA.

<sup>16</sup> In determining whether the common approach, or the requirements referred to in paragraphs 9, 12 and 13 are acceptable, the Bank will take into account the policies, standards and implementation procedures of the multilateral or bilateral funding agencies. The measures and actions that have been agreed under the common approach will be included in the ESCP.



## World Bank Environmental and Social Policy for Investment Project Financing

10. This Policy also requires the application of the ESSs to Associated Facilities. Associated Facilities will meet the requirements of the ESSs, to the extent that the Borrower has control or influence over such Associated Facilities.<sup>17</sup>

11. For the purpose of this Policy, the term “Associated Facilities” means facilities or activities that are not funded as part of the project and, in the judgment of the Bank, are: (a) directly and significantly related to the project; and (b) carried out, or planned to be carried out, contemporaneously with the project; and (c) necessary for the project to be viable and would not have been constructed, expanded or conducted if the project did not exist<sup>18</sup>.

12. Where:

- (a) A common approach has been agreed for the project, the common approach will apply to the Associated Facilities;
- (b) Associated Facilities are being funded by other multilateral or bilateral funding agencies, the Bank may agree to apply the requirements of such other agencies for the assessment and management of environmental and social risks and impacts of the Associated Facilities, provided that such requirements will enable the project to achieve objectives materially consistent with the ESSs.

13. Where the Bank is providing support to a project involving a Financial Intermediary (FI), and other multilateral or bilateral funding agencies will or have already provided financing to the same FI, the Bank may agree to rely on the requirements of such other agencies for the assessment and management of environmental and social risks and impacts of the project, including the institutional arrangements already established by the FI, provided that such requirements will enable the project to achieve objectives materially consistent with the ESSs.

14. Where a Borrower is deemed by the Bank to: (a) be in urgent need of assistance because of a natural or man-made disaster or conflict; or (b) experience capacity constraints because of fragility or specific vulnerabilities (including for small states), the applicable provisions of OP10.00 will apply.<sup>19</sup>

### Bank Requirements

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15. The Bank will require Borrowers to conduct environmental and social assessment of projects proposed for Bank support in accordance with ESS1.<sup>20</sup>

16. The Bank will require the Borrower to prepare and implement projects so that they meet the requirements of the ESSs in a manner and a timeframe acceptable to the Bank. In establishing the manner and an acceptable timeframe, the Bank will take into account the nature and significance of the potential environmental and social risks and impacts, the timing for development and implementation of the

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<sup>17</sup> The Bank will require the Borrower to demonstrate the extent to which it cannot exercise control or influence over the Associated Facilities by providing details of the relevant considerations, which may include legal, regulatory and institutional factors.

<sup>18</sup> For facilities or activities to be Associated Facilities, they must meet all three criteria.

<sup>19</sup> Further details are set out in OP10.00.

<sup>20</sup> See ESS1, paragraph 23.

## World Bank Environmental and Social Policy for Investment Project Financing

project, the capacity of the Borrower and other entities involved in developing and implementing the project, and the specific measures and actions to be put in place or taken by the Borrower to address such risks and impacts.

17. Where the Bank has agreed that the Borrower may plan or take specific measures or actions to avoid, minimize, reduce or mitigate specific risks and impacts of the project over a specified timeframe, the Bank will require that the Borrower commit to not carrying out any activities or taking any actions in relation to the project that may cause material adverse environmental or social risks or impacts until the relevant plans, measures or actions have been completed in accordance with the ESCP.

18. If the project comprises or includes existing facilities or existing activities that do not meet the requirements of the ESSs at the time of approval by the Bank, the Bank will require the Borrower, as part of the ESCP, to adopt and implement measures satisfactory to the Bank so that the material aspects of such facilities or activities meet the requirements of the ESSs within a timeframe acceptable to the Bank. In determining satisfactory measures and an acceptable timeframe, the Bank will take into account the nature and scope of the project and the technical and financial feasibility of the proposed measures.

19. The Bank will require the Borrower to apply the relevant requirements of the EHSs<sup>21</sup>. The EHSs contain the performance levels and measures that are normally acceptable and applicable to projects. When host country requirements differ from the levels and measures presented in the EHSs, the Bank will require the Borrower to achieve or implement whichever is more stringent. If less stringent levels or measures than those provided in the EHSs are appropriate in view of the Borrower's limited technical or financial constraints or other specific project circumstances, the Bank will require the Borrower to provide full and detailed justification for any proposed alternatives through the environmental and social assessment. This justification must demonstrate, to the satisfaction of the Bank that the choice of any alternative performance level is consistent with the objectives of the ESSs and the applicable EHSs, and is unlikely to result in any significant environmental or social harm.

### A. Environmental and Social Risk Classification

20. The Bank will classify all projects (including projects involving Financial Intermediaries (FIs)) into one of four classifications: *High Risk*, *Substantial Risk*, *Moderate Risk* or *Low Risk*. In determining the appropriate risk classification, the Bank will take into account relevant issues, such as the type, location, sensitivity, and scale of the project; the nature and magnitude of the potential environmental and social risks and impacts; and the capacity and commitment of the Borrower (including any other entity responsible for the implementation of the project) to manage the environmental and social risks and impacts in a manner consistent with the ESSs. Other areas of risk may also be relevant to the delivery of environmental and social mitigation measures and outcomes, depending on the specific project and the context in which it is being developed. These could include legal and institutional considerations; the nature of the mitigation and technology being proposed; governance structures and legislation; and considerations relating to stability, conflict or security. The Bank will disclose the project's classification and the basis for that classification on the Bank's website and in project documents.

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<sup>21</sup> See footnote 10.

## World Bank Environmental and Social Policy for Investment Project Financing

21. The Bank will review the risk classification assigned to the project on a regular basis, including during implementation, and will change the classification where necessary, to ensure that it continues to be appropriate. Any change to the classification will be disclosed on the Bank's website.

22. Where the Bank is providing support to one or more FIs, the risk classification of the project will be determined by the Bank taking into account the type of financial instrument or product involved to be provided, the nature of the FI's existing portfolio, and the level of risk associated with the proposed subprojects.

### B. Use and Strengthening of Borrower's Environmental and Social Framework

23. The Bank supports the use of the Borrower's ES Framework in the assessment, development and implementation of projects supported through Investment Project Financing, provided this is likely to address the risks and impacts of the project, and enable the project to achieve objectives materially consistent with the ESSs. The use of all, or part, of the Borrower's ES Framework will be agreed between the Bank and the Borrower, following completion of the assessment referred to below<sup>22</sup>.

24. The Borrower's ES Framework will include those aspects of the country's policy, legal and institutional framework, including its national, subnational, or sectoral implementing institutions and applicable laws, regulations, rules and procedures, and implementation capacity, which are relevant to the environmental and social risks and impacts of the project. The aspects that are relevant will vary from project to project, depending on such factors as the type, scale, location and potential environmental and social risks and impacts of the project and the role and authority of different institutions<sup>23</sup>.

25. If the Bank and the Borrower propose to use all, or part, of the Borrower's ES Framework, the Bank will review the Borrower's ES Framework to assess whether such use will meet the requirement of paragraph 23.

26. The Bank will disclose the intention to conduct the assessment as early as possible, specifying the aspects of the Borrower's ES Framework that will be assessed. The Bank will engage with relevant stakeholders, so that their views can inform the assessment. In conducting the assessment, the Bank may consider recent studies, reviews and other assessments conducted by the Bank, other funding agencies, the Borrower or relevant stakeholders, to the extent these are relevant to the proposed project. When an assessment of the Borrower's ES Framework has been completed, the Bank will disclose a summary of the assessment on its website.

27. The Bank will work with the Borrower to identify and agree on measures and actions to address gaps<sup>24</sup> and strengthen the Borrower's ES Framework, to the extent that such measures and actions are

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<sup>22</sup> The decision to use all, or parts, of the Borrower's ES Framework will not relieve the Bank of any of its due diligence obligations set out in Section C of this Policy.

<sup>23</sup> Where there are inconsistencies or lack of clarity within the Borrower's ES Framework as to relevant authorities or jurisdiction, these will be identified.

<sup>24</sup> This may require measures and actions to address specific risks or impacts of the project.

## World Bank Environmental and Social Policy for Investment Project Financing

necessary to meet the requirement of paragraph 23. The agreed measures and actions, together with the timeframes for completion of such measures and actions, will form part of the ESCP.

28. Where the Bank becomes aware of a change in the Borrower's ES Framework that may materially adversely affect the project, the Bank will discuss the change with the Borrower. If, in the opinion of the Bank, such change is inconsistent with paragraph 23 and the ESCP, the Bank will have the right to require revisions to the ESCP as necessary to meet the requirements of the ESSs and take such other measures as the Bank deems appropriate, including applying the Bank's remedies.<sup>25</sup>

29. To support increasing use and strengthening of the Borrower's ES Framework, the Bank may, at the request of the Borrower and where the Bank deems this to be feasible, conduct an overview assessment of the Borrower's existing policy, legal and institutional framework for addressing environmental and social risks and impacts, and related implementation capacity. The overview assessment will identify aspects of the existing framework that can be strengthened, and the capacity-building needed to support this. The overview assessment will not be a prerequisite for the use of all, or part of, the Borrower's ES Framework for a specific project. However, where the overview assessment has been completed, it will inform the Bank's assessment of the Borrower's ES Framework, as referred to in paragraph 26.

### C. Environmental and Social Due Diligence

30. The Bank will conduct environmental and social due diligence of all projects proposed for support through Investment Project Financing. The purpose of the environmental and social due diligence is to assist the Bank in deciding whether to provide support for the proposed project and, if so, the way in which environmental and social risks and impacts will be addressed in the assessment, development and implementation of the project.

31. The Bank's environmental and social due diligence will be appropriate to the nature and scale of the project, and proportionate to the level of environmental and social risks and impacts, with due regard to the mitigation hierarchy.<sup>26</sup> The due diligence will assess whether the project is capable of being developed and implemented in accordance with the ESSs.

32. The Bank's due diligence responsibilities will include, as appropriate: (a) reviewing the information provided by the Borrower relating to the environmental and social risks and impacts of the project,<sup>27</sup> and requesting additional and relevant information where there are gaps that prevent the Bank from completing its due diligence; and (b) providing guidance to assist the Borrower in developing appropriate measures consistent with the mitigation hierarchy to address environmental and social risks and impacts in accordance with the ESSs. The Borrower is responsible for ensuring that all relevant information is provided to the Bank so that the Bank can fulfill its responsibility to undertake environmental and social due diligence in accordance with this Policy.

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<sup>25</sup> OP 10.00 sets out the Bank's recourse and remedies. The Bank's legal remedies are specified in the relevant legal agreement.

<sup>26</sup> The mitigation hierarchy is defined in ESS1, paragraph 27.

<sup>27</sup> For example, pre-feasibility studies, scoping studies, national environmental and social assessments, licenses and permits.

## World Bank Environmental and Social Policy for Investment Project Financing

33. The Bank recognizes that Borrowers may have different levels of information regarding the environmental and social risks and impacts available at the time the Bank carries out its due diligence. In such circumstances, the Bank will assess the risks and impacts of the proposed project based on the information that is available to the Bank, together with an assessment of: (a) the risks and impacts inherent to the type of project and the specific context in which the proposed project will be developed and implemented; and (b) the capacity and commitment of the Borrower to develop and implement the project in accordance with the ESSs. The Bank will assess the significance of the gaps in information, and the potential risk this may present to achieving the objectives of the ESSs. The Bank will reflect this assessment in the relevant project documents at the time the proposed financing is submitted for Board approval.

34. Where the Bank is approached to provide support for a project that is under construction, or where the project has already received national permits, including the approval of local environmental and social impact assessments, the Bank's due diligence will include a gap analysis against the ESSs to identify whether any additional studies and/or mitigation measures are required to meet the Bank's requirements.

35. Depending on the potential significance of environmental and social risks and impacts, the Bank will determine whether the Borrower will be required to retain independent third party specialists to assist in the assessment of environmental and social impacts.

### D. Special Project Types

#### *Projects Involving Multiple Small Subprojects*

36. For projects involving multiple small subprojects<sup>28</sup>, that are identified, prepared and implemented during the course of the project, the Bank will review the adequacy of national environmental and social requirements relevant to the subprojects, and assess the capacity of the Borrower to manage<sup>29</sup> the environmental and social risks and impacts of subprojects as required by paragraph 37. When necessary, the project will include measures to strengthen the capacity of the Borrower.

37. The Bank will require the Borrower to carry out appropriate environmental and social assessment of subprojects, and prepare and implement such subprojects, as follows:

- (a) *High Risk* subprojects, in accordance with the ESSs;

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<sup>28</sup> Paragraphs 36 to 39 apply to a Bank supported project with multiple small subprojects, as in the case of community-driven development projects, projects involving matching grant schemes, or similar projects designated by the Bank.

<sup>29</sup> The Bank will assess the capacity of the Borrower to (a) screen subprojects; (b) obtain the necessary expertise to carry out the environmental and social assessment; (c) review the findings and results of the environmental and social assessment for individual subprojects; (d) implement mitigation measures; and (e) conduct monitoring on the environmental and social performance during project implementation.

## World Bank Environmental and Social Policy for Investment Project Financing

(b) *Substantial Risk, Moderate Risk and Low Risk* subprojects, in accordance with national law and any requirement of the ESSs that the Bank deems relevant to such subprojects<sup>30</sup>.

38. If the Bank is not satisfied that adequate capacity exists on the part of the Borrower, all *High Risk* and, as appropriate, *Substantial Risk* subprojects will be subject to prior review and approval by the Bank until it is established that adequate capacity exists.

39. If the risk rating of a subproject increases to a higher risk rating, the Bank will require the Borrower to apply relevant requirements of the ESSs<sup>31</sup> in a manner agreed with the Bank. The measures and actions agreed will be included in the ESCP, and will be monitored by the Bank.

### *Projects Involving Financial Intermediaries (FI)*

40. Where the Bank is providing support to an FI<sup>32</sup>, the Bank will review the adequacy of national environmental and social requirements relevant to the project, taking into account the type of FI subprojects<sup>33</sup> being undertaken and the level of risk associated with the FI's portfolio and the capacity of the FI to manage environmental and social risks and impacts. The Bank will require FIs to put in place and maintain an Environmental and Social Management System (ESMS) to identify, assess, manage, and monitor the environmental and social risks and impacts of FI subprojects on an ongoing basis. The ESMS will be commensurate with the nature and magnitude of environmental and social risks and impacts of FI subprojects, the types of financing, and the overall risk aggregated at the portfolio level. The Bank will review the adequacy of the ESMS.

41. The Bank's requirements and the scope of their application for a project involving an FI will depend on the type of Bank support being provided to the FI, the type of FI subprojects being undertaken and the level of risk associated with the FI's portfolio.

42. The Bank will require that the ESMS of the FI sets out requirements to (a) screen all FI subprojects against any exclusions in the legal agreement; (b) screen all FI subprojects for environmental and social risks and impacts; (c) require that FI subprojects be prepared and implemented in accordance with relevant environmental and social national and local laws and regulations; (d) require specified FI subprojects (as identified in paragraph 44) to apply the relevant requirements of the ESSs; and (e) conduct appropriate environmental and social due diligence of FI subprojects, including environmental and social assessment.

43. The Bank may require the FI to adopt and implement additional or alternative environmental and social requirements, depending on the environmental and social risk and impacts of the potential FI subprojects and the sectors in which the FI is operating.

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<sup>30</sup> Where subprojects are likely to have minimal or no adverse environmental or social risks and impacts, such subprojects do not require further environmental and social assessment following the initial screening.

<sup>31</sup> The 'relevant requirements of the ESSs' will relate to the reasons for which the risk rating has increased.

<sup>32</sup> Such support may be provided directly by the Bank to the FI, or from the Borrower to the FI. Financial intermediation also includes provision of financing or guarantees by FIs to other FIs.

<sup>33</sup> "FI subproject" refers to projects financed by FIs with support from the Bank. Where the project involves on-lending by the FI to another FI, the term "FI subproject" will include the subprojects of each subsequent FI.

## World Bank Environmental and Social Policy for Investment Project Financing

44. Where a project involving an FI is classified by the Bank as *High Risk* or *Substantial Risk* and the Bank is not satisfied that adequate capacity exists for categorizing, carrying out environmental and social assessment or reviewing the results of environmental and social assessment, all FI subprojects that involve resettlement (unless the risks or impacts of such resettlement are minor), adverse risks or impacts on Indigenous Peoples or significant risks or impacts on the environment, community health and safety, labor and working conditions, biodiversity or cultural heritage will be subject to prior review and approval by the Bank until it is established that adequate capacity within the FI exists.

45. If the risk profile of a FI subproject increases significantly, the Bank will require the FI to (a) notify the Bank; (b) apply relevant requirements of the ESSs<sup>34</sup> in a manner agreed with the Bank as set out in the ESMS; and (c) monitor the measures and actions agreed, and report to the Bank as appropriate.

### E. Environmental and Social Commitment Plan (ESCP)

46. The Bank will agree an ESCP with the Borrower<sup>35</sup>. The ESCP will set out the material measures and actions required for the project to meet the ESSs over a specified timeframe. The ESCP will form part of the legal agreement. The legal agreement will include, as necessary, obligations of the Borrower to support the implementation of the ESCP.

47. The Bank will require the Borrower to implement the measures and actions identified in the ESCP diligently, in accordance with the timeframes specified in the ESCP, and to review the status of implementation of the ESCP as part of its monitoring and reporting. The draft ESCP will be disclosed as early as possible, and before project appraisal.

48. The Bank will require the Borrower to prepare, submit to the Bank for approval and implement a process that allows for adaptive management of proposed project changes or unforeseen circumstances. The agreed adaptive management process will be set out in the ESCP. The process will specify how such changes or circumstances are to be managed and reported, and how any necessary changes will be made to the ESCP and the management tools used by the Borrower.

### F. Information Disclosure

49. The Bank will apply the World Bank Policy on Access to Information with regard to all documents provided to it by the Borrower.

50. The Bank will require the Borrower to provide sufficient information about the potential risks and impacts of the project for the Borrower's consultations with its stakeholders. Such information will be disclosed in a timely manner, in an accessible place, and in a form and language understandable to project-

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<sup>34</sup> The 'relevant requirements of the ESSs' will relate to the reasons for which the risk profile of the FI subproject has increased.

<sup>35</sup> As set out in paragraph 3 of this Policy, the Bank will assist the Borrower in identifying appropriate methods and tools to assess and manage the potential environmental and social risks and impacts of the project, and agree with the Borrower the conditions under which the Bank is prepared to support the project, which will be set out in the ESCP.



## World Bank Environmental and Social Policy for Investment Project Financing

affected parties and other interested parties as set out in ESS10, so they can provide meaningful input into project design and mitigation measures.

51. The Bank will disclose documentation relating to the environmental and social risks and impacts of *High Risk* and *Substantial Risk* projects prior to project appraisal. This documentation will reflect the environmental and social assessment of the project, and be provided in draft or final form (if available). The documentation will address, in an adequate manner, the key risks and impacts of the project, and will provide sufficient detail to inform stakeholder engagement and Bank decision-making. Final or updated documentation will be disclosed when available.

52. For *High Risk* and *Substantial Risk* projects, the Bank will indicate in the Project Appraisal Document the project-related documents that will be prepared and disclosed after Board approval. For each key document, the Bank will provide, where possible, the following details: the objectives and proposed content of the document; the rationale for the timing of preparation; the estimated costs associated with the preparation of the document and its implementation; the source of funding; and the arrangements for preparation. These details and timing for delivery of the document will be set out in the ESCP, as appropriate.

### G. Consultation and Participation

53. The Bank recognizes the importance of early and continuing engagement and meaningful consultation with stakeholders. The Bank will require the Borrower to engage with stakeholders, including communities, groups, or individuals affected by proposed projects, and with other interested parties, through information disclosure, consultation, and informed participation in a manner proportionate to the risks to and impacts on affected communities. The Bank will have the right to participate in consultation activities to understand the concerns of affected people, and how such concerns will be addressed by the Borrower in project design and mitigation measures in accordance with ESS10. The Bank will monitor, as part of its due diligence, the implementation of consultation and stakeholder engagement by the Borrower.

54. In order to determine the applicability of ESS7, the Bank will undertake a screening in accordance with the criteria in paragraphs 8 and 9 of ESS7, to determine whether Indigenous Peoples (or as they may be referred to in the national context) are present in, or have collective attachment to, the proposed project area. In conducting this screening, the Bank may seek the technical advice of specialists with expertise on the social and cultural groups in the project area. The Bank will also consult the Indigenous Peoples concerned and the Borrower. The Bank may follow the Borrower's national processes during project screening for identification<sup>36</sup> of Indigenous Peoples, where these processes meet the requirements of ESS7. Where Indigenous Peoples are present in, or have a collective attachment to, the proposed project area, the Bank will require the Borrower to undertake a process of meaningful consultation tailored to Indigenous Peoples in accordance with ESS7<sup>37</sup>. The outcome of the meaningful consultation will be documented. The Bank will undertake the necessary due diligence, ascertain the

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<sup>36</sup> In accordance with paragraphs 8 and 9 of ESS7.

<sup>37</sup> See ESS7, paragraph 23.



## World Bank Environmental and Social Policy for Investment Project Financing

outcome of the meaningful consultation and this will contribute to the Bank's decision making as to whether to proceed with the proposed project or not.

55. In addition, the Bank recognizes that Indigenous Peoples (or as they may be referred to in the national context) may be particularly vulnerable to the loss of, alienation from or exploitation of their land and access to natural and cultural resources. In recognition of this vulnerability, the Bank will require the Borrower to obtain the Free, Prior and Informed Consent (FPIC) of the affected Indigenous Peoples when such circumstances described in ESS7 are present.<sup>38</sup> There is no universally accepted definition of FPIC. It does not require unanimity and may be achieved even when individuals or groups within or among affected Indigenous Peoples explicitly disagree. For the purposes of ESS7, consent refers to the collective support of affected Indigenous Peoples communities for the project activities that affect them, reached through a culturally appropriate process. It may exist even if some individuals or groups object to such project activities. When the Bank is unable to ascertain that such consent is obtained from the affected Indigenous Peoples, the Bank will not proceed further with the aspects of the project that are relevant to those Indigenous Peoples for which FPIC cannot be ascertained. In such cases, the Bank will require the Borrower to ensure that the project will not cause adverse impacts on such Indigenous Peoples.

### H. Monitoring and Implementation Support

56. The Bank will monitor the environmental and social performance of the project in accordance with the requirements of the legal agreement, including the ESCP and will review any revision of the ESCP including changes resulting from changes in the design of a project or project circumstances. The extent and mode of Bank monitoring with respect to environmental and social performance will be proportionate to the potential environmental and social risks and impacts of the project. The Bank will monitor projects on an ongoing basis as required by OP 10.00.<sup>39</sup> A project will not be considered complete until the measures and actions set out in the legal agreement (including the ESCP) have been implemented. To the extent that the Bank evaluation at the time of project completion determines that such measures and actions have not been fully implemented, the Bank will determine whether further measures and actions, including continuing Bank monitoring and implementation support, will be required.

57. The Bank will provide implementation support regarding the environmental and social performance of the project, which will include reviewing the Borrower's monitoring reports on compliance of the project with the requirements of the legal agreement, including the ESCP.

58. Where appropriate and as set out in the ESCP, the Bank will require the Borrower to engage stakeholders and third parties, such as independent experts, local communities or nongovernmental organizations (NGOs), to complement or verify project monitoring information. Where other agencies or third parties are responsible for managing specific risks and impacts and implementing mitigation measures, the Bank will require the Borrower to collaborate with such agencies and third parties to establish and monitor such mitigation measures.

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<sup>38</sup> Further details are set out in ESS7, Section B.

<sup>39</sup> The Bank will monitor and provide implementation support for the time periods stipulated in OP10.00.

## World Bank Environmental and Social Policy for Investment Project Financing

59. Where the Bank has identified and agreed with the Borrower and, as relevant, other agencies<sup>40</sup>, on corrective or preventive measures and actions, all material measures and actions will be included in the ESCP. Such measures and actions will be addressed in accordance with the timeframe set out in the ESCP or, if they are not included in the ESCP, in a reasonable timeframe, in the opinion of the Bank. The Bank will have the right to apply the Bank's remedies if the Borrower fails to implement such measures and actions in the timeframes specified.

### I. Grievance Mechanism and Accountability

60. The Bank will require the Borrower to provide a grievance mechanism, process, or procedure to receive and facilitate resolution of concerns and grievances of project-affected parties arising in connection with the project, in particular about the Borrower's environmental and social performance. The grievance mechanism will be proportionate to the risks and impacts of the project.<sup>41</sup>

61. Project-affected parties may submit complaints regarding a Bank-financed project to the project grievance mechanism, appropriate local grievance mechanism, or the World Bank's corporate Grievance Redress Service (GRS). The GRS ensures that complaints received are promptly reviewed in order to address project-related concerns. After bringing their concerns directly to the World Bank's attention and giving Bank Management a reasonable opportunity to respond, project-affected parties may submit their complaint to the World Bank's independent Inspection Panel to request an inspection to determine whether harm has occurred as a direct result of World Bank non-compliance with its policies and procedures.

### Institutional and Implementation Arrangements

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62. The Bank will allocate responsibilities and appropriate resources to support an effective implementation of this Policy.

63. Projects receiving initial approval by Bank management prior to the entry into force of this Policy will be subject to the Bank's existing Policies identified in footnote 1 of this Policy.

64. The Bank will develop and maintain directives, procedures and appropriate guidance and information tools to assist in implementing this Policy.

65. This Policy will be reviewed on an ongoing basis and will be amended or updated as appropriate, subject to approval by the Board of Directors.

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<sup>40</sup> Where the Bank has agreed on a common approach with other multilateral or bilateral funding agencies, the Bank will review any corrective or preventive measures and actions agreed with the Borrower in accordance with paragraph 9.

<sup>41</sup> The grievance mechanism may utilize existing formal or informal grievance mechanisms, provided they are properly designed and implemented, and deemed suitable for project purposes; these may be supplemented as needed with project-specific arrangements.

**Borrower Requirements –**

**Environmental and Social Standards 1-10**

# Environmental and Social Standard 1.

## Assessment and Management of Environmental and Social Risks and Impacts

### Introduction

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1. ESS1 sets out the Borrower's responsibilities for assessing, managing and monitoring environmental and social risks and impacts associated with each stage of a project supported by the Bank through Investment Project Financing, in order to achieve environmental and social outcomes consistent with the Environmental and Social Standards (ESSs).

2. The ESSs are designed to help Borrowers to manage the risks and impacts of a project, and improve their environmental and social performance, through a risk and outcomes based approach. The desired outcomes for the project are described in the objectives of each ESS, followed by specific requirements to help Borrowers achieve these objectives through means that are appropriate to the nature and scale of the project and proportionate to the level of environmental and social risks and impacts.

3. Borrowers<sup>1</sup> will conduct environmental and social assessment of projects proposed for Bank financing to help ensure that projects are environmentally and socially sound and sustainable. The environmental and social assessment will be proportionate to the risks and impacts of the project. It will inform the design of the project, and be used to identify mitigation measures and actions and to improve decision making.

4. Borrowers will manage environmental and social risks and impacts of the project throughout the project life-cycle in a systematic manner, proportionate to the nature and scale of the project and the potential risks and impacts.

5. In assessing, developing and implementing a project supported by Investment Project Financing, the Borrower may, where appropriate, agree with the Bank to use all or part of the Borrower's national environmental and social framework to address the risks and impacts of the project, providing such use will enable the project to achieve objectives materially consistent with the ESSs.

6. ESS1 includes the following annexes, which form part of ESS1, and set out certain requirements in more detail:

- Annex 1: Environmental and Social Assessment;
- Annex 2: Environmental and Social Commitment Plan; and

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<sup>1</sup> It is recognized that the Borrower may not be the entity directly implementing the project. Nevertheless, the Borrower is responsible for ensuring that the project is prepared and implemented so that it meets all applicable requirements of the ESSs in a manner and timeframe agreed with the Bank. The Borrower will ensure that any entity involved in implementing the project supports all obligations and commitments of the Borrower in accordance with the requirements of the ESSs and the specific conditions of the legal agreement, including the ESCP. Contractors retained by or acting on behalf of the Borrower or an implementing agency are considered to be under the direct control of the Borrower.

## ESS1. Assessment and Management of Environmental and Social Risks and Impacts

- Annex 3: Management of Contractors.

### Objectives

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- To identify, evaluate and manage the environment and social risks and impacts of the project in a manner consistent with the ESSs.
- To adopt a mitigation hierarchy approach to:
  - (a) Anticipate and avoid risks and impacts;
  - (b) Where avoidance is not possible, minimize or reduce risks and impacts to acceptable levels;
  - (c) Once risks and impacts have been minimized or reduced, mitigate; and
  - (d) Where significant residual impacts remain, compensate for or offset them, where technically<sup>2</sup> and financially<sup>3</sup> feasible.
- To adopt differentiated measures so that adverse impacts do not fall disproportionately on the disadvantaged or vulnerable, and they are not disadvantaged in sharing development benefits and opportunities resulting from the project.
- To utilize national environmental and social institutions, systems, laws, regulations and procedures in the assessment, development and implementation of projects, whenever appropriate.
- To promote improved environmental and social performance, in ways which recognize and enhance Borrower capacity.

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<sup>2</sup> Technical feasibility is based on whether the proposed measures and actions can be implemented with commercially available skills, equipment, and materials, taking into consideration prevailing local factors such as climate, geography, demography, infrastructure, security, governance, capacity, and operational reliability.

<sup>3</sup> Financial feasibility is based on relevant financial considerations, including relative magnitude of the incremental cost of adopting such measures and actions compared to the project's investment, operating, and maintenance costs, and on whether this incremental cost could make the project nonviable for the Borrower.

## ESS1. Assessment and Management of Environmental and Social Risks and Impacts

### Scope of Application

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7. ESS1 applies to all projects<sup>4</sup> <sup>5</sup> supported by the Bank<sup>6</sup> through Investment Project Financing.<sup>7</sup>
8. The term “project” refers to the activities for which the Bank financing referred to in paragraph 7 is sought by a Borrower and as defined in the legal agreement between the Borrower and the Bank.<sup>8</sup>
9. Where the Bank is jointly financing a project with other multilateral or bilateral funding agencies<sup>9</sup>, the Borrower will cooperate with the Bank and such agencies in order to agree on a common approach for the assessment and management of environmental and social risks and impacts of the project. A common approach will be acceptable, provided that such approach will enable the project to achieve objectives materially consistent with the ESSs.<sup>10</sup> The Borrower will be required to apply the common approach to the project.
10. ESS1 also applies to all Associated Facilities. Associated Facilities will meet the requirements of the ESSs, to the extent that the Borrower has control or influence over such Associated Facilities.<sup>11</sup>

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<sup>4</sup> These are projects to which OP/BP 10.00 *Investment Project Financing* applies. The World Bank Environmental and Social Policy for Investment Project Financing and ESSs do not apply to operations supported by Development Policy lending (for which the environmental and social provisions are set out in OP/BP 8.60 *Development Policy Lending*), or those supported by Program-for-Results Financing (for which the environmental and social provisions are set out in OP/BP 9.00 *Program-for-Results Financing*).

<sup>5</sup> These projects may include technical assistance supported by the Bank through Investment Project Financing, whether provided through a stand-alone project or as part of a project. The requirements set out in paragraphs 14-18 of ESS1 will be applied to technical assistance activities as relevant and appropriate to the nature of the risks and impacts. The terms of reference, work plans or other documents defining the scope and outputs of technical assistance activities will be drafted so that the advice and other support provided is consistent with ESSs 1-10. Activities implemented by the Borrower following the completion of the project that are not financed by the Bank, or activities that are not directly related to the technical assistance, are not subject to the World Bank Environmental and Social Policy for Investment Project Financing.

<sup>6</sup> As set out in the World Bank Environmental and Social Policy for Investment Project Financing, paragraph 7, the Bank will only support projects that are consistent with, and within the boundaries of, the Bank’s Articles of Agreement.

<sup>7</sup> Where the project involves the provision of a guarantee under OP 10.00, the scope of application of the ESSs will depend on the activities or commitments covered by the guarantee.

<sup>8</sup> The scope of activities for which Investment Project Finance can be provided, together with the approval process, is set out in OP 10.00.

<sup>9</sup> Such agencies will include IFC and MIGA.

<sup>10</sup> In determining whether the common approach or the requirements referred to in paragraphs 9, 12 and 13 are acceptable, the Bank will take into account the policies, standards and implementation procedures of the multilateral or bilateral funding agencies. The measures and actions that have been agreed under the common approach will be included in the ESCP.

<sup>11</sup> The Borrower will be required to demonstrate the extent to which it cannot exercise control or influence over the Associated Facilities by providing details of the relevant considerations, which may include legal, regulatory and institutional factors.

## ESS1. Assessment and Management of Environmental and Social Risks and Impacts

11. For the purpose of this ESS, the term “Associated Facilities” means facilities or activities that are not funded as part of the project and are: (a) directly and significantly related to the project; and (b) carried out, or planned to be carried out, contemporaneously with the project; and (c) necessary for the project to be viable and would not have been constructed, expanded or conducted if the project did not exist<sup>12</sup>.

12. Where:

- (a) A common approach has been agreed for the project, the common approach will apply to the Associated Facilities;
- (b) Associated Facilities are being funded by other multilateral or bilateral funding agencies, the Borrower may agree with the Bank to apply the requirements of such other agencies to the Associate Facilities, provided that such requirements will enable the project to achieve objectives materially consistent with the ESSs.

13. Where the Bank is financing a project involving a Financial Intermediary (FI), and other multilateral or bilateral funding agencies<sup>13</sup> have already provided financing to the same FI, the Borrower may agree with the Bank to rely on the requirements of such other agencies for the assessment and management of environmental and social risks and impacts of the project, including the institutional arrangements already established by the FI, provided that, such requirements will enable the project to achieve objectives materially consistent with the ESSs.

### Requirements

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14. The Borrower will assess, manage and monitor the environmental and social risks and impacts of the project throughout the project life-cycle so as to meet the requirements of the ESSs in a manner and within a timeframe acceptable to the Bank.<sup>14</sup>

15. The Borrower will:

- (a) Conduct an environmental and social assessment of the proposed project, including stakeholder engagement;
- (b) Undertake stakeholder engagement and disclose appropriate information in accordance with ESS10;

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<sup>12</sup> For facilities or activities to be Associated Facilities, they must meet all three criteria.

<sup>13</sup> Such agencies will include IFC and MIGA.

<sup>14</sup> In establishing the manner and an acceptable timeframe, the Bank will take into account the nature and significance of the potential environmental and social risks and impacts, the timing for development and implementation of the project, the capacity of the Borrower and other entities involved in developing and implementing the project, and the specific measures and actions to be put in place or taken by the Borrower to address such risks and impacts.

## **ESS1. Assessment and Management of Environmental and Social Risks and Impacts**

- (c) Develop an ESCP, and implement all measures and actions set out in the legal agreement including the ESCP; and
- (d) Conduct monitoring and reporting on the environmental and social performance of the project against the ESSs.

16. Where the ESCP requires the Borrower to plan or take specific measures and actions over a specified timeframe to avoid, minimize, reduce or mitigate specific risks and impacts of the project, the Borrower will not carry out any activities in relation to the project that may cause material adverse environmental or social risks or impacts until the relevant plans, measures or actions have been completed in accordance with the ESCP.

17. If the project comprises or includes existing facilities or existing activities that do not meet the requirements of the ESSs at the time of Board approval, the Borrower will adopt and implement measures satisfactory to the Bank so that specific aspects of such facilities and activities meet the requirements of the ESSs in accordance with the ESCP.

18. The project will apply the relevant requirements of the Environmental Health and Safety Guidelines (EHSGs). When host country requirements differ from the levels and measures presented in the EHSGs, the Borrower will be required to achieve or implement whichever is more stringent. If less stringent levels or measures than those provided in the EHSGs are appropriate in view of the Borrower's limited technical or financial constraints or other specific project circumstances, the Borrower will provide full and detailed justification for any proposed alternatives through the environmental and social assessment. This justification must demonstrate, to the satisfaction of the Bank that the choice of any alternative performance level is consistent with the objectives of the ESSs and the applicable EHSGs, and is unlikely to result in any significant environmental or social harm.

### **A. Use of Borrower's Environmental and Social Framework**

19. When a project is proposed for Bank support, the Borrower and the Bank will consider whether to use all, or part, of the Borrower's ES Framework in the assessment, development and implementation of a project. Such use may be proposed provided this is likely to address the risks and impacts of the project, and enable the project to achieve objectives materially consistent with the ESSs.



## ESS1. Assessment and Management of Environmental and Social Risks and Impacts

20. If the Borrower and the Bank propose to use all, or part, of the Borrower's ES Framework, the Bank will review the Borrower's ES Framework<sup>15</sup> in accordance with the requirement of paragraph 19. The Borrower will provide information to the Bank in connection with the assessment<sup>16</sup>.

21. If the assessment identifies gaps in the Borrower's ES Framework, the Borrower will work with the Bank to identify measures and actions to address such gaps. Such measures and actions may be implemented during project preparation or project implementation and will include, where necessary, measures and actions to address any capacity development issues pertaining to the Borrower, any relevant national, subnational or sectoral implementing institution, and any implementing agency. The agreed measures and actions, together with the timeframes for their completion, will form part of the ESCP.

22. The Borrower will take all actions necessary to maintain the Borrower's ES Framework, as well as acceptable implementation practices, track record, and capacity, in accordance with the measures and actions identified in the ESCP, throughout the project life-cycle. The Borrower will notify and discuss with the Bank any significant changes in the Borrower's ES Framework that may affect the project.<sup>17</sup> If the Borrower's ES Framework is changed in a manner inconsistent with the requirement of paragraph 19 and the ESCP, the Borrower will carry out, as appropriate, additional assessment and stakeholder engagement in accordance with the ESSs, and propose changes, for approval by the Bank, to the ESCP.

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<sup>15</sup> The Borrower's ES Framework will include those aspects of the country's policy, legal and institutional framework, consisting of its national, subnational, or sectoral implementing institutions and applicable laws, regulations, rules and procedures and implementation capacity relevant to the environmental and social risks and impacts of the project. Where there are inconsistencies or lack of clarity within the Borrower's ES Framework as to relevant authorities or jurisdiction, these will be identified and discussed with the Borrower. The aspects of the Borrower's existing ES Framework that are relevant will vary from project to project, depending on such factors as the type, scale, location and potential environmental and social risks and impacts of the project and the role and authority of different institutions.

<sup>16</sup> The information provided by the Borrower will assist in determining whether and to what extent the Borrower's ES Framework can be used to enable the project to address the risks and impacts of the project, and achieve objectives materially consistent with the ESSs. The Borrower will provide to the Bank recent studies and assessments conducted by the Borrower or reputable third parties, including on other projects developed in the country, to the extent these are relevant to the proposed project.

<sup>17</sup> If, in the opinion of the Bank, such changes serve to improve the Borrower's ES Framework, the Borrower will apply such changes to the project.

## ESS1. Assessment and Management of Environmental and Social Risks and Impacts

### B. Environmental and Social Assessment

23. The Borrower will carry out an environmental and social assessment<sup>18</sup> of the project to assess the environmental and social risks and impacts of the project throughout the project life-cycle.<sup>19</sup> The assessment will be proportionate to the potential risks and impacts of the project, and will assess, in an integrated way, all relevant direct<sup>20</sup>, indirect<sup>21</sup> and cumulative<sup>22</sup> environmental and social risks and impacts throughout the project life-cycle, including those specifically identified in ESSs2–10.

24. The environmental and social assessment will be based on current information, including an accurate description and delineation of the project and any associated aspects, and environmental and social baseline data at an appropriate level of detail sufficient to inform characterization and identification of risks and impacts and mitigation measures. The assessment will evaluate the project's potential environmental and social risks and impacts; examine project alternatives; identify ways of improving project selection, siting, planning, design and implementation in order to apply the mitigation hierarchy for adverse environmental and social impacts and seek opportunities to enhance the positive impacts of the project. The environmental and social assessment will include stakeholder engagement as an integral part of the assessment, in accordance with ESS10.

25. The environmental and social assessment will be an adequate, accurate, and objective evaluation and presentation of the risks and impacts, prepared by qualified and experienced persons. For *High and*

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<sup>18</sup> The Borrower, in consultation with the Bank, will identify and use appropriate methods and tools, including scoping, environmental and social analyses, investigations, audits, surveys and studies, to identify and assess the potential environmental and social risks and impacts of the proposed project. These methods and tools will reflect the nature and scale of the project, and will include, as appropriate, a combination (or elements of) the following: environmental and social impact assessment (ESIA); environmental audit; hazard or risk assessment; social and conflict analysis; environmental and social management plan (ESMP); environmental and social management framework (ESMF); regional or sectoral EIA; strategic environmental and social assessment (SESA). Specific features of a project may require the Borrower to utilize specialized methods and tools for assessment, for example a Cultural Heritage Management Plan. Where the project is likely to have sectoral or regional impacts, a sectoral or regional EIA will be required.

<sup>19</sup> This may include preconstruction, construction, operation, decommissioning, closure and reinstatement/restoration.

<sup>20</sup> A direct impact is an impact which is caused by the project, and occurs contemporaneously in the location of the project.

<sup>21</sup> An indirect impact is an impact which is caused by the project and is later in time or farther removed in distance than a direct impact, but is still reasonably foreseeable, and will not include induced impacts.

<sup>22</sup> The cumulative impact of the project is the incremental impact of the project when added to impacts from other relevant past, present and reasonably foreseeable developments as well as unplanned but predictable activities enabled by the project that may occur later or at a different location. Cumulative impacts can result from individually minor but collectively significant activities taking place over a period of time. The environmental and social assessment will consider cumulative impacts that are recognized as important on the basis of scientific concerns and/or reflect the concerns of project-affected parties. The potential cumulative impacts will be determined as early as possible, ideally as part of project scoping.

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*Substantial Risk* projects, as well as situations in which the Borrower has limited capacity, the Borrower will retain independent specialists to carry out the environmental and social assessment.

26. The Borrower will ensure that the environmental and social assessment takes into account in an appropriate manner all issues relevant to the project, including: (a) the country's applicable policy framework, national laws and regulations, and institutional capabilities (including implementation) relating to environment and social issues; variations in country conditions and project context; country environmental or social studies; national environmental or social action plans; and obligations of the country directly applicable to the project under relevant international treaties and agreements; (b) applicable requirements under the ESSs; and (c) the EHSs, and other relevant Good International Industry Practice (GIIP)<sup>23</sup>. The assessment of the project, and all proposals contained in the assessment, will be consistent with the requirements of this paragraph.

27. The environmental and social assessment will apply a mitigation hierarchy<sup>24</sup>, which will:

- (a) Anticipate and avoid risks and impacts;
- (b) Where avoidance is not possible, minimize or reduce risks and impacts to acceptable levels;
- (c) Once risks and impacts have been minimized or reduced, mitigate<sup>25</sup>; and
- (d) Where significant residual impacts remain, compensate for or offset them, where technically and financially feasible<sup>26</sup>.

28. The environmental and social assessment, informed by the scoping of the issues, will take into account all relevant environmental and social risks and impacts of the project, including:

- (a) Environmental risks and impacts, including: (i) those defined by the EHSs; (ii) those related to community safety (including dam safety and safe use of pesticides); (iii) those related to climate change and other transboundary or global risks and impacts;

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<sup>23</sup> Good International Industry Practice (GIIP) is defined as the exercise of professional skill, diligence, prudence, and foresight that would reasonably be expected from skilled and experienced professionals engaged in the same type of undertaking under the same or similar circumstances globally or regionally. The outcome of such exercise should be that the project employs the most appropriate technologies in the project-specific circumstances.

<sup>24</sup> The mitigation hierarchy is further discussed and specified in the context of ESSs2-10, where relevant.

<sup>25</sup> The requirement to mitigate impacts may include measures to assist affected parties to improve or at least restore their livelihoods as relevant in a particular project setting.

<sup>26</sup> The Borrower will make reasonable efforts to incorporate the costs of compensating and/or offsetting for the significant residual impacts as part of project costs. The environmental and social assessment will consider the significance of such residual impacts, the long-term effect of these on the environment and project-affected people, and the extent to which they are considered reasonable in the context of the project. Where it is determined that it is not technically or financially feasible to compensate or offset for such residual impacts, the rationale for this determination (including the options that were considered) will be set out in the environmental and social assessment.

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(iv) any material threat to the protection, conservation, maintenance and restoration of natural habitats and biodiversity; and (v) those related to ecosystem services<sup>27</sup> and the use of living natural resources, such as fisheries and forests;

- (b) Social risks and impacts, including: (i) threats to human security through the escalation of personal, communal or inter-state conflict, crime or violence; (ii) risks that project impacts fall disproportionately on individuals and groups who, because of their particular circumstances, may be disadvantaged or vulnerable;<sup>28</sup> (iii) any prejudice or discrimination toward individuals or groups in providing access to development resources and project benefits, particularly in the case of those who may be disadvantaged or vulnerable; (iv) negative economic and social impacts relating to the involuntary taking of land or restrictions on land use; (v) risks or impacts associated with land and natural resource tenure and use<sup>29</sup>, including (as relevant) potential project impacts on local land use patterns and tenurial arrangements, land access and availability, food security and land values, and any corresponding risks related to conflict or contestation over land and natural resources; (vi) impacts on the health, safety and well-being of workers and project-affected communities; and (vii) risks to cultural heritage.

29. Where the environmental and social assessment of the project identifies specific individuals or groups as disadvantaged or vulnerable, the Borrower will propose and implement differentiated measures

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<sup>27</sup> Ecosystem services are the benefits that people derive from ecosystems. Ecosystem services are organized into four types: (i) provisioning services, which are the products people obtain from ecosystems and which may include food, freshwater, timbers, fibers, medicinal plants; (ii) regulating services, which are the benefits people obtain from the regulation of ecosystem processes and which may include surface water purification, carbon storage and sequestration, climate regulation, protection from natural hazards; (iii) cultural services, which are the nonmaterial benefits people obtain from ecosystems and which may include natural areas that are sacred sites and areas of importance for recreations and aesthetic enjoyment; and (iv) supporting services, which are the natural processes that maintain the other services and which may include soil formation, nutrient cycling and primary production.

<sup>28</sup> Disadvantaged or vulnerable refers to those who may be more likely to be adversely affected by the project impacts and/or more limited than others in their ability to take advantage of a project's benefits. Such an individual/group is also more likely to be excluded from/unable to participate fully in the mainstream consultation process and as such may require specific measures and/or assistance to do so. This will take into account considerations relating to age, including the elderly and minors, and including in circumstances where they may be separated from their family, the community or other individuals upon which they depend.

<sup>29</sup> Due to the complexity of tenure issues in many contexts, and the importance of secure tenure for livelihoods, careful assessment and design is needed to help ensure that projects do not inadvertently compromise existing legitimate rights (including collective rights, subsidiary rights and the rights of women) or have other unintended consequences, particularly where the project supports land titling and related issues. In such circumstances, the Borrower will at a minimum demonstrate to the Bank's satisfaction that applicable laws and procedures, along with project design features (a) provide clear and adequate rules for the recognition of relevant land tenure rights; (b) establish fair criteria and functioning, transparent and participatory processes for resolving competing tenure claims; and (c) include genuine efforts to inform affected people about their rights and provide access to impartial advice.

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so that adverse impacts do not fall disproportionately on the disadvantaged or vulnerable, and they are not disadvantaged in sharing any development benefits and opportunities resulting from the project.

30. For projects involving multiple small subprojects<sup>30</sup>, that are identified, prepared and implemented during the course of the project, the Borrower will carry out appropriate environmental and social assessment of subprojects, and prepare and implement such subprojects, as follows:

(a) *High Risk* subprojects, in accordance with the ESSs;

(b) *Substantial Risk, Moderate Risk* and *Low Risk* subprojects, in accordance with national law and any requirements of the ESSs that the Bank deems relevant to such subprojects<sup>31</sup>.

31. If the risk rating of a subproject increases to a higher risk rating, the Borrower will apply the relevant requirements of the ESSs<sup>32</sup> and the ESCP will be updated as appropriate.

32. The environmental and social assessment will also identify and assess, to the extent appropriate, the potential environmental and social risks and impacts of Associated Facilities. The Borrower will address the risks and impacts of Associated Facilities in a manner proportionate to its control or influence over the Associated Facilities. To the extent that the Borrower cannot control or influence the Associated Activities to meet the requirements of the ESSs, the environmental and social assessment will also identify the risks and impacts the Associated Facilities may present to the project.

33. For projects that are *High Risk* or contentious, or that involve serious multidimensional environmental or social risks or impacts, the Borrower may be required to engage one or more internationally recognized independent experts. Such experts may, depending on the project, form part of an advisory panel or be otherwise employed by the Borrower, and will provide independent advice and oversight to the project<sup>33</sup>.

34. The environmental and social assessment will also consider risks and impacts associated with the primary suppliers<sup>34</sup> as required by ESS2 and ESS6. The Borrower will address such risks and impacts in a

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<sup>30</sup> Paragraphs 30 to 31 apply to a Bank-supported project with multiple small subprojects, as in the case of community-driven development projects, projects involving matching grant schemes, or similar projects designated by the Bank. These provisions do not apply to FI subprojects which are addressed in ESS9.

<sup>31</sup> Where subprojects are likely to have minimal or no adverse environmental or social risks and impacts, such subprojects do not require further environmental and social assessment following the initial scoping.

<sup>32</sup> The 'requirements of the ESSs' will relate to the reasons for which the risk rating has increased.

<sup>33</sup> This requirement relates to independent advice and oversight of such projects, and is not related to circumstances in which the Borrower will be required to retain independent specialists to carry out environmental and social assessment, set out in paragraph 25.

<sup>34</sup> Primary suppliers are those suppliers who, on an ongoing basis, provide directly to the project goods or materials essential for the core functions of the project. Core functions of a project constitute those production and/or service processes essential for a specific project activity without which the project cannot continue.

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manner proportionate to the Borrower's control or influence over its primary suppliers as set out in ESS2 and ESS6.

35. The environmental and social assessment will consider potentially significant project related transboundary and global risks and impacts, such as impacts from effluents and emissions, increased use or contamination of international waterways, emissions of short and long-lived climate pollutants<sup>35</sup>, climate change mitigation, adaptation and resilience issues, and impacts on threatened or depleted migratory species and their habitats.

### C. Environmental and Social Commitment Plan

36. The Borrower will develop and implement an ESCP, which will set out measures and actions required for the project to achieve compliance with the ESSs over a specified timeframe<sup>36</sup>. The ESCP will be agreed with the Bank and will form part of the legal agreement. The draft ESCP will be disclosed as early as possible, and before project appraisal.

37. The ESCP will take into account the findings of the environmental and social assessment, the Bank's environmental and social due diligence, and the results of engagement with stakeholders. It will be an accurate summary of the material measures and actions required to avoid, minimize, reduce or otherwise mitigate the potential environmental and social risks and impacts of the project.<sup>37</sup> A completion date for each action will be specified in the ESCP.

38. Where a common approach<sup>38</sup> has been agreed, the ESCP will include all measures and actions that have been agreed by the Borrower to enable the project to meet the common approach.

39. The ESCP will set out a process that allows for adaptive management of proposed project changes or unforeseen circumstances. The process will set out how such changes or circumstances will be managed and reported and any necessary changes will be made to the ESCP and relevant management tools.

40. The Borrower will implement diligently the measures and actions identified in the ESCP in accordance with the timeframes specified, and will review the status of implementation of the ESCP as part of its monitoring and reporting.<sup>39</sup>

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<sup>35</sup> This includes all greenhouse gases (GHGs) and black carbon (BC).

<sup>36</sup> The Bank will assist the Borrower in identifying appropriate methods and tools to assess and manage the potential environmental and social risks and impacts of the project, and developing the ESCP.

<sup>37</sup> This will include any mitigation and performance improvement measures and actions already developed; actions that may be completed prior to approval by the Bank Board of Directors; actions required by national law and regulation that satisfy the requirements of the ESSs; actions to address gaps in the Borrower's ES Framework; and any other actions that are considered necessary for the project to achieve compliance with the ESSs. The gaps will be assessed by reference to what would be required in the relevant ESS.

<sup>38</sup> See paragraph 9.

<sup>39</sup> See Section D.

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41. The ESCP will describe the different management tools<sup>40</sup> that the Borrower will use to develop and implement the agreed measures and actions. These management tools will include, as appropriate, environmental and social management plans, environmental and social management frameworks, operational policies, operational manuals, management systems, procedures, practices and capital investments. All management tools will apply the mitigation hierarchy, and incorporate measures so that the project will meet the requirements of applicable laws and regulations and the ESSs<sup>41</sup> in accordance with the ESCP throughout the project life-cycle.

42. The management tools will define desired outcomes in measurable terms (for example, against baseline conditions) to the extent possible, with elements such as targets and performance indicators that can be tracked over defined time periods.

43. Recognizing the dynamic nature of the project development and implementation process, the management tools will take a long-term and phased approach, and be designed to be responsive to changes in project circumstances, unforeseen events, regulatory changes and the results of monitoring and review.

44. The Borrower will notify the Bank promptly of any proposed changes to the scope, design, implementation or operation of the project that are likely to cause an adverse change in the environmental or social risks or impacts of the project. The Borrower will carry out, as appropriate, additional assessment and stakeholder engagement in accordance with the ESSs, and propose changes, for approval by the Bank, to the ESCP and relevant management tools, as appropriate, in accordance with the findings of such assessments and consultation. The updated ESCP will be disclosed.

### **D. Project Monitoring and Reporting**

45. The Borrower will monitor the environmental and social performance of the project in accordance with the legal agreement (including the ESCP). The extent and mode of monitoring will be agreed upon with the Bank, and will be proportionate to the nature of the project, the project's environmental and social risks and impacts, and compliance requirements. The Borrower will ensure that adequate institutional arrangements, systems, resources and personnel are in place to carry out monitoring. Where appropriate and as set out in the ESCP, the Borrower will engage stakeholders and third parties, such as independent experts, local communities or NGOs, to complement or verify its own monitoring activities. Where other agencies or third parties are responsible for managing specific risks and impacts and implementing mitigation measures, the Borrower will collaborate with such agencies and third parties to establish and monitor such mitigation measures.

46. Monitoring will normally include recording information to track performance, and establishing relevant operational controls to verify and compare compliance and progress. Monitoring will be adjusted

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<sup>40</sup> The level of detail and complexity of the management tools will be proportionate to the project's risks and impacts, and the measures and actions identified to address such risks and impacts. They will take into account the experience and capacity of the parties involved with the project, including the implementing agencies, project-affected communities and other interested parties, and aim to support improved environmental and social performance.

<sup>41</sup> Including relevant GIIP.



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according to performance experience, as well as actions requested by relevant regulatory authorities and feedback from stakeholders such as community members. The Borrower will document monitoring results.

47. The Borrower will provide regular reports as set out in the ESCP (in any event, no less than annually) to the Bank of the results of the monitoring. Such reports will provide an accurate and objective record of project implementation, including compliance with the ESCP and the requirements of the ESSs. Such reports will include information on stakeholder engagement conducted during project implementation in accordance with ESS10. The Borrower, and the agencies implementing the project, will designate senior officials to be responsible for reviewing the reports.

48. Based on the results of the monitoring, the Borrower will identify any necessary corrective and preventive actions, and will incorporate these in an amended ESCP or the relevant management tool, in a manner acceptable to the Bank. The Borrower will implement the agreed corrective and preventive actions in accordance with the amended ESCP or relevant management tool, and monitor and report on these actions.

49. The Borrower will facilitate site visits by Bank staff or consultants acting on the Bank's behalf.

50. The Borrower will notify the Bank promptly of any incident or accident relating to the project which has, or is likely to have, a significant adverse effect on the environment, the affected communities, the public or workers. The notification will provide sufficient detail regarding such incident or accident, including any fatalities or serious injuries. The Borrower will take immediate measures to address the incident or accident and to prevent any recurrence, in accordance with national law and the ESSs.

### E. Stakeholder Engagement and Information Disclosure

51. As set out in ESS10, the Borrower will continue to engage with, and provide sufficient information to stakeholders throughout the life-cycle of the project, in a manner appropriate to the nature of their interests and the potential environmental and social risks and impacts of the project.

52. For *High Risk* and *Substantial Risk* projects, the Borrower will provide to the Bank and disclose documentation, as agreed with the Bank, relating to the environmental and social risks and impacts of the project prior to project appraisal<sup>42</sup>. The documentation will address, in an adequate manner, the key risks and impacts of the project, and will provide sufficient detail to inform stakeholder engagement and Bank decision-making. The Borrower will provide to the Bank and disclose final or updated documentation as specified in the ESCP.

53. If there are significant changes to the project that result in additional risks and impacts, particularly where these will impact project-affected parties, the Borrower will provide information on

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<sup>42</sup> In agreeing with the Borrower the documentation to be provided and disclosed prior to project appraisal and following Board approval, the Bank will take into account paragraphs 51 and 52 of the Policy.



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such risks and impacts and consult with project-affected parties as to how these risks and impacts will be mitigated. The Borrower will disclose an updated ESCP, setting out the mitigation measures.

## ESS1. Assessment and Management of Environmental and Social Risks and Impacts

### ESS1 – ANNEX 1. ENVIRONMENTAL AND SOCIAL ASSESSMENT

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#### A. General

1. The Borrower will undertake an environmental and social assessment to assess the environmental and social risks and impacts of a project throughout the project life-cycle. The term ‘environmental and social assessment’ is a generic term that describes the process of analysis and planning used by the Borrower to ensure the environmental and social impacts and risks of a project are identified, avoided, minimized, reduced or mitigated.
2. The environmental and social assessment is the primary means of ensuring projects are environmentally and socially sound and sustainable, and will be used to inform decision making. The environmental and social assessment is a flexible process, that can use different tools and methods depending on the details of the project and the circumstances of the Borrower (see paragraph 5 below).
3. The environmental and social assessment will be conducted in accordance with ESS1, and will consider, in an integrated way, all relevant direct, indirect and cumulative environmental and social risks and impacts of the project, including those specifically identified in ESS1-10. The breadth, depth, and type of analysis undertaken as part of the environmental and social assessment will depend on the nature and scale of the project, and the potential environmental and social risks and impacts that could result. The Borrower will undertake the environmental and social assessment at the scale and level of detail appropriate to the potential risks and impacts.<sup>1</sup>
4. The manner in which the environmental and social assessment will be conducted and the issues to be addressed will vary for each project. The Borrower will consult with the Bank to determine the process to be used, taking into account a number of activities, including scoping, stakeholder engagement, potential environmental and social issues and any specific issues raised between the Bank and Borrower. The environmental and social assessment will include and take into account coordination and consultation with affected people and other interested parties, particularly at an early stage, to ensure that all potentially significant environmental and social risks and impacts are identified and addressed.
5. The different methods and tools used by the Borrower to carry out the environmental and social assessment and to document the results of such assessment, including the mitigation measures to be implemented, will reflect the nature and scale of the project<sup>2</sup>. As specified in ESS1<sup>3</sup>, these will include, as appropriate, a combination or elements of the following:
  - a. ***Environmental and Social Impact Assessment (ESIA)***

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<sup>1</sup> See ESS1 Section B.

<sup>2</sup> These will also reflect national regulatory requirements, which may be relied on by the Borrower to the extent they meet the requirements of the ESSs.

<sup>3</sup> See ESS1, paragraph 23.

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*Environmental and social impact assessment (ESIA)* is an instrument to identify and assess the potential environmental and social impacts of a proposed project, evaluate alternatives, and design appropriate mitigation, management, and monitoring measures.

### **b. Environmental and Social Audit**

*Environmental and social audit* is an instrument to determine the nature and extent of all environmental and social areas of concern at an existing project or activities. The audit identifies and justifies appropriate measures and actions to mitigate the areas of concern, estimates the cost of the measures and actions, and recommends a schedule for implementing them. For certain projects, the environmental and social assessment may consist of an environmental or social audit alone; in other cases, the audit forms part of the environmental and social assessment.

### **c. Hazard or Risk Assessment**

*Hazard or risk assessment* is an instrument for identifying, analyzing, and controlling hazards associated with the presence of dangerous materials and conditions at a project site. The Bank requires a hazard or risk assessment for projects involving certain inflammable, explosive, reactive, and toxic materials when they are present in quantities above a specified threshold level. For certain projects, the environmental and social assessment may consist of the hazard or risk assessment alone; in other cases, the hazard or risk assessment forms part of the environmental and social assessment.

### **d. Cumulative Impact Assessment**

*Cumulative Impact Assessment* is an instrument to consider cumulative impacts of the project in combination with impacts from other relevant past, present and reasonably foreseeable developments as well as unplanned but predictable activities enabled by the project that may occur later or at a different location.

### **e. Social and Conflict Analysis**

*Social and conflict analysis* is an instrument that assesses the degree to which the project may (a) exacerbate existing tensions and inequality within society (both within the communities affected by the project and between these communities and others); (b) have a negative effect on stability and human security; (c) be negatively affected by existing tensions, conflict and instability, particularly in circumstances of war, insurrection and civil unrest.

### **f. Environmental and Social Management Plan (ESMP)**

*Environmental and social management plan (ESMP)* is an instrument that details (a) the measures to be taken during the implementation and operation of a project to eliminate or offset adverse environmental and social impacts, or to reduce them to acceptable levels; and (b) the actions needed to implement these measures.

### **g. Environmental and Social Management Framework (ESMF)**

*Environmental and social management framework (ESMF)* is an instrument that examines the risks and impacts when a project consists of a program and/or series of sub-projects, and the risks and impacts cannot be determined until the program or sub-project details have been identified. The ESMF sets out the principles, rules, guidelines and procedures to assess the environmental

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and social risks and impacts. It contains measures and plans to reduce, mitigate and/or offset adverse risks and impacts, provisions for estimating and budgeting the costs of such measures, and information on the agency or agencies responsible for addressing project risks and impacts, including on its capacity to manage environmental and social risks and impacts. It includes adequate information on the area in which subprojects are expected to be sited, including any potential environmental and social vulnerabilities of the area; and on the potential impacts that may occur and mitigation measures that might be expected to be used.

### ***h. Regional ESIA***

*Regional ESIA* examines environmental and social risks and impacts, and issues, associated with a particular strategy, policy, plan, or program, or with a series of projects, for a particular region (e.g., an urban area, a watershed, or a coastal zone); evaluates and compares the impacts against those of alternative options; assesses legal and institutional aspects relevant to the risks, impacts and issues; and recommends broad measures to strengthen environmental and social management in the region. Regional ESIA pays particular attention to potential cumulative risks and impacts of multiple activities in a region but may not include the site-specific analyses of a specific project, in which case the Borrower must develop supplemental information.

### ***i. Sectoral ESIA***

*Sectoral ESIA* examines environmental and social risks and impacts, and issues, associated with a particular sector in a region or across a nation; evaluates and compares the impacts against those of alternative options; assesses legal and institutional aspects relevant to the risks and impacts; and recommends broad measures to strengthen environmental and social management in the region. Sectoral ESIA also pays particular attention to potential cumulative risks and impacts of multiple activities. A Sectoral ESIA may need to be supplemented with project- and site-specific information.

### ***j. Strategic Environmental and Social Assessment (SESA)***

*Strategic environmental and social assessment (SESA)* is a systematic examination of environmental and social risks and impacts, and issues, associated with a policy, plan or program, typically at the national level but also in smaller areas. The examination of environmental and social risks and impacts will include consideration of the full range of environmental and social risks and impacts incorporated in ESS 1 through 10. SESAs are typically not location-specific. They are therefore prepared in conjunction with project and site -specific studies that assess the risks and impacts of the project.

6. Specific features of a project may require the Borrower to utilize specialized methods and tools for assessment, such as a Resettlement Plan, Livelihood Restoration Plan, Indigenous Peoples Plan, Biodiversity Action Plan, Cultural Heritage Management Plan, and other plans as agreed with the Bank.
7. Borrowers should initiate the environmental and social assessment as early as possible in project processing. Borrowers will consult with the Bank as early as possible so the environmental and social assessment is designed from the outset to meet the requirements of the ESSs.

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8. The environmental and social assessment will be closely integrated with the project's economic, financial, institutional, social, and technical analyses so that environmental and social considerations are taken into consideration in project selection, siting, and design decisions. The Borrower will take measures to ensure that when individuals or entities are engaged to carry out environmental and social assessment, any conflict of interest is avoided. The environmental and social assessment will not be carried out by the consultants who prepare the engineering design, unless the Borrower can demonstrate that no conflict of interest exists and such consultants include qualified environmental and social specialists.
9. When the Borrower has completed or partially completed environmental and social assessment prior to the Bank's involvement in a project, the environmental and social assessment is subject to the Bank's review to ensure that it meets the requirements of the ESSs. If appropriate, the Borrower is required to conduct additional work, including public consultation and disclosure.

### B. Institutional Capacity

10. Environmental and social assessment can provide opportunities for coordinating environmental and social-related responsibilities and actions in the host country in a way that goes beyond project boundaries/responsibilities and, as a result, where feasible should be linked to other environmental and social strategies and action plans, and free-standing projects. The environmental and social assessment for a specific project can thereby help strengthen environmental and social management capability in the country and both Borrowers and the Bank are encouraged to take advantage of opportunities to use it for that purpose.
11. The Borrower may include components in the project to strengthen its legal or technical capacity to carry out key environmental and social assessment functions. If the Bank concludes that the Borrower has inadequate legal or technical capacity to carry out such functions, the Bank may require strengthening programs to be included as part of the project. If the project includes one or more elements of capacity strengthening, these elements will be subject to periodic monitoring and evaluation as required by ESS1.

### C. Other requirements for certain projects

12. Where relevant, the environmental and social assessment will take into account the requirements of OP 7.50 for projects on international waterways and OP 7.60 for projects in disputed areas.

### D. Indicative Outline of ESIA

13. Where an environmental and social impact assessment is prepared as part of the environmental and social assessment, it will include the following:

(A) ***Executive summary***

- Concisely discusses significant findings and recommended actions.

(B) ***Legal and institutional framework***

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- Analyzes the legal and institutional framework for the project, within which the environmental and social assessment is carried out, including the issues set out in ESS1, paragraph 26<sup>4</sup>.
- Compare the Borrower's existing environmental and social framework and the ESSs and identify the gaps between them.
- Identifies and assesses the environmental and social requirements of any co-financiers.

### (C) *Project description*

- Concisely describes the proposed project and its geographic, environmental, social, and temporal context, including any offsite investments that may be required (e.g., dedicated pipelines, access roads, power supply, water supply, housing, and raw material and product storage facilities), as well as the project's primary suppliers.
- Through consideration of the details of the project, indicates the need for any plan to meet the requirements of ESS 1 through 10.
- Includes a map of sufficient detail, showing the project site and the area that may be affected by the project's direct, indirect, and cumulative impacts.

### (D) *Baseline data*

- Sets out in detail the baseline data that is relevant to decisions about project location, design, operation, or mitigation measures. This should include a discussion of the accuracy, reliability, and sources of the data as well as information about dates surrounding project identification, planning and implementation.
- Identifies and estimates the extent and quality of available data, key data gaps, and uncertainties associated with predictions;
- Based on current information, assesses the scope of the area to be studied and describes relevant physical, biological, and socioeconomic conditions, including any changes anticipated before the project commences.
- Takes into account current and proposed development activities within the project area but not directly connected to the project.

### (E) *Environmental and social risks and impacts*

- Takes into account all relevant environmental and social risks and impacts of the project. This will include the environmental and social risks and impacts specifically identified in ESS2 – 8, and any other environmental and social risks and impacts arising as a consequence of the

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<sup>4</sup> ESS1, paragraph 26, states that the environmental and social assessment takes into account in an appropriate manner all issues relevant to the project, including: (a) the country's applicable policy framework, national laws and regulations, and institutional capabilities (including implementation) relating to environment and social issues; variations in country conditions and project context; country environmental or social studies; national environmental or social action plans; and obligations of the country directly applicable to the project under relevant international treaties and agreements; (b) applicable requirements under the ESSs; and (c) the EHSs, and other relevant GIIP.

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specific nature and context of the project, including the risks and impacts identified in ESS1, paragraph 28.

### (F) *Mitigation measures*

- Identifies mitigation measures and significant residual negative impacts that cannot be mitigated and, to the extent possible, assesses the acceptability of those residual negative impacts.
- Identifies differentiated measures so that adverse impacts do not fall disproportionately on the disadvantaged or vulnerable.
- assesses the feasibility of mitigating the environmental and social impacts; the capital and recurrent costs of proposed mitigation measures, and their suitability under local conditions; the institutional, training, and monitoring requirements for the proposed mitigation measures.
- specifies issues that do not require further attention, providing the basis for this determination.

### (G) *Analysis of alternatives*

- systematically compares feasible alternatives to the proposed project site, technology, design, and operation--including the "without project" situation--in terms of their potential environmental and social impacts;
- assesses the alternatives' feasibility of mitigating the environmental and social impacts; the capital and recurrent costs of alternative mitigation measures, and their suitability under local conditions; the institutional, training, and monitoring requirements for the alternative mitigation measures.
- For each of the alternatives, quantifies the environmental and social impacts to the extent possible, and attaches economic values where feasible.

### (H) *Design measures*

- sets out the basis for selecting the particular project design proposed and specifies the applicable ESHGs or if the ESHGs are determined to be inapplicable, justifies recommended emission levels and approaches to pollution prevention and abatement that are consistent with GIIP.

### (I) *Key measures and actions for the Environmental and Social Commitment Plan (ESCP)*

- Summarizes key measures and actions and the timeframe required for the project to meet the requirements of the ESSs. This will be used in developing the Environmental and Social Commitment Plan (ESCP).

### (J) *Appendices*

- (i) List of the individuals or organizations that prepared or contributed to the environmental and social assessment.

## ESS1. Assessment and Management of Environmental and Social Risks and Impacts

- (ii) References—setting out the written materials both published and unpublished, that have been used.
- (iii) Record of meetings, consultations and surveys with stakeholders, including those with affected people and other interested parties. The record specifies the means of such stakeholder engagement that were used to obtain the views of affected people and other interested parties.
- (iv) Tables presenting the relevant data referred to or summarized in the main text.
- (v) List of associated reports or plans.

### E. Indicative Outline of ESMP

14. An ESMP consists of the set of mitigation, monitoring, and institutional measures to be taken during implementation and operation of a project to eliminate adverse environmental and social risks and impacts, offset them, or reduce them to acceptable levels. The ESMP also includes the measures and actions needed to implement these measures. The Borrower will (a) identify the set of responses to potentially adverse impacts; (b) determine requirements for ensuring that those responses are made effectively and in a timely manner; and (c) describe the means for meeting those requirements.
15. Depending on the project, an ESMP may be prepared as a stand-alone document<sup>5</sup> or the content may be incorporated directly into the ESCP. The content of the ESMP will include the following:

#### (A) *Mitigation*

-The ESMP identifies measures and actions in accordance with the mitigation hierarchy that reduce potentially adverse environmental and social impacts to acceptable levels. The plan will include compensatory measures, if applicable. Specifically, the ESMP:

- (i) identifies and summarizes all anticipated adverse environmental and social impacts (including those involving indigenous people or involuntary resettlement);
- (ii) describes--with technical details--each mitigation measure, including the type of impact to which it relates and the conditions under which it is required (e.g., continuously or in the event of contingencies), together with designs, equipment descriptions, and operating procedures, as appropriate;
- (iii) estimates any potential environmental and social impacts of these measures; and

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<sup>5</sup> This may be particularly relevant where the Borrower is engaging contractors, and the ESMP sets out the requirements to be followed by contractors. In this case the ESMP should be incorporated as part of the contract between the Borrower and the contractor, together with appropriate monitoring and enforcement provisions.



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- (iv) takes into account, and is consistent with, other mitigation plans required for the project (e.g., for involuntary resettlement, indigenous peoples, or cultural heritage).

### (B) **Monitoring**

- The ESMP identifies monitoring objectives and specifies the type of monitoring, with linkages to the impacts assessed in the environmental and social assessment and the mitigation measures described in the ESMP<sup>6</sup>. Specifically, the monitoring section of the ESMP provides (a) a specific description, and technical details, of monitoring measures, including the parameters to be measured, methods to be used, sampling locations, frequency of measurements, detection limits (where appropriate), and definition of thresholds that will signal the need for corrective actions; and (b) monitoring and reporting procedures to (i) ensure early detection of conditions that necessitate particular mitigation measures, and (ii) furnish information on the progress and results of mitigation.

### (C) **Capacity development and training**

- To support timely and effective implementation of environmental and social project components and mitigation measures, the ESMP draws on the environmental and social assessment of the existence, role, and capability of responsible parties on site or at the agency and ministry level.
- Specifically, the ESMP provides a specific description of institutional arrangements, identifying which party is responsible for carrying out the mitigation and monitoring measures (e.g. for operation, supervision, enforcement, monitoring of implementation, remedial action, financing, reporting, and staff training).
- To strengthen environmental and social management capability in the agencies responsible for implementation, the ESMP recommends the establishment or expansion of the parties responsible, the training of staff and any additional measures that may be necessary to support implementation of mitigation measures and any other recommendations of the environmental and social assessment.

### (D) **Implementation schedule and cost estimates**

- For all three aspects (mitigation, monitoring, and capacity development), the ESMP provides (a) an implementation schedule for measures that must be carried out as part of the project, showing phasing and coordination with overall project implementation plans; and (b) the

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<sup>6</sup> Monitoring during project implementation provides information about key environmental and social aspects of the project, particularly the environmental and social impacts of the project and the effectiveness of mitigation measures. Such information enables the Borrower and the Bank to evaluate the success of mitigation as part of project supervision, and allows corrective action to be taken when needed.

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capital and recurrent cost estimates and sources of funds for implementing the ESMP. These figures are also integrated into the total project cost tables.

### **(E) *Integration of ESMP with project***

- The Borrower's decision to proceed with a project, and the Bank's decision to support it, are predicated in part on the expectation that the ESMP (either stand alone or as incorporated into the ESCP) will be executed effectively. Consequently, each of the measures and actions to be implemented will be clearly specified, including the individual mitigation and monitoring measures and actions and the institutional responsibilities relating to each, and the costs of so doing will be integrated into the project's overall planning, design, budget, and implementation.

### **F. Indicative Outline of Environmental and Social Audit**

16. The aim of the audit is to identify significant environmental and social issues in the existing project or activities, and assess their current status, specifically in terms of meeting the requirements of the ESSs.

#### **(A) *Executive summary***

- Concisely discusses significant findings and set out recommended measures and actions and timeframes.

#### **(B) *Legal and institutional framework***

- Analyzes the legal and institutional framework for the existing project or activities, including the issues set out in ESS1, paragraph 26, and (where relevant) any applicable environmental and social requirements of existing financiers.

#### **(C) *Project description***

- Concisely describes the existing project or activities, and the geographic, environmental, social, and temporal context and any Associated Facilities.
- Identifies the existence of any plans already developed to address specific environmental and social risks and impacts (e.g. land acquisition or resettlement plan, cultural heritage plan, biodiversity plan)
- Includes a map of sufficient detail, showing the site of the existing project or activities and the proposed site for the proposed project.

#### **(D) *Environmental and social Issues associated with the existing project or activities***

- The review will consider the key risks and impacts relating to the existing project or activities. This will cover the risks and impacts identified in ESSs1-10, as relevant to the existing project or

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activities. The audit will also review issues not covered by the ESSs, to the extent that they represent key risks and impacts in the circumstances of the project.

### **(E) *Environmental and social analysis***

- The audit will also assess (i) the potential impacts of the proposed project (taking into account the findings of the audit with regard to the existing project or activities); and (ii) the ability of the proposed project to meet the requirements of the ESSs.

### **(F) *Proposed environmental and social measures***

- Based on the findings of the audit, this section will set out the suggested measures to address such findings. These measures will be included in the Environmental and Social Commitment Plan (ESCP) for the proposed Project. Measures typically covered under this section include the following:

- specific actions required to meet the requirements of the ESSs
- corrective measures and actions to mitigate potentially significant environmental and/or social risks and impacts associated with the existing project or activities
- measures to avoid or mitigate any potential adverse environmental and social risks or impacts associated with the proposed project

## ESS1. Assessment and Management of Environmental and Social Risks and Impacts

### ESS1 – ANNEX 2. ENVIRONMENTAL AND SOCIAL COMMITMENT PLAN

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#### A. Introduction

1. The Borrower will agree on an Environmental and Social Commitment Plan (**ESCP**) with the Bank. The ESCP forms part of the legal agreement. It is designed to consolidate into one summary document the material measures and actions that are required for the project to achieve compliance with the ESSs over a specified timeframe in a manner satisfactory to the Bank.
2. The ESCP will be developed as information regarding the potential risks and impacts of the project becomes known. It will take into account the findings of the environmental and social assessment, the Bank's environmental and social due diligence and the results of engagement with stakeholders. Preparation of the ESCP will start as early as possible, normally at the time of project scoping, and will serve as a tool to facilitate the identification of potential environmental and social risks and impacts and mitigation measures. The draft ESCP will be disclosed as early as possible, and before project appraisal.

#### B. Content of an ESCP

3. The ESCP will be an accurate summary of the material measures and actions to address the potential environmental and social risks and impacts of the project in accordance with the mitigation hierarchy. It will form the basis for monitoring the environmental and social performance of the project. All requirements will be set out clearly, so that there is no ambiguity around compliance, timing and monitoring. Depending on the project, the ESCP may specify funding to be made available for completion of a measure or action, and include other details relevant to completion.
4. The ESCP will also include a process that allows for adaptive management of proposed project changes or unforeseen circumstances. The process will set out how such changes or circumstances will be managed and reported and any necessary changes will be made to the ESCP and relevant management tools.
5. The ESCP will also set out a summary of the organizational structure that the Borrower will establish and maintain to implement the actions agreed in the ESCP. The organizational structure will take into account the different roles and responsibilities of the Borrower and the agencies responsible for implementing the project, and identify specific personnel with clear lines of responsibility and authority.
6. The ESCP will set out a summary of the training that the Borrower will provide to address the specific actions required under the ESCP, identifying the recipients of such training and the required human and financial resources.
7. The ESCP will set out the systems, resources and personnel that the Borrower will put in place to carry out monitoring, and will identify any third parties that will be used to complement or verify the Borrower's monitoring activities.

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8. The content of an ESCP will differ from project to project. For some projects, the ESCP will capture all relevant obligations of the Borrower, and there will be no requirement for additional plans. For other projects, the ESCP will refer to other plans, either plans that already exist or plans to be prepared (e.g. an ESMP, a resettlement plan, a hazardous waste plan) which set out detailed project requirements. In such circumstances, the ESCP will summarize key aspects of the plans. Where plans are to be developed, the ESCP will set out timeframes for completion of such plans.
9. Where, and to the extent that, the project is relying on use of the Borrower's existing environmental and social framework, the ESCP will identify the specific aspects of the national framework with reference to the relevant ESSs.

### **C. Implementation of ESCP**

10. The Borrower will implement diligently the measures and actions identified in the ESCP in accordance with the timeframes specified, and will review the status of implementation of the ESCP as part of its monitoring and reporting.<sup>1</sup>
11. The Borrower will maintain, and strengthen as necessary throughout the project life-cycle, the organizational structure established to oversee environmental and social aspects of the project. Key social and environmental responsibilities will be well-defined, and communicated to all personnel involved. Sufficient high-level commitment, and human and financial resources, will be provided on an ongoing basis to implement the ESCP.
12. The Borrower will ensure that persons with direct responsibility for activities relevant to the implementation of the ESCP are adequately qualified and trained so that they have the knowledge and skills necessary to perform their work. The Borrower, either directly or through agencies responsible for implementing the project, will provide training to address the specific measures and actions required by the ESCP, and to support effective and continuous social and environmental performance.
13. The Borrower will notify the Bank promptly of any proposed changes to the scope, design, implementation or operation of the project that are likely to cause an adverse change in the environmental or social risks or impacts of the project. The Borrower will carry out, as appropriate, additional assessment and stakeholder engagement in accordance with the ESSs, and propose changes, for approval by the Bank, to the ESCP and relevant management tools, as appropriate, in accordance with the findings of such assessments and consultation. The updated ESCP will be disclosed.

### **D. Timing for conducting project activities**

14. If the Borrower is required to plan or take specific measures and actions over a specified timeframe to avoid, minimize, reduce or mitigate specific risks and impacts of the project, the Borrower may not carry out any activities in relation to the project that may cause material adverse environmental or social risks or impacts, until the relevant plans, measures or actions have been completed in

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<sup>1</sup> See ESS1 Section D.

## **ESS1. Assessment and Management of Environmental and Social Risks and Impacts**

accordance with the ESCP, including satisfying applicable requirements on consultation and disclosure.

## **ESS1. Assessment and Management of Environmental and Social Risks and Impacts**

### **ESS1 – ANNEX 3. MANAGEMENT OF CONTRACTORS**

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The Borrower will require that all contractors engaged on the project operate in a manner consistent with the requirements of the ESSs, including the specific requirements set out in the ESCP. The Borrower will manage all contractors in an effective manner, including:

- (a) Assessing the environmental and social risks and impacts associated with such contracts;
- (b) Ascertaining that contractors engaged in connection with the project are legitimate and reliable enterprises, and have knowledge and skills to perform their project tasks in accordance with their contractual commitments;
- (c) Incorporating all relevant aspects of the ESCP into tender documents;
- (d) Contractually requiring contractors to apply the relevant aspects of the ESCP and the relevant management tools, and including appropriate and effective non-compliance remedies;
- (e) Monitoring contractor compliance with their contractual commitments; and
- (f) In the case of subcontracting, requiring contractors to have equivalent arrangements with their subcontractors.

## Environmental and Social Standard 2. Labor and Working Conditions

### Introduction

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1. ESS2 recognizes the importance of employment creation and income generation in the pursuit of poverty reduction and inclusive economic growth. Borrowers can promote sound worker-management relationships and enhance the development benefits of a project by treating workers in the project fairly and providing safe and healthy working conditions.

### Objectives

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- To promote safety and health at work.
- To promote the fair treatment, non-discrimination and equal opportunity of project workers.
- To protect project workers, including vulnerable workers such as women, persons with disabilities, children (of working age, in accordance with this ESS) and migrant workers, contracted workers, community workers and primary supply workers, as appropriate.
- To prevent the use of all forms of forced labor and child labor<sup>1</sup>.
- To support the principles of freedom of association and collective bargaining of project workers in a manner consistent with national law.
- To provide project workers with accessible means to raise workplace concerns.

### Scope of Application

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2. The applicability of ESS2 is established during the environmental and social assessment described in ESS1.<sup>2</sup>

3. The scope of application of ESS2 depends on the type of employment relationship between the Borrower and the project workers. The term “*project worker*” refers to:

- (a) people employed or engaged directly by the Borrower (including the project proponent and the project implementing agencies) to work specifically in relation to the project (***direct workers***);
- (b) people employed or engaged through third parties<sup>3</sup> to perform work related to core functions<sup>4</sup> of the project, regardless of location (***contracted workers***);

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<sup>1</sup> Paragraphs 17 to 19 specify the circumstances in which a child may be employed or engaged in connection with a project.

<sup>2</sup> In conducting the environmental and social assessment and depending on the significance of the potential issues in the project relating to labor and working conditions, the views of representative workers’ and employers organizations may be sought.

<sup>3</sup> ‘*Third parties*’ may include contractors, subcontractors, brokers, agents or intermediaries.

<sup>4</sup> ‘*Core functions*’ of a project constitute those production and/or service processes essential for a specific project activity without which the project cannot continue.



## ESS2. Labor and Working Conditions

- (c) people employed or engaged by the Borrower's primary suppliers<sup>5</sup> (***primary supply workers***);
- (d) people employed or engaged in providing community labor<sup>6</sup> (***community workers***).

ESS2 applies to project workers including full-time, part-time, temporary, seasonal and migrant workers.<sup>7</sup>

### ***Direct Workers***

- 4. The requirements of paragraphs 9 to 30 of this ESS will apply to direct workers.

### ***Contracted Workers***

- 5. The requirements of paragraphs 9 to 33 of this ESS will apply to contracted workers, as specified in Section E.

### ***Community Workers***

- 6. The requirements of paragraphs 34 to 38 of this ESS will apply to community workers, as specified in Section F.

### ***Primary Supply Workers***

- 7. The requirements of paragraphs 39 to 42 of this ESS will apply to primary supply workers, as specified in Section G.
- 8. Where government civil servants are working in connection with the project, whether full-time or part-time, they will remain subject to the terms and conditions of their existing public sector employment agreement or arrangement, unless there has been an effective legal transfer of their employment or engagement to the project<sup>8</sup>. ESS2 will not apply to such government civil servants, except for the provisions of paragraphs 17 to 20 (Protecting the Work Force) and paragraphs 24 to 30 (Occupational Health and Safety).

## **Requirements**

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### **A. Working Conditions and Management of Worker Relationships**

- 9. The Borrower will develop and implement written labor management procedures applicable to the project. These procedures will set out the way in which project workers will be managed, in accordance with the requirements of national law and this ESS.<sup>9</sup> The procedures will address the way in

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<sup>5</sup> 'Primary suppliers' are those suppliers who, on an ongoing basis, provide directly to the project goods or materials essential for the core functions of the project.

<sup>6</sup> See paragraph 34.

<sup>7</sup> 'Migrant workers' are workers who have migrated from one country to another or from one part of the country to another for purposes of employment.

<sup>8</sup> Such transfer will be conducted in accordance with all legal requirements and transferred workers will be subject to all requirements of this ESS.

<sup>9</sup> To the extent that provisions of national law are relevant to project activities and satisfy the requirements of this ESS, the Borrower will not be required to duplicate such provisions in labor management procedures.

## ESS2. Labor and Working Conditions

which this ESS will apply to different categories of project workers including direct workers, and the way in which the Borrower will require third parties to manage their workers in accordance with paragraphs 31-33.

### *Terms and Conditions of Employment*

10. Project workers will be provided with information and documentation that is clear and understandable regarding their terms and conditions of employment. The information and documentation will set out their rights under national labor and employment law (which will include any applicable collective agreements), including their rights related to hours of work, wages, overtime, compensation and benefits, as well as those arising from the requirements of this ESS. This information and documentation will be provided at the beginning of the working relationship and when any material changes to the terms or conditions of employment occur.

11. Project workers will be paid on a regular basis as required by national law and labor management procedures. Deductions from payment of wages will only be made as allowed by national law or the labor management procedures, and project workers will be informed of the conditions under which such deductions will be made. Project workers will be provided with adequate periods of rest per week, annual holiday and sick, maternity and family leave, as required by national law and labor management procedures.

12. Where required by national law or the labor management procedures, project workers will receive written notice of termination of employment and details of severance payments in a timely manner<sup>10</sup>. All wages that have been earned, social security benefits, pension contributions and any other entitlements will be paid on or before termination of the working relationship, either directly to the project workers or where appropriate, for the benefit of the project workers. Where payments are made for the benefit of project workers, project workers will be provided with evidence of such payments.

### *Non-Discrimination and Equal Opportunity*

13. Decisions relating to the employment or treatment of project workers will not be made on the basis of personal characteristics unrelated to inherent job requirements. The employment of project workers will be based on the principle of equal opportunity and fair treatment, and there will be no discrimination with respect to any aspects of the employment relationship, such as recruitment and hiring, compensation (including wages and benefits), working conditions and terms of employment<sup>11</sup>, access to training, job assignment, promotion, termination of employment or retirement, or disciplinary practices. The labor management procedures will set out measures to prevent and address harassment, intimidation and/or exploitation. Where national law is inconsistent with this paragraph, the project will seek to carry out project activities in a manner that is consistent with the requirements of this paragraph to the extent possible.

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<sup>10</sup> Entitlement to such payments will depend on the nature of the employment relationship, including whether the project workers are employed on a fixed term contract, or are full-time, part-time, temporary or seasonal.

<sup>11</sup> The Borrower will consider, to the extent technically and financially feasible, reasonable measures to adapt the workplace in relation to project workers with disabilities.

## ESS2. Labor and Working Conditions

14. Special measures of protection and assistance to remedy discrimination or selection for a particular job based on the inherent requirements of the job or the objectives of the project<sup>12</sup> will not be deemed as discrimination, provided they are consistent with national law.

15. The Borrower will provide appropriate measures of protection and assistance to address the vulnerabilities of project workers, including specific groups of workers, such as women, people with disabilities, migrant workers and children (of working age in accordance with this ESS). Such measures may be necessary only for specific periods of time, depending on the circumstances of the project worker and the nature of the vulnerability.

### *Worker's Organizations*

16. In countries where national law recognizes workers' rights to form and to join workers' organizations of their choosing and to bargain collectively without interference, the project will be implemented in accordance with national law. In such circumstances, the role of legally established workers' organizations and legitimate workers' representatives will be respected, and they will be provided with information needed for meaningful negotiation in a timely manner. Where national law restricts workers' organizations, the project will not restrict project workers from developing alternative mechanisms to express their grievances and protect their rights regarding working conditions and terms of employment. The Borrower should not seek to influence or control these alternative mechanisms. The Borrower will not discriminate or retaliate against project workers who participate, or seek to participate, in such workers' organizations and collective bargaining or alternative mechanisms.

## **B. Protecting the Work Force**

### *Child Labor and Minimum Age*

17. A child under the minimum age established in accordance with this paragraph will not be employed or engaged in connection with the project. The labor management procedures will specify the minimum age for employment or engagement in connection with the project, which will be the age of 14 unless national law specifies a higher age.

18. A child over the minimum age and under the age of 18 may be employed or engaged in connection with the project only under the following specific conditions:

- (a) the work does not fall within paragraph 19 below;
- (b) an appropriate risk assessment is conducted prior to the work commencing; and
- (c) the Borrower conducts regular monitoring of health, working conditions, hours of work and the other requirement of this ESS.

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<sup>12</sup> For example, where the project or a component of the project is designed to target a specific group or set of individuals, such as in projects with a local hiring requirement, social safety net projects or work for peace projects. This may also include positive affirmative measures as required by national law.

## ESS2. Labor and Working Conditions

19. A child over the minimum age and under the age of 18 will not be employed or engaged in connection with the project in a manner that is likely to be hazardous<sup>13</sup> or interfere with the child's education or be harmful to the child's health or physical, mental, spiritual, moral or social development.

### *Forced Labor*

20. Forced labor, which consists of any work or service not voluntarily<sup>14</sup> performed that is exacted from an individual under threat of force or penalty, will not be used in connection with the project. This prohibition covers any kind of involuntary or compulsory labor, such as indentured labor, bonded labor, or similar labor-contracting arrangements. No trafficked persons will be employed in connection with the project.<sup>15</sup>

### C. Grievance Mechanism

21. A grievance mechanism will be provided for all direct workers and contracted workers<sup>16</sup> (and, where relevant, their organizations) to raise workplace concerns<sup>17</sup>. Such workers will be informed of the grievance mechanism at the time of recruitment and the measures put in place to protect them against any reprisal for its use. Measures will be put in place to make the grievance mechanism easily accessible to all such project workers.

22. The grievance mechanism will be proportionate to the nature and scale and the potential risks and impacts of the project. It will be designed to address concerns promptly, using an understandable and transparent process that provides timely feedback to those concerned in a language they understand, without any retribution, and will operate in an independent and objective manner. The grievance mechanism may utilize existing grievance mechanisms, providing that they are properly designed and implemented, address concerns promptly, and are readily accessible to such project workers. Existing grievance mechanisms may be supplemented as needed with project-specific arrangements.

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<sup>13</sup> Work considered hazardous for children is work that, by its nature or the circumstances in which it is carried out, is likely to jeopardize the health, safety, or morals of children. Examples of hazardous work activities prohibited for children include work: (a) with exposure to physical, psychological or sexual abuse; (b) underground, underwater, working at heights or in confined spaces; (c) with dangerous machinery, equipment or tools, or involving handling or transport of heavy loads; (d) in unhealthy environments exposing children to hazardous substances, agents, or processes, or to temperatures, noise or vibration damaging to health; or (e) under difficult conditions such as work for long hours, during the night or in confinement on the premises of the employer.

<sup>14</sup> Work is on a voluntary basis when it is done with the free and informed consent of a worker. Such consent must exist throughout the employment relationship and the worker must have the possibility to revoke freely given consent. In particular, there can be no "voluntary offer" under threat or other circumstances of restriction or deceit. To assess the authenticity of a free and informed consent, it is necessary to ensure that no external constraint or indirect coercion has been carried out, either by an act of the authorities or by an employer's practice.

<sup>15</sup> Trafficking in persons is defined as the recruitment, transportation, transfer, harboring or receipt of persons by means of the threat or use of force or other forms of coercion, abduction, fraud, deception, abuse of power, or of a position of vulnerability, or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purposes of exploitation. Women and children are particularly vulnerable to trafficking practices.

<sup>16</sup> For community workers, see paragraph 36.

<sup>17</sup> This grievance mechanism will be provided separately from the grievance mechanism required under ESS10.

## ESS2. Labor and Working Conditions

23. The grievance mechanism will not impede access to other judicial or administrative remedies that might be available under the law or through existing arbitration procedures, or substitute for grievance mechanisms provided through collective agreements.

### D. Occupational Health and Safety (OHS)

24. Measures relating to occupational health and safety will be applied to the project. The OHS measures will include the requirements of this Section, and will take into account the General EHSs and, as appropriate, the industry-specific EHSs and other GIIP. The OHS measures applying to the project will be set out in the legal agreement and the ESCP.<sup>18</sup>

25. The OHS measures will be designed and implemented to address: (a) identification of potential hazards to project workers, particularly those that may be life-threatening; (b) provision of preventive and protective measures, including modification, substitution, or elimination of hazardous conditions or substances; (c) training of project workers and maintenance of training records; (d) documentation and reporting of occupational accidents, diseases and incidents; (e) emergency prevention and preparedness and response arrangements to emergency situations<sup>19</sup>; and (f) remedies for adverse impacts such as occupational injuries, deaths, disability and disease.<sup>20</sup>

26. All parties who employ or engage project workers will develop and implement procedures to establish and maintain a safe working environment, including that workplaces, machinery, equipment and processes under their control are safe and without risk to health, including by use of appropriate measures relating to chemical, physical and biological substances and agents. Such parties will actively collaborate and consult with project workers in promoting understanding, and methods for, implementation of OHS requirements, as well as in providing information to project workers, training on occupational safety and health, and provision of personal protective equipment without expense to the project workers.

27. Workplace processes will be put in place for project workers to report work situations that they believe are not safe or healthy, and to remove themselves from a work situation which they have reasonable justification to believe presents an imminent and serious danger to their life or health. Project workers who remove themselves from such situations will not be required to return to work until necessary remedial action to correct the situation has been taken. Project workers will not be retaliated against or otherwise subject to reprisal or negative action for such reporting or removal.

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<sup>18</sup> Section 2 of the General Environmental Health and Safety Guidelines (EHSs) on Occupational Health and Safety applies to all projects and can be found at

<http://www.ifc.org/wps/wcm/connect/9aef2880488559a983acd36a6515bb18/2%2BOccupational%2BHealth%2Band%2BSafety.pdf?MOD=AJPERES>. Each of the industry-specific guidelines addresses the OHS issues relevant to the particular industry. Links to each of these guidelines can be found at

[http://www.ifc.org/wps/wcm/connect/Topics\\_Ext\\_Content/IFC\\_External\\_Corporate\\_Site/IFC+Sustainability/Sustainability+Framework/Environmental,+Health,+and+Safety+Guidelines/](http://www.ifc.org/wps/wcm/connect/Topics_Ext_Content/IFC_External_Corporate_Site/IFC+Sustainability/Sustainability+Framework/Environmental,+Health,+and+Safety+Guidelines/)

<sup>19</sup> These arrangements will be coordinated with the Emergency Preparedness and Response measures established under ESS4.

<sup>20</sup> Such remedies should take into account, as applicable, the wage level and age of the project worker, the degree of adverse impact, and the number and age of dependents concerned.

## ESS2. Labor and Working Conditions

28. Project workers will be provided with facilities appropriate to the circumstances of their work, including access to canteens, hygiene facilities, and appropriate areas for rest. Where accommodation services<sup>21</sup> are provided to project workers, policies will be put in place and implemented on the management and quality of accommodation to protect and promote the health, safety, and well-being of the project workers, and to provide access to or provision of services that accommodate their physical, social and cultural needs.

29. Where project workers are employed or engaged by more than one party and are working together in one location, the parties who employ or engage the workers will collaborate in applying the OSH requirements, without prejudice to the responsibility of each party for the health and safety of its own workers.

30. A system for regular review of occupational safety and health performance and the working environment will be put in place and include identification of safety and health hazards and risks, implementation of effective methods for responding to identified hazards and risks, setting priorities for taking action, and evaluation of results.

### E. Contracted Workers

31. The Borrower will make reasonable efforts to ascertain that third parties<sup>22</sup> who engage contracted workers are legitimate and reliable entities and have in place labor management procedures applicable to the project that will allow them to operate in accordance with the requirements of this ESS, except for paragraphs 34-42.

32. The Borrower will establish procedures for managing and monitoring the performance of such third parties in relation to the requirements of this ESS. In addition, the Borrower will incorporate the requirements of this ESS into contractual agreements with such third parties, together with appropriate non-compliance remedies. In the case of subcontracting, the Borrower will require such third parties to include equivalent requirements and non-compliance remedies in their contractual agreements with subcontractors.

33. Contracted workers will have access to a grievance mechanism. In cases where the third party employing or engaging the workers is not able to provide a grievance mechanism to such workers, the Borrower will make the grievance mechanism provide under Section C of this ESS available to the contracted workers.

### F. Community Workers

34. Projects may include the use of community workers in a number of different circumstances, including where labor is provided by the community as a contribution to the project, or where projects are designed and conducted for the purpose of fostering community-driven development, providing a social safety net<sup>23</sup> or providing targeted assistance in fragile and conflict-affected situations. Given the nature and objectives of such projects, the application of all requirements of ESS2 may not be appropriate.

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<sup>21</sup> Those services might be provided either directly by the Borrower or by third parties.

<sup>22</sup> See footnote 3: this may include contractors, subcontractors, brokers, agents or intermediaries.

<sup>23</sup> For example, food-for-work programs and public works as safety nets programs.

## ESS2. Labor and Working Conditions

In all such circumstances, the Borrower will require measures<sup>24</sup> to be implemented to ascertain whether such labor is or will be provided on a voluntary basis as an outcome of individual or community agreement<sup>25</sup>.

35. Accordingly, where the project includes the provision of labor by community workers, the Borrower will apply the relevant provisions of this ESS in a manner which reflects and is proportionate to:

- (a) the nature and scope of the project;
- (b) the specific project activities in which the community workers are engaged; and
- (c) the nature of the potential risks and impacts to the community workers.

Paragraphs 9 to 15 (Working Conditions) and paragraphs 24 to 30 (Occupational Health and Safety) will be assessed in relation to community labor, and will be applied in a manner which reflects (a) to (c) above. The way in which these requirements will apply in the circumstances of the project will be set out in the labor management procedures.

36. In preparing the labor management procedures, the Borrower will clearly identify the terms and conditions on which community labor will be engaged, including amount and method of payment (if applicable) and times of work. The labor management procedures will also specify the way in which community workers can raise grievances in relation to the project. The Borrower will assess the potential risks and impacts of the activities to be conducted by community workers and, at a minimum, apply the relevant requirements of the General EHSs and industry-specific EHSs.

37. The Borrower will assess whether there is a risk of child labor or forced labor within community labor, identifying those risks consistent with paragraphs 17 to 20 above. The labor management procedures will set out roles and responsibilities for monitoring community workers. If cases of child labor or forced labor are identified, the Borrower will take appropriate steps to remedy them.

38. The review system established pursuant to paragraph 30 will take into account the provision of labor by community workers in the project, and that adequate training is provided to such workers, tailored to their particular needs and the potential risks and impacts of the project.

### G. Primary Supply Workers

39. As part of the environmental and social assessment, the Borrower will identify potential risks of child labor, forced labor and serious safety issues which may arise in relation to primary suppliers.

40. Where there is a significant risk of child labor or forced labor related to primary supply workers, the Borrower will require the primary supplier to identify those risks consistent with paragraphs 17 to 20 above. The labor management procedures will set out roles and responsibilities for monitoring primary

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<sup>24</sup> These measures will be documented in the labor management procedures.

<sup>25</sup> See footnote 14.

## ESS2. Labor and Working Conditions

suppliers. If child labor or forced labor cases are identified, the Borrower will require the primary supplier to take appropriate steps to remedy them.

41. Additionally, where there is a significant risk of serious safety issues related to primary supply workers, the Borrower will require the relevant primary supplier to introduce procedures and mitigation measures to address such safety issues. Such procedures and mitigation measures will be reviewed periodically to ascertain their effectiveness.

42. The ability of the Borrower to address these risks will depend upon the Borrower's level of control or influence over its primary suppliers. Where remedy is not possible, the Borrower will, within a reasonable period, shift the project's primary suppliers to suppliers that can demonstrate that they are meeting the relevant requirements of this ESS.



## **Environmental and Social Standard 3.**

### **Resource Efficiency and Pollution Prevention and Management**

#### **Introduction**

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1. ESS3 recognizes that economic activity and urbanization often generate pollution to air, water, and land, and consume finite resources that may threaten people, ecosystem services and the environment at the local, regional, and global levels. The current and projected atmospheric concentration of greenhouse gases (GHG) threatens the welfare of current and future generations. At the same time, more efficient and effective resource use, pollution prevention and GHG emission avoidance, and mitigation technologies and practices have become more accessible and achievable.
2. This ESS sets out the requirements to address resource efficiency and pollution<sup>1</sup> prevention and management<sup>2</sup> throughout the project life-cycle consistent with GIIP.

#### **Objectives**

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- To promote the sustainable use of resources, including energy, water and raw materials.
- To avoid or minimize adverse impacts on human health and the environment by avoiding or minimizing pollution from project activities.
- To avoid or minimize project-related emissions of short and long-lived climate pollutants<sup>3</sup>.
- To avoid or minimize generation of hazardous and non-hazardous waste.
- To minimize and manage the risks and impacts associated with pesticide use.

#### **Scope of Application**

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

#### **Requirements**

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4. The Borrower will consider ambient conditions and apply technically and financially feasible resource efficiency and pollution prevention measures in accordance with the mitigation hierarchy. The measures will be proportionate to the risks and impacts associated with the project and consistent with GIIP, in the first instance the EHSs.

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<sup>1</sup> The term “pollution” is used to refer to both hazardous and non-hazardous chemical pollutants in the solid, liquid, or gaseous phases, and includes other components such as thermal discharge to water, emissions of short- and long-lived climate pollutants, nuisance odors, noise, vibration, radiation, electromagnetic energy, and the creation of potential visual impacts including light.

<sup>2</sup> Unless otherwise noted in this ESS, “pollution management” includes measures designed to avoid or minimize emissions of pollutants, including short- and long-lived climate pollutants, given that measures which tend to encourage reduction in energy and raw material use, as well as emissions of local pollutants, also generally result in encouraging a reduction of emissions of short- and long-lived climate pollutants.

<sup>3</sup> This includes all GHGs and black carbon (BC).

## ESS3. Resource Efficiency and Pollution Prevention and Management

### Resource Efficiency

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5. The Borrower will implement technically and financially feasible measures for improving efficient consumption of energy, water and raw materials, as well as other resources. Such measures will integrate the principles of cleaner production into product design and production processes to conserve raw materials, energy and water, as well as other resources. Where benchmarking data are available, the Borrower will make a comparison to establish the relative level of efficiency.

#### A. Energy Use

6. The efficient use of energy is an important way in which the Borrower can contribute to sustainable development. When the project is a potentially significant user of energy, in addition to applying the resource efficiency requirements of this ESS, the Borrower will adopt measures specified in the EHSs to optimize energy usage, to the extent technically and financially feasible.

#### B. Water Use

7. When the project is a potentially significant user of water or will have potentially significant impacts on water quality, in addition to applying the resource efficiency requirements of this ESS, the Borrower will adopt measures, to the extent technically and financially feasible, that avoid or minimize water usage so that the project's water use does not have significant adverse impacts on communities, other users and the environment. These measures include, but are not limited to, the use of additional technically feasible water conservation measures within the Borrower's operations, the use of alternative water supplies, water consumption offsets to maintain total demand for water resources within the available supply, and evaluation of alternative project locations.

8. For projects with a high water demand that have potentially significant adverse impacts on communities, other users or the environment, the following will apply:

- A detailed water balance will be developed, maintained, monitored and reported periodically;
- Opportunities for improvement in water use efficiency will be identified and implemented;
- Specific water use (measured by volume of water used per unit production) will be assessed; and
- Operations must be benchmarked to available industry standards of water use efficiency.

9. The Borrower will assess, as part of the environmental and social assessment, the potential cumulative impacts of water use upon communities, other users and the environment and will identify and implement appropriate mitigation measures.

## ESS3. Resource Efficiency and Pollution Prevention and Management

### C. Raw Material Use

10. When the project is a potentially significant user of raw materials, in addition to applying the resource efficiency requirements of this ESS, the Borrower will adopt measures<sup>4</sup> specified in the EHSs and other GIIP to support efficient use of raw materials, to the extent technically and financially feasible.

### Pollution Prevention and Management

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11. The Borrower will avoid the release of pollutants or, when avoidance is not feasible, minimize and control the concentration and mass flow of their release using the performance levels and measures specified in national law or the EHSs, whichever is most stringent. This applies to the release of pollutants to air, water and land due to routine, non-routine, and accidental circumstances, and with the potential for local, regional, and transboundary impacts.

12. Where the project involves historical pollution,<sup>5</sup> the Borrower will establish a process to identify the responsible party. If the historical pollution could pose a significant risk to human health or the environment, the Borrower will undertake a health and safety risk assessment<sup>6</sup> of the existing pollution which may affect communities, workers and the environment. Any remediation of the site will be appropriately undertaken in accordance with national law and GIIP, whichever is most stringent.<sup>7</sup>

13. To address potential adverse project impacts on human health and the environment,<sup>8</sup> the Borrower will consider relevant factors, including, for example: (a) existing ambient conditions; (b) in areas already impacted by pollution, the remaining assimilative capacity<sup>9</sup> of the environment; (c) existing and future land use; (d) the project's proximity to areas of importance to biodiversity; (e) the potential for cumulative impacts with uncertain and/or irreversible consequences; and (f) impacts of climate change.

14. In addition to applying resource efficiency and pollution control measures as required in this ESS, when the project has the potential to constitute a significant source of emissions in an already degraded area, the Borrower will consider additional strategies and adopt measures that avoid or minimize negative effects. These strategies include, but are not limited to, evaluation of project location alternatives.

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<sup>4</sup> These measures can include reuse or recycling of materials. The Borrower will seek to reduce or eliminate the use of toxic or hazardous raw materials.

<sup>5</sup> In this context historical pollution is defined as pollution from past activities affecting land and water resources for which no party has assumed or been assigned responsibility to address and carry out the required remediation.

<sup>6</sup> Such assessment will follow a risk-based approach consistent with GIIP, in the first instance the EHSs.

<sup>7</sup> If one or more third parties are responsible for the historical pollution, the Borrower will consider seeking recourse from such parties so that such pollution is appropriately remediated. The Borrower will implement adequate measures so that historical pollution at the site does not pose a significant risk to the health and safety of workers and communities.

<sup>8</sup> Such as air, surface and groundwater and soils.

<sup>9</sup> Assimilative capacity refers to the capacity of the environment for absorbing an incremental load of pollutants while remaining below a threshold of unacceptable risk to human health and the environment.

## ESS3. Resource Efficiency and Pollution Prevention and Management

### A. Management of Air Pollution<sup>10</sup>

15. In addition to the resource efficiency measures described above, the Borrower will consider alternatives and implement technically and financially feasible and cost-effective<sup>11</sup> options<sup>12</sup> to avoid or minimize project-related air emissions during the design, construction and operation of the project.

16. As part of the environmental and social assessment of the project, the Borrower will characterize and estimate sources of air pollution related to the project<sup>13</sup>. This will include an estimate of gross GHG emissions resulting from the project, providing that such estimation is technically and financially feasible. Where the Borrower does not have the capacity to develop the estimate of GHG emissions, the Bank will provide assistance to the Borrower<sup>14</sup>. For projects that have diverse and small sources of emissions (for example, community-driven development projects) or where emissions are not likely to be significant (for example, projects in education and social protection), GHG estimations will not be required.

### B. Management of Hazardous and Non-hazardous Wastes

17. The Borrower will avoid the generation of hazardous and non-hazardous waste<sup>15</sup>. Where waste generation cannot be avoided, the Borrower will minimize the generation of waste, and reuse, recycle and recover waste in a manner that is safe for human health and the environment. Where waste cannot be reused, recycled or recovered, the Borrower will treat, destroy, or dispose of it in an environmentally sound and safe manner that includes the appropriate control of emissions and residues resulting from the handling and processing of the waste material.

18. If the generated waste is considered hazardous,<sup>16</sup> the Borrower will comply with existing requirements for management (including storage, transportation and disposal) of hazardous wastes including national legislation and applicable international conventions, including those relating to

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<sup>10</sup> 'Air pollution' refers to the release of air pollutants (often associated with the combustion of fossil fuels), such as nitrogen oxides (NOx), sulfur dioxide (SO<sub>2</sub>), carbon monoxide(CO), particulate matter (PM), as well as other contaminants including GHGs.

<sup>11</sup> Cost-effectiveness is determined according to the capital and operational cost and financial benefits of the options considered over the life of the project.

<sup>12</sup> The options for reducing or preventing air pollution may include a combination of approaches such as: enhancing energy efficiency, process modification, selection of fuels or other materials with less polluting emissions, and application of emissions control techniques. Options for reducing GHG emissions may include alternative project locations; adoption of renewable or low carbon energy sources; alternatives to refrigerants with high global warming potential; more sustainable agricultural, forestry and livestock management practices; the reduction of fugitive emissions and gas flaring; and carbon sequestration and storage; sustainable transport alternatives; and proper waste management practices.

<sup>13</sup> For the purposes of such estimate, the Borrower may utilize national methodologies accepted in the context of international agreements on climate change, with the agreement of the Bank.

<sup>14</sup> Depending on the capacity of the Borrower, the type of the project and the basis on which financing is being provided to the Borrower, this assistance may involve the Bank carrying out the GHG estimation on behalf of the Borrower, for example relating to IDA or FCS projects, working with Borrower counterparts and using project information provided by the Borrower. The Bank can also provide technical assistance to the Borrower in the use of the methodologies established by the Bank so that Borrower competency is strengthened in this respect.

<sup>15</sup> These wastes may include municipal waste, e-waste and animal waste.

<sup>16</sup> As defined by the EHSs and relevant national law.

### ESS3. Resource Efficiency and Pollution Prevention and Management

transboundary movement. Where such requirements are absent, the Borrower will adopt GIP alternatives for its environmentally sound and safe management and disposal. When hazardous waste management is conducted by third parties, the Borrower will use contractors that are reputable and legitimate enterprises licensed by the relevant government regulatory agencies and, with respect to transportation and disposal, obtain chain of custody documentation to the final destination. The Borrower will ascertain whether licensed disposal sites are being operated to acceptable standards and where they are, the Borrower will use these sites. Where licensed sites are not being operated to acceptable standards, the Borrower will minimize waste sent to such sites and consider alternative disposal options, including the possibility of developing its own recovery or disposal facilities at the project site or elsewhere.

#### C. Management of Chemicals and Hazardous Materials

19. The Borrower will avoid the manufacture, trade and use of chemicals and hazardous materials subject to international bans, restrictions or phase-outs unless for an acceptable purpose as defined by the conventions or protocols or if an exemption has been obtained by the Borrower, consistent with Borrower government commitments under the applicable international agreements.

20. The Borrower will minimize and control the release and use of hazardous materials<sup>17</sup>. The production, transportation, handling, storage, and use of hazardous materials for project activities will be assessed through the environmental and social assessment. The Borrower will consider less hazardous substitutes where hazardous materials are intended to be used in manufacturing processes or other operations.

#### D. Management of Pesticides

21. Where projects involve recourse to pest management measures, the Borrower will give preference to integrated pest management (IPM)<sup>18</sup> or integrated vector management (IVM)<sup>19</sup> approaches using combined or multiple tactics.

22. In the procurement of any pesticide the Borrower will assess the nature and degree of associated risks, taking into account the proposed use and the intended users.<sup>20</sup> The Borrower will not use any pesticides or pesticide products or formulations unless such use is in compliance with the EHSGs. In addition, the Borrower will also not use any pesticide products that contain active ingredients that are restricted under applicable international conventions or their protocols or that are listed in, or meeting, the criteria of their annexes, unless for an acceptable purpose as defined by such conventions, their protocols or annexes, or if an exemption has been obtained by the Borrower under such conventions, their protocol or annexes, consistent with Borrower commitments under these and other applicable international agreements. The Borrower will also not use any formulated pesticide products that meet

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<sup>17</sup> These materials may include chemical fertilizer, soil amendments and chemicals other than pesticides.

<sup>18</sup> IPM refers to a mix of farmer-driven, ecologically based pest control practices that seeks to reduce reliance on synthetic chemical pesticides. It involves: (a) managing pests (keeping them below economically damaging levels) rather than seeking to eradicate them; (b) integrating multiple methods (relying, to the extent possible, on nonchemical measures) to keep pest populations low; and (c) selecting and applying pesticides, when they have to be used, in a way that minimizes adverse effects on beneficial organisms, humans, and the environment.

<sup>19</sup> IVM "is a rational decision-making process for the optimal use of resources for vector control. The approach seeks to improve the efficacy, cost-effectiveness, ecological soundness and sustainability of disease-vector control."

<sup>20</sup> This assessment is made in the context of the environmental and social impact assessment.

### ESS3. Resource Efficiency and Pollution Prevention and Management

the criteria of carcinogenicity, mutagenicity, or reproductive toxicity as set forth by relevant international agencies. For any other pesticide products that poses other potentially serious risk to human health or the environment and that are identified in internationally recognized classification and labelling systems, the Borrower will not use pesticide formulations of products if: (a) the country lacks restrictions on their distribution, management and use; or (b) they are likely to be used by, or be accessible to, lay personnel, farmers, or others without training, equipment, and facilities to handle, store, and apply these products properly.

23. The following additional criteria apply to the selection and use of such pesticides: (a) they will have negligible adverse human health effects; (b) they will be shown to be effective against the target species; (c) they will have minimal effect on non-target species and the natural environment. The methods, timing, and frequency of pesticide application are aimed to minimize damage to natural enemies. Pesticides used in public health programs will be demonstrated to be safe for inhabitants and domestic animals in the treated areas, as well as for personnel applying them; (d) their use will take into account the need to prevent the development of resistance in pests; (e) where registration is required, all pesticides will be registered or otherwise authorized for use on the crops and livestock, or for the use patterns, for which they are intended under the project.

24. The Borrower will ensure that all pesticides used will be manufactured, formulated, packaged, labeled, handled, stored, disposed of, and applied according to relevant international standards and codes of conduct, as well as the EHSGs.

25. For any project involving significant pest management issues<sup>21</sup> or any project contemplating activities that may lead to significant pest and pesticide management issues,<sup>22</sup> the Borrower will prepare a Pest Management Plan (PMP)<sup>23</sup>. A pest management plan will also be prepared when proposed financing of pest control products represents a large component of the project.<sup>24</sup>

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<sup>21</sup> Such issues would include: (a) migratory locust control; (b) mosquito or other disease vector control; (c) bird control; (d) rodent control, etc.

<sup>22</sup> Such as: (a) new land-use development or changed cultivation practices in an area; (b) significant expansion into new areas; (c) diversification into new crops in agriculture; (d) intensification of existing low-technology systems; (e) proposed procurement of relatively hazardous pest control products or methods; or (f) specific environmental or health concerns (e.g., proximity of protected areas or important aquatic resources; worker safety).

<sup>23</sup> Depending on the nature and the scale of the risks and impacts of the project, the elements of a PMP may be included as part of the ESCP and preparation of a stand-alone PMP may not be necessary.

<sup>24</sup> This is when financing of substantial quantities of pesticides is envisaged. A pest management plan is not required for the procurement or use of impregnated bednets for malaria control, or of insecticides for intradomiciliary spraying for malaria control identified in internationally recognized classification systems.

## **Environmental and Social Standard 4. Community Health and Safety**

### **Introduction**

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1. ESS4 recognizes that project activities, equipment, and infrastructure can increase community exposure to risks and impacts. In addition, communities that are already subjected to impacts from climate change may also experience an acceleration or intensification of impacts due to project activities.
2. ESS4 addresses the health, safety, and security risks and impacts on project-affected communities and the corresponding responsibility of Borrowers to avoid or minimize such risks and impacts, with particular attention to people who, because of their particular circumstances, may be vulnerable.

### **Objectives**

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- To anticipate and avoid adverse impacts on the health and safety of project-affected communities during the project life-cycle from both routine and non-routine circumstances.
- To promote quality and safety, and considerations relating to climate change, in the design and construction of infrastructure, including dams.
- To avoid or minimize community exposure to project-related traffic and road safety risks, diseases and hazardous materials.
- To have in place effective measures to address emergency events.
- To ensure that the safeguarding of personnel and property is carried out in a manner that avoids or minimizes risks to the project-affected communities.

### **Scope of Application**

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3. The applicability of this ESS is established during the environmental and social assessment described in ESS1.
4. This ESS addresses potential risks and impacts on communities that may be affected by project activities. Occupational health and safety (OHS) requirements for project workers are set out in ESS2, and measures to avoid or minimize impacts on human health and the environment due to existing or potential pollution are set out in ESS3.

### **Requirements**

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#### **A. Community Health and Safety**

5. The Borrower will evaluate the risks and impacts of the project on the health and safety of the affected communities during the project life-cycle, including those who, because of their particular circumstances, may be vulnerable. The Borrower will identify risks and impacts and propose mitigation measures in accordance with the mitigation hierarchy.

#### **Infrastructure and Equipment Design and Safety**

6. The Borrower will design, construct, operate, and decommission the structural elements of the project in accordance with national legal requirements, the EHSs and other GIIP, taking into

## ESS4. Community Health and Safety

consideration safety risks to third parties and affected communities. Structural elements of a project will be designed and constructed by competent professionals, and certified or approved by competent authorities or professionals<sup>1</sup>. Structural design will take into account climate change considerations, as appropriate.

7. Where the project includes new buildings and structures that will be accessed by members of the public, the Borrower will consider the incremental risks of the public's potential exposure to operational accidents or natural hazards, including extreme weather events. Where technically and financially feasible, the Borrower will also apply the concept of universal access<sup>2</sup> to the design and construction of such new buildings and structures.

8. When structural elements or components of a project are situated in high-risk locations, including those with risk of extreme weather or slow onset events, and their failure or malfunction may threaten the safety of communities, the Borrower will engage one or more independent experts with relevant and recognized experience in similar projects, separate from those responsible for the design and construction, to conduct a review as early as possible in project development and throughout the stages of project design, construction, operation, and decommissioning. Where the project involves a new or existing dam, the Borrower will provide sufficient resources to apply the requirements on safety of dams, as set out in Annex 1.

### *Safety of Services*

9. Where the project involves provision of services to communities, the Borrower will establish and implement appropriate quality management systems to anticipate and minimize risks and impacts that such services may have on community health and safety. In such circumstances, the Borrower will also apply the concept of universal access, where technically and financially feasible.

### *Traffic and Road Safety*

10. The Borrower will identify, evaluate and monitor the potential traffic<sup>3</sup> and road safety risks to workers, affected communities and road users throughout the project life-cycle and, where appropriate, will develop measures and plans to address them. The Borrower will incorporate technically and financially feasible road safety measures into the project design to prevent and mitigate potential road safety risks to road users and affected communities.

11. Where appropriate, the Borrower will undertake a road safety assessment for each phase of the project, and will monitor incidents and accidents, and prepare regular reports of such monitoring. The Borrower will use the reports to identify negative safety issues, and establish and implement measures to resolve them.

12. For vehicles or fleets of vehicles for the purposes of the project (owned or leased), the Borrower will put in place appropriate processes, including driver training, to improve driver and vehicle safety, as

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<sup>1</sup> This may include, where appropriate, third-party life and fire safety audits for existing buildings that are used for communal purposes and for new buildings prior to their commissioning or use.

<sup>2</sup> The concept of universal access means unimpeded access for people of all ages and abilities in different situations and under various circumstances, as set out in GIIP.

<sup>3</sup> May include all motorized transportation relevant to the project.



## ESS4. Community Health and Safety

well as systems for monitoring and enforcement. The Borrower will consider the safety record or rating of vehicles in purchase or leasing decisions and require regular maintenance of all project vehicles.

13. For projects that operate construction and other equipment on public roads or where the use of project equipment could have an impact on public roads or other public infrastructure, the Borrower will take appropriate safety measures to avoid the occurrence of incidents and injuries to members of the public associated with the operation of such equipment.

### *Ecosystem Services*

14. The project's direct impacts on ecosystem services may result in adverse health and safety risks to and impacts on affected communities<sup>4</sup>. With respect to this ESS, ecosystem services are limited to provisioning and regulating services as defined in ESS1. Where appropriate and feasible, the Borrower will identify the project's potential risks and impacts on ecosystem services that may be exacerbated by climate change. Adverse impacts will be avoided, and if they are unavoidable, the Borrower will implement appropriate mitigation measures.

### *Community Exposure to Health Issues*

15. The Borrower will avoid or minimize the potential for community exposure to water-borne, water-based, water-related, and vector-borne diseases, and communicable and non-communicable diseases that could result from project activities, taking into consideration differentiated exposure to and higher sensitivity of vulnerable groups. Where specific diseases<sup>5</sup> are endemic in communities in the project area, the Borrower is encouraged to explore opportunities during the project life-cycle to improve environmental conditions that could help minimize their incidence.

16. The Borrower will take measures to avoid or minimize transmission of communicable diseases that may be associated with the influx of temporary or permanent project labor.

### *Management and Safety of Hazardous Materials*

17. The Borrower will avoid or minimize the potential for community exposure to hazardous materials and substances that may be released by the project. Where there is a potential for the public (including workers and their families) to be exposed to hazards, particularly those that may be life-threatening, the Borrower will exercise special care to avoid or minimize their exposure by modifying, substituting, or eliminating the condition or material causing the potential hazards. Where hazardous materials are part of existing project infrastructure or components, the Borrower will exercise due care during construction and implementation of the project, including decommissioning, to avoid exposure to the community.

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<sup>4</sup> For example, land use changes or the loss of natural buffer areas, such as wetlands, mangroves and upland forests, which mitigate the effects of natural hazards such as flooding, landslides and fire, may result in increased vulnerability and community safety-related risks and impacts. The diminution or degradation of natural resources, such as adverse impacts on the quality, quantity, and availability of freshwater, may result in health-related risks and impacts.

<sup>5</sup> Such as malaria.

## ESS4. Community Health and Safety

18. The Borrower will implement measures and actions to control the safety of deliveries of hazardous materials, and of storage, transportation and disposal of hazardous materials and wastes, and will implement measures to avoid or control community exposure to such hazardous material.

### *Emergency Preparedness and Response*

19. The Borrower will identify and implement measures to address emergency events. An emergency event is an unanticipated incident, arising from both natural and man-made hazards, typically in the form of fire, explosions, leaks or spills, which may occur for a variety of different reasons, including failure to implement operating procedures that are designed to prevent their occurrence, extreme weather or lack of early warning. The measures will be designed to address the emergency event in a coordinated and expeditious manner, to prevent it from injuring the health and safety of the community, and to minimize, mitigate and compensate for any impacts that may occur.

20. Borrowers engaged in projects having the potential to generate emergency events will conduct a risk hazard assessment (RHA), as part of the environmental and social assessment undertaken pursuant to ESS1. Based on the results of the RHA, the Borrower will prepare an Emergency Response Plan (ERP) in coordination with the relevant local authorities and the affected community, and will take into account the emergency prevention, preparedness and response arrangements put into place with project workers under ESS2.<sup>6</sup>

21. An ERP will include, as appropriate: (a) engineering controls (such as containment, automatic alarms, and shut-off systems) proportionate to the nature and scale of the hazard; (b) identification of and secure access to emergency equipment available on-site and nearby; (c) notification procedures for designated emergency responders; (d) diverse media channels for notification of the affected community and other stakeholders; (e) a training program for emergency responders including drills at regular intervals; (f) public evacuation procedures; (g) designated coordinator for ERP implementation; and (h) measures for restoration and clean-up of the environment following any major accident.

22. The Borrower will document its emergency preparedness and response activities, resources, and responsibilities, and will disclose appropriate information, as well as any subsequent material changes thereto, to affected communities, relevant government agencies, or other relevant parties. The Borrower will assist and collaborate with affected communities, relevant government agencies and other relevant parties in their preparations to respond effectively to an emergency event, especially where their participation and collaboration will be an important part of an effective response.

23. The Borrower will review the ERP on a regular basis, and confirm that it is still capable of addressing the potential range of emergency events that might arise in connection with the project. The Borrower will support affected communities, relevant government agencies and other relevant parties through training and collaboration, and will conduct such training in conjunction with the training provided to project workers as part of the OHS requirements under ESS2.

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<sup>6</sup> ESS2, paragraph 25.

## ESS4. Community Health and Safety

### B. Security Personnel

24. When the Borrower retains direct or contracted workers to provide security to safeguard its personnel and property, it will assess risks posed by these security arrangements to those within and outside the project site. In making such arrangements, the Borrower will be guided by the principles of proportionality and GIIP, and by applicable law, in relation to hiring, rules of conduct, training, equipping, and monitoring of such security workers. The Borrower will not sanction any use of force by direct or contracted workers in providing security except when used for preventive and defensive purposes in proportion to the nature and extent of the threat.

25. The Borrower will seek to ensure that government security personnel deployed to provide security services act in a manner consistent with paragraph 24 above, and encourage the relevant authorities to disclose the security arrangements for the Borrower's facilities to the public, subject to overriding security concerns.

26. The Borrower will (i) make reasonable inquiries to verify that the direct or contracted workers retained by the Borrower to provide security are not implicated in past abuses; (ii) train them adequately (or determine that they are properly trained) in the use of force (and where applicable, firearms), and appropriate conduct toward workers and affected communities; and (iii) require them to act within the applicable law and any requirements set out in the ESCP.

27. The Borrower will review all allegations of unlawful or abusive acts of security personnel, take action (or urge appropriate parties to take action) to prevent recurrence and, where necessary, report unlawful and abusive acts to the relevant authorities.

## ESS4. Community Health and Safety

### ESS4 – ANNEX 1. SAFETY OF DAMS

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#### A. New Dams

1. The Borrower will engage experienced and competent professionals for the supervision of the design and construction of new dams<sup>1</sup>, and require the owner of the dam to adopt and implement dam safety measures during the design, bid tendering, construction, operation, and maintenance of the dam and associated works.
2. The dam safety requirements set out in this Annex apply to:
  - (a) “Large dams” which are defined as dams with a height of 15 meters or greater from the lowest foundation to crest or dams between 5 meters and 15 meters impounding more than 3 million cubic meters;
  - (b) All other dams regardless of size or retention capacity (referred to as “small dams”) that (i) could cause safety risks, such as an unusually large flood-handling requirement, location in a zone of high seismicity, foundations that are complex and difficult to prepare, retention of toxic materials, or potential for significant downstream impacts or (ii) are expected to become large dams during their operating life.
3. The dams referred to in paragraph 2 require:
  - (a) Reviews by an independent panel of experts (the Panel) of the investigation, design, and construction of the dam and the start of operations;
  - (b) Preparation and implementation of the following detailed plans, as further described in Section C<sup>2</sup>: a plan for construction supervision and quality assurance, an instrumentation plan, an operation and maintenance plan, and an emergency preparedness plan.;
  - (c) Prequalification of bidders during procurement and bid tendering; and
  - (d) Periodic safety inspections of the dam after completion, and implementation of measures required to address safety deficiencies.
4. The risks associated with a dam are design and situation specific, and will vary depending on structural components, socioeconomic factors and the environment within which the dam is being

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<sup>1</sup> Dams include, for example, a water storage dam for a hydropower, water supply, irrigation, flood control, or multipurpose project, a tailings or a slimes dam, or an ash impoundment dam.

<sup>2</sup> As part of established dam safety practices in certain countries, the Operation and Maintenance (O&M) Plan includes the Instrumentation Plan and the Emergency Preparedness Plan as specific sections of the O&M Plan. This method will be acceptable provided the relevant sections of the O&M Plan contain the details, and are prepared in accordance with the timing, set out in Section C below.

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constructed and will operate. Application of the requirements set out in paragraph 3 will reflect these considerations, and be proportionate to the size, complexity and potential risk of the dam.

5. Where a dam does not fall into the categories set out in paragraph 2, dam safety measures designed by qualified engineers in accordance with GIIP will be adopted and implemented.<sup>3</sup>
6. The Panel referred to in paragraph 3 above consists of three or more experts, appointed by the Borrower and acceptable to the Bank, with expertise in the various technical fields relevant to the safety aspects of the particular dam.<sup>4</sup> The Panel will review and advise the Borrower on matters relative to dam safety and other critical aspects of the dam, its appurtenant structures, the catchment area, the area surrounding the reservoir, and downstream areas. The Borrower will normally extend the Panel's composition and terms of reference beyond dam safety, to cover such areas as project formulation; technical design; construction procedures; and, for water storage dams, associated works such as power facilities, river diversion during construction, ship lifts, and fish ladders.
7. The Borrower will contract the services of the Panel and will provide administrative support for its activities. Beginning as early in project preparation as possible, the Borrower will arrange for periodic Panel meetings and reviews, which will continue through the investigation, design, construction, and initial filling and start-up phases of the dam.<sup>5</sup> The Borrower will inform the Bank in advance of the Panel meetings<sup>6</sup>. After each meeting, the Panel will provide the Borrower with a written report of its conclusions and recommendations, signed by each participating member; the Borrower will provide a copy of the Panel's report to the Bank. Following the filling of the reservoir and start-up of the dam, the Bank will review the Panel's findings and recommendations. If no significant difficulties are encountered in the filling and start-up of the dam, the Borrower may disband the Panel.

### B. Existing Dams and Dams under Construction (DUC)

8. Where a project relies or may rely on the performance of an existing dam or a dam under construction (DUC) in the Borrower's territory, the Borrower will arrange for one or more independent dam specialists to: (a) inspect and evaluate the safety status of the existing dam or DUC, its appurtenances, and its performance history; (b) review and evaluate the owner's operation and maintenance procedures; and (c) provide a written report of findings and recommendations for any remedial work or safety-related measures necessary to upgrade the existing dam or DUC to an acceptable standard of safety.
9. Such projects include, for example, power stations or water supply systems that draw directly from a reservoir controlled by an existing dam or a DUC; diversion dams or hydraulic structures downstream

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<sup>3</sup> In such circumstances, the Borrower will confirm, through the environmental and social assessment, that there will be no or negligible risk of significant adverse impacts due to potential failure of the dam structure to local communities and assets, including assets to be financed as part of the proposed project. Such dams could include farm ponds, local silt retention dams and low embankment tanks.

<sup>4</sup> The number, professional breadth, technical expertise, and experience of Panel members are appropriate to the size, complexity, and hazard potential of the dam under consideration. For high-hazard dams, in particular, the Panel members will possess recognized international expertise in their field.

<sup>5</sup> If the Bank's involvement begins at a later stage than project preparation, the Panel is constituted as soon as possible and reviews any aspects of the project that have already been carried out.

<sup>6</sup> The Bank will normally send an observer to these meetings.

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from an existing dam or a DUC, where failure of the upstream dam could cause extensive damage to or failure of the project facilities; and irrigation or water supply projects that will depend on the storage and operation of an existing dam or a DUC for their supply of water and could not function if the dam failed. They also include projects that require increases in the capacity of an existing dam, or changes in the characteristics of the impounded materials, where failure of the existing dam could cause extensive damage to or failure of project facilities.

10. The Borrower may use a previously prepared dam safety assessment or recommendations for improvements needed in an existing dam or DUC, if: (a) an effective dam safety program is already in operation; and (b) full-level inspections and dam safety assessments of the existing dam or DUC have already been conducted and documented, and are satisfactory to the Bank.
11. For projects that include additional dam safety measures or require remedial work, the Borrower will require that: (a) the dam is designed and its construction is supervised by competent professionals; and (b) the reports and plans required for a new dam (specified in paragraph 3 (b)) are prepared and implemented. For high-hazard cases involving significant and complex remedial work, the Borrower will also employ a panel of independent experts on the same basis as for a new dam (see paragraphs 3 (a) and 6 of this Annex).
12. When the owner of the existing dam or DUC is an entity other than the Borrower, the Borrower will enter into agreements or arrangements providing for the measures set out in paragraphs 8 to 11 of this Annex to be undertaken by the owner.
13. Where appropriate, the Borrower may discuss with the Bank any measures necessary to strengthen the institutional, legislative and regulatory frameworks for dam safety programs in the country.

### C. Dam Safety Reports

14. Dam safety reports will contain the information set out below and be prepared as follows:
  - (a) *Plan for construction supervision and quality assurance.* This plan will set out details of the organization, staffing levels, procedures, equipment and qualifications for supervision of the construction of a new dam or of remedial work on an existing dam. For a dam other than a water storage dam<sup>7</sup>, this plan takes into account the usual long construction period, covering the supervision requirements as the dam grows in height—with any accompanying changes in construction materials or the characteristics of the impounded material—over a period of years. This plan will be prepared and submitted to the Bank during project preparation.
  - (b) *Instrumentation plan.* This is a detailed plan for the installation of instruments to monitor and record dam behavior and the related hydrometeorological, structural and seismic factors. This plan will be prepared and submitted to the Panel and Bank before bid tendering.

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<sup>7</sup> For example, tailings dam or ash impoundment dam.

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- (c) *Operation and maintenance (O&M) plan.* This plan will set out details of the organizational structure, staffing, technical expertise and training required; equipment and facilities needed to operate and maintain the dam; O&M procedures; and arrangements for funding O&M, including long-term maintenance and safety inspections. The O&M plan for a dam other than a water storage dam, in particular, will reflect changes in the dam's structure or in the nature of the impounded material that may be expected over a period of years. Elements required to finalize the plan and initiate operations are normally financed under the project. A preliminary plan will be prepared and provided to the Bank during project preparation. The plan will be refined and completed during project implementation. The final plan will be completed not less than six months prior to the start of the initial filling of the reservoir. Elements required to finalize the plan and initiate operations are normally financed under the project.
- (d) *Emergency preparedness plan.* This plan will specify the roles of responsible parties when dam failure is considered imminent, or when expected operational flow release threatens downstream life, property, or economic operations that depend on river flow levels. It will include the following: clear statements on the responsibility for decision-making relating to dam operations and for the related emergency communications; maps outlining inundation levels for various emergency conditions; flood warning system characteristics; and procedures for evacuating threatened areas and mobilizing emergency forces and equipment. The plan for emergency communication will include the mechanism through which potentially affected downstream communities will be informed. The broad framework plan and an estimate of funds needed to prepare the plan in detail will be prepared and provided to the Bank during project preparation. The plan itself will be prepared during implementation and is provided to the Panel and Bank for review not later than one year before the projected date of initial filling of the reservoir.

## Environmental and Social Standard 5

### Land Acquisition, Restrictions on Land Use and Involuntary Resettlement

#### Introduction

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1. ESS5 recognizes that project-related land acquisition and restrictions on land use can have adverse impacts on communities and persons. Project-related land acquisition<sup>1</sup> or restrictions on land use<sup>2</sup> may cause physical displacement (relocation, loss of residential land or loss of shelter), economic displacement (loss of land, assets or access to assets, leading to loss of income sources or other means of livelihood),<sup>3</sup> or both. The term “involuntary resettlement” refers to these impacts. Resettlement is considered involuntary when affected persons or communities do not have the right to refuse land acquisition or restrictions on land use that result in displacement.

2. Experience and research indicate that physical and economic displacement, if unmitigated, may give rise to severe economic, social and environmental risks: production systems may be dismantled; people face impoverishment if their productive resources or other income sources are lost; people may be relocated to environments where their productive skills are less applicable and the competition for resources greater; community institutions and social networks may be weakened; kin groups may be dispersed; and cultural identity, traditional authority, and the potential for mutual help may be diminished or lost. For these reasons, involuntary resettlement should be avoided.<sup>4</sup> Where involuntary resettlement is unavoidable, it will be minimized and appropriate measures to mitigate adverse impacts on displaced persons (and on host communities receiving displaced persons) will be carefully planned and implemented.

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<sup>1</sup> “*Land acquisition*” refers to all methods of obtaining land for project purposes, which may include outright purchase, expropriation of property and acquisition of access rights, such as easements or rights of way. Land acquisition may also include: (a) acquisition of unoccupied or unutilized land whether or not the landholder relies upon such land for income or livelihood purposes; (b) repossession of public land that is used or occupied by individuals or households; and (c) project impacts that result in land being submerged or otherwise rendered unusable or inaccessible. “Land” includes anything growing on or permanently affixed to land, such as crops, buildings and other improvements, and appurtenant water bodies.

<sup>2</sup> “*Restrictions on land use*” refers to limitations or prohibitions on the use of agricultural, residential, commercial or other land that are directly introduced and put into effect as part of the project. These may include restrictions on access to legally designated parks and protected areas, restrictions on access to other common property resources, restrictions on land use within utility easements or safety zones.

<sup>3</sup> “*Livelihood*” refers to the full range of means that individuals, families and communities utilize to make a living, such as wage-based income, agriculture, fishing, foraging, other natural resource-based livelihoods, petty trade and bartering.

<sup>4</sup> Avoidance is the preferred approach in accordance with the mitigation hierarchy in ESS1. It is especially important to avoid physical or economic displacement of those socially or economically vulnerable to hardship as a result. However, avoidance may not be the preferred approach in situations where public health or safety would be adversely affected as a result. There may also be situations where resettlement can provide direct development opportunities for households or communities, including improved housing and public health conditions, strengthened security of tenure or other improvements to local living standards.



## ESS5. Land Acquisition, Restrictions on Land Use and Involuntary Resettlement

### Objectives

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- To avoid involuntary resettlement or, when unavoidable, minimize involuntary resettlement by exploring project design alternatives.
- To avoid forced eviction.<sup>5</sup>
- To mitigate unavoidable adverse social and economic impacts from land acquisition or restrictions on land use by: (a) providing timely compensation for loss of assets at replacement cost<sup>6</sup> and (b) assisting displaced persons in their efforts to improve, or at least restore, their livelihoods and living standards, in real terms, to pre-displacement levels or to levels prevailing prior to the beginning of project implementation, whichever is higher.
- To improve living conditions of poor or vulnerable persons who are physically displaced, through provision of adequate housing, access to services and facilities, and security of tenure.<sup>7</sup>
- To conceive and execute resettlement activities as sustainable development programs, providing sufficient investment resources to enable displaced persons to benefit directly from the project, as the nature of the project may warrant.
- To ensure that resettlement activities are planned and implemented with appropriate disclosure of information, meaningful consultation, and the informed participation of those affected.

### Scope of Application

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3. The applicability of ESS5 is established during the environmental and social assessment described in ESS1.

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<sup>5</sup> See paragraph 31.

<sup>6</sup> "Replacement cost" is defined as a method of valuation yielding compensation sufficient to replace assets, plus necessary transaction costs associated with asset replacement. Where functioning markets exist, replacement cost is the market value as established through independent and competent real estate valuation, plus transaction costs. Where functioning markets do not exist, replacement cost may be determined through alternative means, such as calculation of output value for land or productive assets, or the undepreciated value of replacement material and labor for construction of structures or other fixed assets, plus transaction costs. In all instances where physical displacement results in loss of shelter, replacement cost must at least be sufficient to enable purchase or construction of housing that meets acceptable minimum community standards of quality and safety. The valuation method for determining replacement cost should be documented and included in relevant resettlement planning documents. Transaction costs include administrative charges, registration or title fees, reasonable moving expenses, and any similar costs imposed on affected persons. To ensure compensation at replacement cost, planned compensation rates may require updating in project areas where inflation is high or the period of time between calculation of compensation rates and delivery of compensation is extensive.

<sup>7</sup> "Security of tenure" means that resettled individuals or communities are resettled to a site that they can legally occupy, where they are protected from the risk of eviction and where the tenure rights provided to them are socially and culturally appropriate. In no event will resettled persons be provided tenure rights that are in effect weaker than the rights they had to the land or assets from which they have been displaced.

## ESS5. Land Acquisition, Restrictions on Land Use and Involuntary Resettlement

4. This ESS applies to permanent or temporary physical and economic displacement resulting from the following types of land acquisition or restrictions on land use undertaken or imposed in connection with project implementation:

- (a) Land rights or land use rights acquired or restricted through expropriation or other compulsory procedures in accordance with national law;
- (b) Land rights or land use rights acquired or restricted through negotiated settlements with property owners or those with legal rights to the land, if failure to reach settlement would have resulted in expropriation or other compulsory procedures;<sup>8</sup>
- (c) Restrictions on land use and access to natural resources that cause a community or groups within a community to lose access to resource usage where they have traditional or customary tenure, or recognizable usage rights. This may include situations where legally designated protected areas, forests, biodiversity areas or buffer zones are established in connection with the project;<sup>9</sup>
- (d) Relocation of people without formal, traditional, or recognizable usage rights, who are occupying or utilizing land prior to a project-specific cut-off date;
- (e) Displacement of people as a result of project impacts that render their land unusable or inaccessible;
- (f) Restriction on access to land or use of other resources including communal property and natural resources such as marine and aquatic resources, timber and non-timber forest products, fresh water, medicinal plants, hunting and gathering grounds and grazing and cropping areas;
- (g) Land rights or claims to land or resources relinquished by individuals or communities without full payment of compensation;<sup>10</sup> and

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<sup>8</sup> Notwithstanding the application of this ESS to such situations, the Borrower is encouraged to seek negotiated settlements with affected persons in a manner meeting the requirements of this ESS in order to help avoid administrative or judicial delays associated with formal expropriation, and to the extent possible to reduce the impacts on affected persons associated with formal expropriation.

<sup>9</sup> In such situations, affected persons frequently do not have formal ownership. This may include freshwater and marine environments. This ESS does not apply to restrictions of access to natural resources under community-based natural resource management projects, i.e. where the community using the resources collectively decides to restrict access to these resources, provided that an assessment satisfactory to the Bank establishes that the community decision-making process is adequate and reflects voluntary, informed consensus, and that appropriate measures have been agreed and put in place to mitigate adverse impacts, if any, on the vulnerable members of the community.

<sup>10</sup> In some circumstances, it may be proposed that part or all of the land to be used by the project is donated on a voluntary basis without payment of full compensation. Subject to prior Bank approval, this may be acceptable providing the Borrower demonstrates that: (a) the potential donor or donors have been appropriately informed and consulted about the project and the choices available to them; (b) potential donors are aware that refusal is an

## ESS5. Land Acquisition, Restrictions on Land Use and Involuntary Resettlement

(h) Land acquisition or land use restrictions occurring prior to the project, but which were undertaken or initiated in anticipation of, or in preparation for, the project.

5. This ESS does not apply to impacts on incomes or livelihoods that are not a direct result of land acquisition or land use restrictions imposed by the project. Such impacts will be addressed in accordance with ESS 1.

6. This ESS does not apply to voluntary, legally recorded market transactions in which the seller is given a genuine opportunity to retain the land and to refuse to sell it, and is fully informed about available choices and their implications. However, where such voluntary land transactions may result in the displacement of persons, other than the seller, who occupy, use or claim rights to the land in question, this ESS will apply.<sup>11</sup>

7. Where a project supports land titling or other activities intended to confirm, regularize or determine land rights, a social, legal and institutional assessment will be required under ESS 1<sup>12</sup>. The assessment aims to identify potential risks and impacts, as well as appropriate design measures to minimize and mitigate adverse economic and social impacts, especially those that affect poor and vulnerable groups<sup>13</sup>. This ESS does not apply to disputes between private parties in land titling or related contexts. However, where persons are required to vacate land as a direct result of a project-supported determination that the land in question is state land, this ESS will apply (in addition to the relevant provisions of ESS 1 mentioned above).

8. This ESS does not apply to land use planning or the regulation of natural resources to promote their sustainability on a regional, national or subnational level (including watershed management, groundwater management, fisheries management, and coastal zone management). Where a project supports such activities, the Borrower will be required to conduct a social, legal and institutional

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option, and have confirmed in writing their willingness to proceed with the donation; (c) the amount of land being donated is minor and will not reduce the donor's remaining land area below that required to maintain the donor's livelihood at current levels; (d) no household relocation is involved; (e) the donor is expected to benefit directly from the project; and (f) for community or collective land, donation can only occur with the consent of individuals using or occupying the land. The Borrower will maintain a transparent record of all consultations and agreements reached.

<sup>11</sup> This may include situations where a project supports voluntary transactions between communities, governments and investors involving significant areas of land (for example where a project involves support to commercial investment in agricultural land). In such cases, in applying the relevant provisions of this ESS, special care must be taken to ensure: (a) that all tenure rights and claims (including those of customary and informal users) affecting the land in question are systematically and impartially identified; (b) that potentially affected individuals, groups or communities are meaningfully consulted, informed of their rights, and provided reliable information concerning environmental, economic, social and food security impacts of the proposed investment; (c) that community stakeholders are enabled to negotiate fair value and appropriate conditions for the transfer; (d) that appropriate compensation, benefit-sharing and grievance redress mechanisms are put in place; (e) that terms and conditions of the transfer are transparent, and (f) mechanisms are put in place for monitoring compliance with those terms and conditions.

<sup>12</sup> ESS 1, para. 28(b).

<sup>13</sup> See ESS 1, footnote 28.

## ESS5. Land Acquisition, Restrictions on Land Use and Involuntary Resettlement

assessment under ESS 1, in order to identify potential economic and social risks and impacts of the planning or regulation, and appropriate measures to minimize and mitigate them, in particular those that affect poor and vulnerable groups.

9. This ESS does not apply to management of refugees from, or persons internally displaced by, natural disasters, conflict, crime or violence.

### Requirements

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#### A. General

##### *Eligibility Classification*

10. Affected persons may be classified as persons:
- (a) Who have formal legal rights to land or assets;
  - (b) Who do not have formal legal rights to land or assets, but have a claim to land or assets that is recognized or recognizable under national law;<sup>14</sup> or
  - (c) Who have no recognizable legal right or claim to the land or assets they occupy or use.

The census described in paragraph 20 will establish the status of the affected persons.

##### *Project Design*

11. The Borrower will demonstrate that involuntary land acquisition or restrictions on land use are limited to direct project requirements for clearly specified project purposes within a clearly specified period of time. The Borrower will consider feasible alternative project designs to avoid or minimize land acquisition or restrictions on land use, especially where this would result in physical or economic displacement, while balancing environmental, social, and financial costs and benefits, and paying particular attention to gender impacts and impacts on the poor and vulnerable.

##### *Compensation and Benefits for Affected Persons*

12. When land acquisition or restrictions on land use (whether permanent or temporary) cannot be avoided, the Borrower will offer affected persons compensation at replacement cost, and other assistance as may be necessary to help them improve or at least restore their standards of living or livelihoods, subject to the provisions of paragraph 26 through 36 of this ESS.<sup>15</sup>

13. Compensation standards for categories of land and fixed assets will be disclosed and applied consistently. Compensation rates may be subject to upward adjustment where negotiation strategies are

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<sup>14</sup> Such claims could be derived from adverse possession or from customary or traditional tenure arrangements.

<sup>15</sup> At the request of affected persons, it may be necessary to acquire entire land parcels if partial acquisition would render the remainder economically unviable, or make the remaining parcel unsafe or inaccessible for human use or occupancy.

## ESS5. Land Acquisition, Restrictions on Land Use and Involuntary Resettlement

employed. In all cases, a clear basis for calculation of compensation will be documented, and compensation distributed in accordance with transparent procedures.

14. Where livelihoods of displaced persons are land-based,<sup>16</sup> or where land is collectively owned, the Borrower will offer the displaced persons an option for replacement land in accordance with paragraph 35(a), unless it can be demonstrated to the Bank's satisfaction that equivalent replacement land is unavailable. As the nature and objectives of the project may allow, the Borrower will also provide opportunities to displaced communities and persons to derive appropriate development benefits from the project. In the case of affected persons under paragraph 10 (c), resettlement assistance will be provided in lieu of compensation for land, as described in paragraphs 29 and 34 (c).

15. The Borrower will take possession of acquired land and related assets only after compensation in accordance with this ESS has been made available and, where applicable, displaced people have been resettled and moving allowances have been provided to the displaced persons in addition to compensation. In addition, livelihood restoration and improvement programs will commence in a timely fashion in order to ensure that affected persons are sufficiently prepared to take advantage of alternative livelihood opportunities as the need to do so arises.

16. In certain cases there may be significant difficulties related to the payment of compensation to particular affected persons, for example, where repeated efforts to contact absentee owners have failed, where project affected persons have rejected compensation that has been offered to them in accordance with the approved plan, or where competing claims to the ownership of lands or assets are subject to lengthy legal proceedings. On an exceptional basis, with prior agreement of the Bank, and where the Borrower demonstrates that all reasonable efforts to resolve such matters have been taken, the Borrower may deposit compensation funds as required by the plan (plus a reasonable additional amount for contingencies) into an interest-bearing escrow or other deposit account and proceed with the relevant project activities. Compensation placed in escrow will be made available to eligible persons in a timely manner as issues are resolved.

### Community Engagement

17. The Borrower will engage with affected communities, including host communities, through the process of stakeholder engagement described in ESS10. Decision-making processes related to resettlement and livelihood restoration will include options and alternatives from which affected persons may choose. Disclosure of relevant information and meaningful participation of affected communities and persons will take place during the consideration of alternative project designs referred to in paragraph 11, and thereafter throughout the planning, implementation, monitoring, and evaluation of the compensation process, livelihood restoration activities, and relocation process. Additional provisions apply to consultations with displaced Indigenous Peoples, in accordance with ESS7.

18. The consultation process should ensure that women's perspectives are obtained and their interests factored into all aspects of resettlement planning and implementation. Addressing livelihood impacts may require intra-household analysis in cases where women's and men's livelihoods are affected

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<sup>16</sup> The term "land-based" includes livelihood activities such as rotational cropping and grazing of livestock as well as the harvesting of natural resources.

## ESS5. Land Acquisition, Restrictions on Land Use and Involuntary Resettlement

differently. Women's and men's preferences in terms of compensation mechanisms, such as replacement land or alternative access to natural resources rather than in cash, should be explored.

### *Grievance Mechanism*

19. The Borrower will ensure that a grievance mechanism for the project is in place, in accordance with ESS10 as early as possible in project development to address specific concerns about compensation, relocation or livelihood restoration measures raised by displaced persons (or others) in a timely fashion. Where possible, such grievance mechanisms will utilize existing formal or informal grievance mechanisms suitable for project purposes, supplemented as needed with project-specific arrangements designed to resolve disputes in an impartial manner.

### *Planning and Implementation*

20. Where land acquisition or restrictions on land use are unavoidable, the Borrower will, as part of the environmental and social assessment, conduct a census to identify the persons who will be affected by the project, to establish an inventory of land and assets to be affected,<sup>17</sup> to determine who will be eligible for compensation and assistance,<sup>18</sup> and to discourage ineligible persons, such as opportunistic settlers, from claiming benefits. The social assessment will also address the claims of communities or groups who, for valid reasons, may not be present in the project area during the time of the census, such as seasonal resource users. In conjunction with the census, the Borrower will establish a cut-off date for eligibility. Information regarding the cut-off date will be well documented and will be disseminated throughout the project area at regular intervals in written and (as appropriate) non-written forms and in relevant local languages. This will include posted warnings that persons settling in the project area after the cutoff date may be subject to removal.

21. To address the issues identified in the environmental and social assessment, the Borrower will prepare a plan<sup>19</sup> proportionate to the risks and impacts associated with the project:

- (a) For projects with minor land acquisition or restrictions on land use, as a result of which there will be no significant impact on incomes or livelihoods, the plan will establish eligibility criteria for affected persons, set out procedures and standards for compensation, and incorporate arrangements for consultations, monitoring and addressing grievances;
- (b) For projects causing physical displacement, the plan will set out the additional measures relevant to relocation of affected persons;

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<sup>17</sup> See Annex 1. Such inventory should include a detailed account, derived through a consultative, impartial and transparent process, of the full range of rights held or asserted by affected people, including those based on custom or practice, secondary rights such as rights of access or use for livelihoods purposes, rights held in common, etc.

<sup>18</sup> Documentation of ownership or occupancy and compensation payments should be issued in the names of both spouses or single heads of households as relevant, and other resettlement assistance, such as skills training, access to credit, and job opportunities, should be equally available to women and adapted to their needs. Where national law and tenure systems do not recognize the rights of women to hold or contract in property, measures should be considered to provide women as much protection as possible with the objective to achieve equity with men.

<sup>19</sup> See Annex 1.

## ESS5. Land Acquisition, Restrictions on Land Use and Involuntary Resettlement

- (c) For projects involving economic displacement with significant impacts on livelihoods or income generation, the plan will set out the additional measures relating to livelihood improvement or restoration; and
- (d) For projects that may impose changes in land use that restrict access to resources in legally designated parks or protected areas or other common property resources on which local people may depend for livelihood purposes, the plan will establish a participatory process for determining appropriate restrictions on use and set out the mitigation measures to address adverse impacts on livelihoods that may result from such restrictions.

22. The Borrower's plan will establish the roles and responsibilities relating to financing and implementation, and include arrangements for contingency financing to meet unanticipated costs, as well as arrangements for timely and coordinated response to unforeseen circumstances impeding progress toward desired outcomes.<sup>20</sup> The full costs of resettlement activities necessary to achieve the objectives of the project are included in the total costs of the project. The costs of resettlement, like the costs of other project activities, are treated as a charge against the economic benefits of the project; and any net benefits to resettlers (as compared to the "without-project" circumstances) are added to the benefits stream of the project.

23. The Borrower will establish procedures to monitor and evaluate the implementation of the plan and will take corrective action as necessary during implementation to achieve the objectives of this ESS. The extent of monitoring activities will be proportionate to the project's risks and impacts. For all projects with significant involuntary resettlement impacts, the Borrower will retain competent resettlement professionals to monitor the implementation of resettlement plans, design corrective actions as necessary, provide advice on compliance with this ESS and produce periodic monitoring reports. Affected persons will be consulted during the monitoring process. Periodic monitoring reports will be prepared and affected persons will be informed about monitoring results in a timely manner.

24. Implementation of the Borrower's plan will be considered completed when the adverse impacts of resettlement have been addressed in a manner that is consistent with the relevant plan as well as the objectives of this ESS. For all projects with significant involuntary resettlement impacts, the Borrower will commission an external completion audit of the plan when all mitigation measures have been substantially completed. The completion audit will be undertaken by competent resettlement professionals, will assess whether livelihoods and living standards have been improved or at least restored and, as necessary, will propose corrective actions to meet objectives not yet achieved.

25. Where the likely nature or magnitude of the land acquisition or restrictions on land use related to a project with potential to cause physical and/or economic displacement is unknown during project preparation, the Borrower will develop a framework establishing general principles and procedures compatible with this ESS. Once the individual project components are defined and the necessary information becomes available, such a framework will be expanded into one or more specific plans

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<sup>20</sup> For projects with significant resettlement impacts and complex mitigation measures, the Borrower may consider preparing a stand-alone resettlement project for Bank support.



## ESS5. Land Acquisition, Restrictions on Land Use and Involuntary Resettlement

proportionate to potential risks and impacts. No physical and/or economic displacement will occur until plans required by this ESS have been finalized and approved by the Bank.

### B. Displacement

#### *Physical Displacement*

26. In the case of physical displacement, the Borrower will develop a plan that covers, at a minimum, the applicable requirements of this ESS regardless of the number of people affected. The plan will be designed to mitigate the negative impacts of displacement and, as warranted, to identify development opportunities. It will include a resettlement budget and implementation schedule, and establish the entitlements of all categories of affected persons (including host communities). Particular attention will be paid to gender aspects and the needs of the poor and the vulnerable. The Borrower will document all transactions to acquire land rights, provision of compensation and other assistance associated with relocation activities.

27. If people living in the project area are required to move to another location, the Borrower will: (a) offer displaced persons choices among feasible resettlement options, including adequate replacement housing or cash compensation; and (b) provide relocation assistance suited to the needs of each group of displaced persons. New resettlement sites will offer living conditions at least equivalent to those previously enjoyed, or consistent with prevailing minimum codes or standards, whichever set of standards is higher. If new resettlement sites are to be prepared, host communities will be consulted regarding planning options, and resettlement plans will ensure continued access, at least at existing levels or standards, for host communities to facilities and services. The displaced persons' preferences with respect to relocating in preexisting communities and groups will be respected wherever possible. Existing social and cultural institutions of the displaced persons and any host communities will be respected.

28. In the case of physically displaced persons under paragraph 10 (a) or (b), the Borrower will offer the choice of replacement property of equal or higher value, with security of tenure, equivalent or better characteristics, and advantages of location, or cash compensation at replacement cost. Compensation in kind should be considered in lieu of cash.<sup>21</sup>

29. In the case of physically displaced persons under paragraph 10 (c), the Borrower will provide arrangements to allow them to obtain adequate housing with security of tenure. Where these displaced persons own structures, the Borrower will compensate them for the loss of assets other than land, such as dwellings and other improvements to the land, at replacement cost.<sup>22</sup> Based on consultation with such

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<sup>21</sup> Payment of cash compensation for lost land and other assets may be appropriate where: (a) livelihoods are not land-based; (b) livelihoods are land-based but the land taken for the project is a small fraction of the affected asset and the residual land is economically viable; or (c) active markets for land, housing, and labor exist, displaced persons use such markets, there is sufficient supply of land and housing, and the Borrower has demonstrated to the satisfaction of the Bank that insufficient replacement land is available.

<sup>22</sup> Where the Borrower demonstrates that an affected person derives substantial income from multiple illegal rental units, the compensation and other assistance that would otherwise be available to such person for non-land assets and livelihood restoration under this paragraph may be reduced with the prior agreement of the Bank, to better reflect the objectives of this ESS.



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displaced persons, the Borrower will provide relocation assistance in lieu of compensation for land sufficient for them to restore their standards of living at an adequate alternative site.<sup>23</sup>

30. The Borrower is not required to compensate or assist those who encroach on the project area after the cut-off date for eligibility, provided the cut-off date has been clearly established and made public.

31. The Borrower will not resort to forced evictions of affected persons. “Forced eviction” is defined as the permanent or temporary removal against the will of individuals, families, and/or communities from the homes and/or land which they occupy without the provision of, and access to, appropriate forms of legal and other protection, including all applicable procedures and principles in this ESS. The exercise of eminent domain, compulsory acquisition or similar powers by a Borrower will not be considered to be forced eviction providing it complies with the requirements of national law and the provisions of this ESS, and is conducted in a manner consistent with basic principles of due process (including provision of adequate advance notice, meaningful opportunities to lodge grievances and appeals, and avoidance of the use of unnecessary, disproportionate or excessive force).

32. As an alternative to displacement, the Borrower may consider negotiating in situ land development arrangements by which those to be affected may elect to accept a partial loss of land or localized relocation in return for improvements that will increase the value of their property after development. Any person not wishing to participate will be allowed to opt instead for full compensation and other assistance as required in this ESS.

### *Economic Displacement*

33. In the case of projects affecting livelihoods or income generation, the Borrower’s plan will include measures to allow affected persons to improve, or at least restore, their incomes or livelihoods. The plan will establish the entitlements of affected persons and/or communities, paying particular attention to gender aspects and the needs of vulnerable segments of communities, and will ensure that these are provided in a transparent, consistent, and equitable manner. The plan will incorporate arrangements to monitor the effectiveness of livelihood measures during implementation, as well as evaluation once implementation is completed. The mitigation of economic displacement will be considered complete when the completion audit concludes that affected persons or communities have received all of the assistance for which they are eligible, and have been provided with adequate opportunity to reestablish their livelihoods.

34. Economically displaced persons who face loss of assets or access to assets will be compensated for such loss at replacement cost:

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<sup>23</sup> Relocation of informal settlers in urban areas may involve trade-offs. For example, the relocated families may gain security of tenure, but they may lose locational advantages that may be essential to livelihoods, especially among the poor or vulnerable. Changes in location that may affect livelihood opportunities should be addressed in accordance with the relevant provisions of this ESS (see in particular paragraph 34 (c)).

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- (a) In cases where land acquisition or restrictions on land use affect commercial enterprises,<sup>24</sup> affected business owners will be compensated for the cost of identifying a viable alternative location; for lost net income during the period of transition; for the cost of the transfer and reinstallation of the plant, machinery, or other equipment; and for reestablishing commercial activities. Affected employees will receive assistance for temporary loss of wages and, if necessary, assistance in identifying alternative employment opportunities;
  - (b) In cases affecting persons with legal rights or claims to land that are recognized or recognizable under national law (see paragraph 10 (a) and (b)), replacement property (e.g., agricultural or commercial sites) of equal or greater value will be provided, or, where appropriate, cash compensation at replacement cost; and
  - (c) Economically displaced persons who are without legally recognizable claims to land (see paragraph 10(c)) will be compensated for lost assets other than land (such as crops, irrigation infrastructure and other improvements made to the land), at replacement cost. Additionally, the Borrower will provide assistance in lieu of land compensation sufficient to provide such persons with an opportunity to reestablish livelihoods elsewhere. The Borrower is not required to compensate or assist persons who encroach on the project area after the cut-off date for eligibility.
35. Economically displaced persons will be provided opportunities to improve, or at least restore, their means of income-earning capacity, production levels, and standards of living:
- (a) For persons whose livelihoods are land-based, replacement land that has a combination of productive potential, locational advantages, and other factors at least equivalent to that being lost will be offered where feasible.;
  - (b) For persons whose livelihoods are natural resource-based and where project-related restrictions on access envisaged in paragraph 4 apply, measures will be implemented to either allow continued access to affected resources or to provide access to alternative resources with equivalent livelihood-earning potential and accessibility. Where common property resources are affected, benefits and compensation associated with restrictions on natural resource usage may be collective in nature; and
  - (c) If it is demonstrated that replacement land or resources are unavailable, the Borrower will offer economically displaced persons options for alternative income earning opportunities, such as credit facilities, skills training, business start-up assistance, employment opportunities, or cash assistance additional to compensation for assets. Cash assistance alone, however, frequently fails to provide affected persons with the productive means or skills to restore livelihoods.

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<sup>24</sup> This includes shops, restaurants, services, manufacturing facilities and other enterprises, regardless of size and whether licensed or unlicensed.

## **ESS5. Land Acquisition, Restrictions on Land Use and Involuntary Resettlement**

36. Transitional support will be provided as necessary to all economically displaced persons, based on a reasonable estimate of the time required to restore their income-earning capacity, production levels, and standards of living.

### **C. Collaboration with Other Responsible Agencies or Subnational Jurisdictions**

37. The Borrower will establish means of collaboration between the agency or entity responsible for project implementation and any other governmental agencies, subnational jurisdictions or entities that are responsible for any aspects of land acquisition, resettlement planning, or provision of necessary assistance. In addition, where the capacity of other responsible agencies is limited, the Borrower will actively support resettlement planning, implementation, and monitoring. If the procedures or standards of other responsible agencies do not meet the relevant requirements of this ESS, the Borrower will prepare supplemental arrangements or provisions for inclusion in the resettlement plan to address identified shortcomings. The plan will also specify financial responsibilities for each of the agencies involved, appropriate timing and sequencing for implementation steps, and coordination arrangements for addressing financial contingencies or responding to unforeseen circumstances.

### **D. Technical and Financial Assistance**

38. The Borrower may request technical assistance from the Bank to strengthen Borrower capacity, or the capacity of other responsible agencies, for resettlement planning, implementation and monitoring. Such forms of assistance may include staff training, assistance in formulating new regulations or policies relating to land acquisition or other aspects of resettlement, financing for assessments or other investment costs associated with physical or economic displacement, or other purposes.

39. The Borrower may request the Bank to finance either a component of the main investment causing displacement and requiring resettlement, or a free-standing resettlement project with appropriate cross-conditionalities, processed and implemented in parallel with the investment that causes the displacement. The Borrower may also request the Bank to finance resettlement even though it is not financing the main investment that makes resettlement necessary.

## ESS5. Land Acquisition, Restrictions on Land Use and Involuntary Resettlement

### ESS5 – ANNEX 1. INVOLUNTARY RESETTLEMENT INSTRUMENTS

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1. This Annex describes the elements of the plans addressing physical and/or economic displacement described in paragraph 21 of ESS 5. For purposes of this Annex, these plans shall be referred to as “resettlement plans”. Resettlement plans include measures to address physical and/or economic displacement, depending on the nature of the impacts expected from a project. Projects may use alternative nomenclature, depending on the scope of the resettlement plan – for example, where a project involves only economic displacement, the resettlement plan may be called a “livelihood plan” or where restrictions on access to legally designated parks and protected areas are involved, the plan may take the form of a “process framework.” This Annex also describes the framework referred to paragraph 25 of ESS 5.

#### A. Resettlement Plan

2. The scope of requirements and level of detail of the resettlement plan vary with the magnitude and complexity of resettlement. The plan is based on up-to-date and reliable information about (a) the proposed project and its potential impacts on the displaced persons and other adversely affected groups, (b) appropriate and feasible mitigation measures, and (c) the legal and institutional arrangements required for effective implementation of resettlement measures.

#### *Minimum Elements of a Resettlement Plan*

3. *Description of the project.* General description of the project and identification of the project area.

4. *Potential impacts.* Identification of:

- (a) the project components or activities that give rise to displacement, explaining why the selected land must be acquired for use within the timeframe of the project;
- (b) the zone of impact of such components or activities;
- (c) the scope and scale of land acquisition and impacts on structures and other fixed assets;
- (d) any project-imposed restrictions on use of, or access to, land or natural resources;
- (e) alternatives considered to avoid or minimize displacement and why those were rejected; and
- (f) the mechanisms established to minimize displacement, to the extent possible, during project implementation.

5. *Objectives.* The main objectives of the resettlement program.

6. *Census survey and baseline socio-economic studies.* The findings of a household-level census identifying and enumerating affected persons, and, with the involvement of affected persons, surveying land, structures and other fixed assets to be affected by the project. The census survey also serves other essential functions:

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- (a) identifying characteristics of displaced households, including a description of production systems, labor, and household organization; and baseline information on livelihoods (including, as relevant, production levels and income derived from both formal and informal economic activities) and standards of living (including health status) of the displaced population;
- (b) information on vulnerable groups or persons for whom special provisions may have to be made;
- (c) identifying public or community infrastructure, property or services that may be affected;
- (d) providing a basis for the design of, and budgeting for, the resettlement program;
- (e) in conjunction with establishment of a cut-off date, providing a basis for excluding ineligible people from compensation and resettlement assistance; and
- (f) establishing baseline conditions for monitoring and evaluation purposes.

As the Bank may deem relevant, additional studies on the following subjects may be required to supplement or inform the census survey:

- (g) land tenure and transfer systems, including an inventory of common property natural resources from which people derive their livelihoods and sustenance, non-title-based usufruct systems (including fishing, grazing, or use of forest areas) governed by local recognized land allocation mechanisms, and any issues raised by different tenure systems in the project area;
- (h) the patterns of social interaction in the affected communities, including social networks and social support systems, and how they will be affected by the project; and
- (i) social and cultural characteristics of displaced communities, including a description of formal and informal institutions (e.g., community organizations, ritual groups, nongovernmental organizations (NGOs)) that may be relevant to the consultation strategy and to designing and implementing the resettlement activities.

7. *Legal framework.* The findings of an analysis of the legal framework, covering

- (a) the scope of the power of compulsory acquisition and imposition of land use restriction and the nature of compensation associated with it, in terms of both the valuation methodology and the timing of payment;
- (b) the applicable legal and administrative procedures, including a description of the remedies available to displaced persons in the judicial process and the normal timeframe for such procedures, and any available grievance redress mechanisms that may be relevant to the project;
- (c) laws and regulations relating to the agencies responsible for implementing resettlement activities; and

## ESS5. Land Acquisition, Restrictions on Land Use and Involuntary Resettlement

- (d) gaps, if any, between local laws and practices covering compulsory acquisition, imposition of land use restrictions and provision of resettlement measures and ESS 5, and the mechanisms to bridge such gaps.

8. *Institutional Framework*. The findings of an analysis of the institutional framework covering

- (a) the identification of agencies responsible for resettlement activities and NGOs/CSOs that may have a role in project implementation, including providing support for displaced persons;
- (b) an assessment of the institutional capacity of such agencies and NGOs/CSOs; and
- (c) any steps that are proposed to enhance the institutional capacity of agencies and NGOs/CSOs responsible for resettlement implementation.

9. *Eligibility*. Definition of displaced persons and criteria for determining their eligibility for compensation and other resettlement assistance, including relevant cut-off dates.

10. *Valuation of and compensation for losses*. The methodology to be used in valuing losses to determine their replacement cost; and a description of the proposed types and levels of compensation for land, natural resources and other assets under local law and such supplementary measures as are necessary to achieve replacement cost for them.

11. *Community participation*. Involvement of displaced persons (including host communities, where relevant)

- (a) a description of the strategy for consultation with, and participation of, displaced persons in the design and implementation of the resettlement activities;
- (b) a summary of the views expressed and how these views were taken into account in preparing the resettlement plan;
- (c) a review of the resettlement alternatives presented and the choices made by displaced persons regarding options available to them; and
- (d) institutionalized arrangements by which displaced people can communicate their concerns to project authorities throughout planning and implementation, and measures to ensure that such vulnerable groups as indigenous people, ethnic minorities, the landless, and women are adequately represented.

12. *Implementation schedule*. An implementation schedule providing anticipated dates for displacement, and estimated initiation and completion dates for all resettlement plan activities. The schedule should indicate how the resettlement activities are linked to the implementation of the overall project.

13. *Costs and budget*. Tables showing categorized cost estimates for all resettlement activities, including allowances for inflation, population growth, and other contingencies; timetables for expenditures;

## ESS5. Land Acquisition, Restrictions on Land Use and Involuntary Resettlement

sources of funds; and arrangements for timely flow of funds, and funding for resettlement, if any, in areas outside the jurisdiction of the implementing agencies.

14. *Grievance redress mechanism.* The plan describes affordable and accessible procedures for third-party settlement of disputes arising from displacement or resettlement; such grievance mechanisms should take into account the availability of judicial recourse and community and traditional dispute settlement mechanisms.
15. *Monitoring and evaluation.* Arrangements for monitoring of displacement and resettlement activities by the implementing agency, supplemented by third-party monitors as considered appropriate by the Bank, to ensure complete and objective information; performance monitoring indicators to measure inputs, outputs, and outcomes for resettlement activities; involvement of the displaced persons in the monitoring process; evaluation of results for a reasonable period after all resettlement activities have been completed; using the results of resettlement monitoring to guide subsequent implementation.
16. *Arrangements for adaptive management.* The plan should include provisions for adapting resettlement implementation in response to unanticipated changes in project conditions, or unanticipated obstacles to achieving satisfactory resettlement outcomes.

### *Additional Planning Requirements where Resettlement Involves Physical Displacement*

17. When project circumstances require the physical relocation of residents (or businesses), resettlement plans require additional information and planning elements. Additional requirements include:
  18. *Transitional assistance.* The plan describes assistance to be provided for relocation of household members and their possessions (or business equipment and inventory). The plan describes any additional assistance to be provided for households choosing cash compensation and securing their own replacement housing, including construction of new housing. If planned relocation sites (for residences or businesses) are not ready for occupancy at the time of physical displacement, the plan establishes a transitional allowance sufficient to meet temporary rental expenses and other costs until occupancy is available.
  19. *Site selection, site preparation, and relocation.* When planned relocation sites are to be prepared, the resettlement plan describes the alternative relocation sites considered and explains sites selected, covering
    - (a) institutional and technical arrangements for identifying and preparing relocation sites, whether rural or urban, for which a combination of productive potential, locational advantages, and other factors is better or at least comparable to the advantages of the old sites, with an estimate of the time needed to acquire and transfer land and ancillary resources;
    - (b) identification and consideration of opportunities to improve local living standards by supplemental investment (or through establishment of project benefit-sharing arrangements) in infrastructure, facilities or services;

## ESS5. Land Acquisition, Restrictions on Land Use and Involuntary Resettlement

- (c) any measures necessary to prevent land speculation or influx of ineligible persons at the selected sites;
  - (d) procedures for physical relocation under the project, including timetables for site preparation and transfer; and
  - (e) legal arrangements for regularizing tenure and transferring titles to those resettled, including provision of security of tenure for those previously lacking full legal rights to land or structures.
20. *Housing, infrastructure, and social services.* Plans to provide (or to finance local community provision of) housing, infrastructure (e.g., water supply, feeder roads), and social services (e.g., schools, health services); plans to maintain or provide a comparable level of services to host populations; any necessary site development, engineering, and architectural designs for these facilities.
21. *Environmental protection and management.* A description of the boundaries of the planned relocation sites; and an assessment of the environmental impacts of the proposed resettlement and measures to mitigate and manage these impacts (coordinated as appropriate with the environmental assessment of the main investment requiring the resettlement).
22. *Consultation on relocation arrangements.* The plan describes methods of consultation with physically displaced persons on their preferences regarding relocation alternatives available to them, including, as relevant, choices related to forms of compensation and transitional assistance, to relocating as individual households families or with preexisting communities or kinship groups, to sustaining existing patterns of group organization, and for relocation of, or retaining access to, cultural property (e.g. places of worship, pilgrimage centers, cemeteries).
23. *Integration with host populations.* Measures to mitigate the impact of planned relocation sites on any host communities, including
- (a) consultations with host communities and local governments;
  - (b) arrangements for prompt tendering of any payment due the hosts for land or other assets provided in support of planned relocation sites;
  - (c) arrangements for identifying and addressing any conflict that may arise between those resettled and host communities; and
  - (d) any measures necessary to augment services (e.g., education, water, health, and production services) in host communities to meet increased demands upon them, or to make them at least comparable to services available within planned relocation sites.

### **Additional Planning Requirements where Resettlement Involves Economic Displacement**

24. If land acquisition or restrictions on use of, or access to, land or natural resources may cause significant economic displacement, arrangements to provide displaced persons with sufficient opportunity to



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improve, or at least restore, their livelihoods are also incorporated into the resettlement plan, or into a separate livelihoods improvement plan. These include:

25. *Direct land replacement.* For those with agricultural livelihoods, the resettlement plan provides for an option to receive replacement land of equivalent productive value, or demonstrates that sufficient land of equivalent value is unavailable. Where replacement land is available, the plan describes methods and timing for its allocation to displaced persons.
26. *Loss of access to land or resources.* For those whose livelihood is affected by loss of land or resource use or access, including common property resources, the resettlement plan describes means to obtain substitutes or alternative resources, or otherwise provides support for alternative livelihoods.
27. *Support for alternative livelihoods.* For all other categories of economically displaced persons, the resettlement plan describes feasible arrangements for obtaining employment or for establishing a business, including provision of relevant supplemental assistance including skills training, credit, licenses or permits, or specialized equipment. As warranted, livelihood planning provides special assistance to women, minorities or vulnerable groups who may be disadvantaged in securing alternative livelihoods.
28. *Consideration of economic development opportunities.* The resettlement plan identifies and assesses any feasible opportunities to promote improved livelihoods as a result of resettlement processes. This may include, for example, preferential project employment arrangements, support for development of specialized products or markets, preferential commercial zoning and trading arrangements, or other measures. Where relevant, the plan should also assess the feasibility of prospects for financial distributions to communities, or directly to displaced persons, through establishment of project-based benefit-sharing arrangements.
29. *Transitional support.* The resettlement plan provides transitional support to those whose livelihoods will be disrupted. This may include payment for lost crops and lost natural resources, payment of lost profits for businesses, or payment of lost wages for employees affected by business relocation. The plan provides that the transitional support continues for the duration of the transition period.

### B. Resettlement Framework

30. The purpose of the resettlement framework is to clarify resettlement principles, organizational arrangements, and design criteria to be applied to subprojects or project components to be prepared during project implementation (see ESS5, para. 25). Once the subproject or individual project components are defined and the necessary information becomes available, such a framework will be expanded into a specific plan proportionate to potential risks and impacts. Project activities that will cause physical and/or economic displacement will not commence until such specific plans have been finalized and approved by the Bank.
31. The resettlement policy framework covers the following elements:

## ESS5. Land Acquisition, Restrictions on Land Use and Involuntary Resettlement

- (a) a brief description of the project and components for which land acquisition and resettlement are required, and an explanation of why a resettlement policy framework rather than a resettlement plan is being prepared;
- (b) principles and objectives governing resettlement preparation and implementation;
- (c) a description of the process for preparing and approving resettlement plans;
- (d) estimated displacement impacts and estimated numbers and categories of displaced persons, to the extent feasible;
- (e) eligibility criteria for defining various categories of displaced persons;
- (f) a legal framework reviewing the fit between borrower laws and regulations and Bank policy requirements and measures proposed to bridge any gaps between them;
- (g) methods of valuing affected assets;
- (h) organizational procedures for delivery of compensation and other resettlement assistance, including, for projects involving private sector intermediaries, the responsibilities of the financial intermediary, the government, and the private developer;
- (i) a description of the implementation process, linking resettlement implementation to civil works;
- (j) a description of grievance redress mechanisms;
- (k) a description of the arrangements for funding resettlement, including the preparation and review of cost estimates, the flow of funds, and contingency arrangements;
- (l) a description of mechanisms for consultations with, and participation of, displaced persons in planning, implementation, and monitoring; and
- (m) arrangements for monitoring by the implementing agency and, if required, by third-party monitors.

### C. Process Framework

32. A process framework is prepared when Bank-supported projects may cause restrictions in access to natural resources in legally designated parks and protected areas. The purpose of the process framework is to establish a process by which members of potentially affected communities participate in design of project components, determination of measures necessary to achieve the objectives of this ESS, and implementation and monitoring of relevant project activities.
33. Specifically, the process framework describes participatory processes by which the following activities will be accomplished

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- (a) *Project components will be prepared and implemented.* The document should briefly describe the project and components or activities that may involve new or more stringent restrictions on natural resource use. It should also describe the process by which potentially displaced persons participate in project design.
- (b) *Criteria for eligibility of affected persons will be determined.* The document should establish that potentially affected communities will be involved in identifying any adverse impacts, assessing of the significance of impacts, and establishing of the criteria for eligibility for any mitigating or compensating measures necessary.
- (c) *Measures to assist affected persons in their efforts to improve their livelihoods or restore them, in real terms, to pre-displacement levels, while maintaining the sustainability of the park or protected area will be identified.* The document should describe methods and procedures by which communities will identify and choose potential mitigating or compensating measures to be provided to those adversely affected, and procedures by which adversely affected community members will decide among the options available to them.
- (d) *Potential conflicts or grievances within or between affected communities will be resolved.* The document should describe the process for resolving disputes relating to resource use restrictions that may arise between or among affected communities, and grievances that may arise from members of communities who are dissatisfied with the eligibility criteria, community planning measures, or actual implementation.

Additionally, the process framework should describe arrangements relating to the following

- (e) *Administrative and legal procedures.* The document should review agreements reached regarding the process approach with relevant administrative jurisdictions and line ministries (including clear delineation for administrative and financial responsibilities under the project).
- (f) *Monitoring arrangements.* The document should review arrangements for participatory monitoring of project activities as they relate to (beneficial and adverse) impacts on persons within the project impact area, and for monitoring the effectiveness of measures taken to improve (or at minimum restore) incomes, livelihoods and living standards.

## **Environmental and Social Standard 6.**

### **Biodiversity Conservation and Sustainable Management of Living Natural Resources**

#### **Introduction**

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1. ESS6 recognizes that protecting and conserving biodiversity and sustainably managing living natural resources are fundamental to sustainable development. Biodiversity is defined as the variability among living organisms from all sources including, inter alia, terrestrial, marine and other aquatic ecosystems and the ecological complexes of which they are a part; this includes diversity within species, between species, and of ecosystems. Biodiversity often underpins ecosystem services valued by humans. Impacts on biodiversity can therefore often adversely affect the delivery of ecosystem services.<sup>1</sup>
  
2. ESS6 recognizes the importance of maintaining core ecological functions of habitats, including forests, and the biodiversity they support. Habitat is defined as a terrestrial, freshwater, or marine geographical unit or airway that supports assemblages of living organisms and their interactions with the non-living environment. All habitats support complexities of living organisms and vary in terms of species diversity, abundance and importance.
  
3. This ESS also addresses sustainable management of primary production<sup>2</sup> and harvesting<sup>3</sup> of living natural resources.
  
4. ESS6 recognizes the need to consider the livelihood of project-affected parties, including Indigenous Peoples, whose access to, or use of, biodiversity or living natural resources may be affected by a project. The potential, positive role of project-affected parties, including Indigenous Peoples, in biodiversity conservation and sustainable management of living natural resources is also considered.

#### **Objectives**

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- To protect and conserve biodiversity and habitats.
- To apply the mitigation hierarchy<sup>4</sup> and the precautionary approach in the design and implementation of projects that could have an impact on biodiversity.
- To promote the sustainable management of living natural resources.
- To support livelihoods of local communities, including Indigenous Peoples, and inclusive economic development, through the adoption of practices that integrate conservation needs and development priorities.

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<sup>1</sup> Requirements related to ecosystem services are set out in ESS1.

<sup>2</sup> Primary production of living natural resources is cultivation or rearing of plants or animals, including annual and perennial crop farming, animal husbandry (including livestock), aquaculture, plantation forestry, etc.

<sup>3</sup> Harvesting of living natural resources, such as fish and all other types of aquatic and terrestrial organisms and timber, refers to productive activities that include extraction of these resources from natural and modified ecosystems and habitats.

<sup>4</sup> As set out in ESS1.

## ESS6. Biodiversity Conservation and Sustainable Management of Living Natural Resources

### Scope of Application

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5. The applicability of this ESS is established during the environmental and social assessment described in ESS1.
6. Based on the environmental and social assessment, the requirements of this ESS are applied to all projects that potentially affect biodiversity or habitats, either positively or negatively, directly or indirectly, or that depend upon biodiversity for their success.
7. This ESS also applies to projects that involve primary production and/or harvesting of living natural resources.

### 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-related impacts on habitats and the biodiversity they support. This assessment will consider threats to biodiversity, for example habitat loss, degradation and fragmentation, invasive alien species, overexploitation, hydrological changes, nutrient loading, pollution and incidental take, as well as projected climate change impacts. It will determine the significance of biodiversity or habitats based on their vulnerability and irreplaceability at a global, regional or national level and will also take into account the differing values attached to biodiversity and habitats by project-affected parties and other interested parties.
9. The Borrower will avoid adverse impacts on biodiversity and habitats. When avoidance of adverse impacts is not possible, the Borrower will implement measures to minimize adverse impacts and restore biodiversity in accordance with the mitigation hierarchy provided in ESS1 and with the requirements of this ESS. The Borrower will ensure that competent biodiversity expertise is utilized to conduct the environmental and social assessment and the verification of the effectiveness and feasibility of mitigation measures. Where significant risks and adverse impacts on biodiversity have been identified, the Borrower will develop and implement a Biodiversity Management Plan<sup>5</sup>.

### Assessment of Risks and Impacts

10. Through the environmental and social assessment, the Borrower will identify the potential project-related risks to and impacts on habitats and the biodiversity that they support. In accordance with the mitigation hierarchy, the Borrower will make the initial assessment of project risks and impacts

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<sup>5</sup> Depending on the nature and the scale of the risks and impacts of the project, the Biodiversity Management Plan may be a stand-alone document or it may be included as part of the ESCP prepared under ESS1.

## ESS6. Biodiversity Conservation and Sustainable Management of Living Natural Resources

without taking into account the possibility of biodiversity offsets.<sup>6</sup> The assessment undertaken by the Borrower will include identification of the types of habitats potentially affected and consideration of potential risks to and impacts on the ecological function of the habitats. The assessment will encompass any areas of potential biodiversity importance that may be affected by the project, whether or not they are protected under national law. The extent of the assessment will be proportionate to the risks and impacts, based on their likelihood, significance and severity, and will reflect the concerns of project-affected parties and other interested parties.

11. The Borrower's assessment will include characterization of baseline conditions to a degree that is proportional and specific to the anticipated risk and significance of impacts. In planning and undertaking environmental and social assessment related to the biodiversity baseline, the Borrower will follow relevant GIIP utilizing desktop review, consultation with experts, and field-based approaches, as appropriate. Where further investigations are needed to evaluate the significance of potential impacts, the Borrower will carry out additional investigation and/or monitoring before undertaking any project-related activities, and before taking irrevocable decisions about project design that could cause significant adverse impacts to potentially affected habitats and the biodiversity that they support.

12. Where the environmental and social assessment has identified potential risks and impacts on biodiversity or habitats, the Borrower will manage those risks and impacts in accordance with the mitigation hierarchy and GIIP. The Borrower will adopt a precautionary approach and apply adaptive management practices in which the implementation of mitigation and management measures are responsive to changing conditions and the results of project monitoring.

### *Conservation of Biodiversity and Habitats*

13. "Habitat" is defined as a terrestrial, freshwater, or marine geographical unit or airway that supports assemblages of living organisms and their interactions with the non-living environment. Habitats vary in their significance for conserving globally, regionally and nationally important biodiversity, their sensitivity to impacts and in the significance different stakeholders attribute to them. Because, in most instances, habitat loss, degradation or fragmentation represents the greatest threat to biodiversity, much of the focus of biodiversity conservation actions is on maintaining or restoring suitable habitats.

14. This ESS requires a differentiated risk management approach to habitats based on their sensitivity and values. This ESS addresses all habitats, categorized as 'modified habitat', 'natural habitat', and 'critical habitat', along with 'legally protected and internationally and regionally recognized areas of biodiversity value' which may encompass habitat in any or all of these categories.

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<sup>6</sup> Biodiversity offsets are measurable conservation outcomes resulting from actions designed to compensate for significant residual adverse biodiversity impacts arising from project development and persisting after appropriate avoidance, minimization and restoration measures have been taken. Therefore, potential offsets should not be considered in determining inherent risks of the project.

## ESS6. Biodiversity Conservation and Sustainable Management of Living Natural Resources

15. For the protection and conservation of habitats and the biodiversity they support, the mitigation hierarchy includes biodiversity offsets. Offsets will be considered as a last resort, only if significant residual adverse impacts remain after all technically and financially feasible avoidance, minimization, and restoration measures have been considered.

16. A biodiversity offset will be designed and implemented to achieve measurable, additional, and long-term conservation outcomes<sup>7</sup> that can reasonably be expected to result in no net loss<sup>8</sup> and preferably a net gain<sup>9</sup> of biodiversity. In the case of an offset used as mitigation for residual adverse impacts on any area of critical habitat, a net gain is required. The design of a biodiversity offset will adhere to the “like-for-like or better” principle<sup>10</sup> and will be carried out in alignment with GIIP.

17. When a Borrower is considering the development of an offset as part of the mitigation strategy, stakeholders and qualified experts with demonstrated knowledge in offset design and implementation will be involved. The Borrower will demonstrate the long-term technical and financial feasibility of undertaking the offset. When offsets are proposed for residual adverse impacts on critical habitat, the Borrower will engage one or more independent internationally recognized experts to advise as to whether the proposed offset is feasible and whether, in their professional opinion, it can be reasonably expected to result in a sustainable net gain of biodiversity values for which the critical habitat was designated.

18. Certain residual adverse impacts cannot be offset, particularly if the affected area is unique and irreplaceable from a biodiversity standpoint. In such cases, the Borrower will not undertake the project unless it is redesigned to avoid the need for such offset, and to meet the requirements of this ESS.

### **Modified Habitat**

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<sup>7</sup> Measurable conservation outcomes for biodiversity will be demonstrated *in situ* (in natural conditions, not in captivity or depository) and on an appropriate geographic scale (e.g., at the local, national or regional level).

<sup>8</sup> ‘No net loss’ is defined as the point at which project-related biodiversity losses are balanced by gains resulting from measures taken to avoid and minimize these impacts, to undertake on-site restoration and finally to offset significant residual impacts, if any, on an appropriate geographic scale.

<sup>9</sup> ‘Net gains’ are additional conservation outcomes that can be achieved for the biodiversity values for which the natural or critical habitat was designated. Net gains may be achieved through full application of the mitigation hierarchy that may include the development of a biodiversity offset and/or, in instances where the Borrower could meet the requirements of paragraph 24 of this ESS without a biodiversity offset, through the implementation of additional programs *in situ* to enhance habitat, and protect and conserve biodiversity.

<sup>10</sup> The principle of “like-for-like or better” means that in most cases biodiversity offsets should be designed to conserve the same biodiversity values that are being affected by the project (an “in kind” offset). In certain situations, however, areas of biodiversity to be affected by the project may be neither a national nor a local priority, and there may be other areas of biodiversity with like values that are a higher priority for conservation and sustainable use and under imminent threat or in need of protection or effective management. In these situations, it may be appropriate to consider an “out-of-kind” offset that involves “trading up” (i.e., where the offset targets biodiversity of higher priority than that affected by the project). Regardless of type, any areas considered as offsets for residual adverse impacts in critical habitats will also be critical habitats, meeting the criteria of paragraph 24 of this ESS.

## ESS6. Biodiversity Conservation and Sustainable Management of Living Natural Resources

19. Modified habitats are areas that may contain a large proportion of plant and/or animal species of non-native origin, and/or where human activity has substantially modified an area's primary ecological functions and species composition<sup>11</sup>. Modified habitats may include, for example, areas managed for agriculture, forest plantations, reclaimed<sup>12</sup> coastal zones, and reclaimed wetlands.

20. This ESS applies to those areas of modified habitat that include significant biodiversity value, as determined by the environmental and social assessment required in ESS1. The Borrower will avoid or minimize impacts on such biodiversity and implement mitigation measures as appropriate.

### ***Natural Habitat***

21. Natural habitats are areas composed of viable assemblages of plant and/or animal species of largely native origin, and/or where human activity has not essentially modified an area's primary ecological functions and species composition.

22. If natural habitats are identified as part of the assessment, the Borrower will seek to avoid adverse impacts on them in accordance with the mitigation hierarchy. Where natural habitats have the potential to be adversely affected by the project, the Borrower will not implement any project related activities unless:

- (a) There are no technically and financially feasible alternatives; and
- (b) Appropriate mitigation measures are put in place, in accordance with the mitigation hierarchy, to achieve no net loss and, where feasible, preferably a net gain of biodiversity over the long term. When residual impacts remain despite best efforts to avoid, minimize and mitigate impacts, and where appropriate and supported by relevant stakeholders, mitigation measures may include biodiversity offsets adhering to the principle of "like-for-like or better".

### ***Critical Habitat***

23. Critical habitat is defined as areas with high biodiversity importance or value, including:

- (a) habitat of significant importance to Critically Endangered or Endangered species, as listed in the IUCN Red List of threatened species or equivalent national approaches;
- (b) habitat of significant importance to endemic or restricted-range species;
- (c) habitat supporting globally or nationally significant concentrations of migratory or congregatory species;

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<sup>11</sup> A habitat will not be deemed to be a modified habitat where it has been converted in anticipation of the project.

<sup>12</sup> Reclamation as used in this context is the process of creating new land from sea or other aquatic areas for productive use.



## ESS6. Biodiversity Conservation and Sustainable Management of Living Natural Resources

- (d) highly threatened or unique ecosystems;
- (e) ecological functions or characteristics that are needed to maintain the viability of the biodiversity values described above in (a) to (d).

24. In areas of critical habitat, the Borrower will not implement any project activities that have potential adverse impacts unless all of the following conditions are met:

- (a) No other viable alternatives within the region exist for development of the project in habitats of lesser biodiversity value;
- (b) All due process required under international obligations or national law that is a prerequisite to a country granting approval for project activities in or adjacent to a critical habitat has been complied with;
- (c) The potential adverse impacts, or likelihood of such, on the habitat will not lead to measurable net reduction or negative change in those biodiversity values for which the critical habitat was designated;
- (d) The project is not anticipated to lead to a net reduction in the population<sup>13</sup> of any Critically Endangered, Endangered, or restricted-range species, over a reasonable time period;<sup>14</sup>
- (e) The project will not involve significant conversion or significant degradation of critical habitats. In circumstances where the project involves new or renewed forestry or agricultural plantations, it will not convert or degrade any critical habitat;
- (f) The project's mitigation strategy will be designed to achieve net gains of those biodiversity values for which the critical habitat was designated; and
- (g) A robust and appropriately designed, long-term biodiversity monitoring and evaluation program aimed at assessing the status of the critical habitat is integrated into the Borrower's management program.

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<sup>13</sup> Net reduction is a singular or cumulative loss of individuals that affects the species' ability to persist at the global and/or regional/national scales for many generations or over a long period of time. The scale (i.e., global and/or regional/national) of the potential net reduction is determined based on the species' listing on either the (global) IUCN Red List and/or on regional/national lists. For species listed on both the (global) IUCN Red List and the national/regional lists, the net reduction will be based on the national/regional population.

<sup>14</sup> The timeframe in which Borrowers will demonstrate "no net reduction" of Critically Endangered and Endangered, endemic and /or restricted-range species will be determined on a case-by-case basis and, where appropriate, in consultation with qualified experts and taking into account the species' biology.

## ESS6. Biodiversity Conservation and Sustainable Management of Living Natural Resources

25. Where a Borrower has satisfied the conditions set out in paragraph 24, the project's mitigation strategy will be described in a Biodiversity Management Plan and set out in the legal agreement (including the ESCP).

### *Legally Protected and Internationally Recognized Areas of High Biodiversity Value*

26. Where the project occurs within or has the potential to adversely affect an area that is legally protected<sup>15</sup>, designated for protection, or regionally or internationally recognized,<sup>16</sup> the Borrower will ensure that any activities undertaken are consistent with the area's legal protection status and management objectives. The Borrower will also identify and assess potential project-related adverse impacts and apply the mitigation hierarchy so as to prevent or mitigate adverse impacts from projects that could compromise the integrity, conservation objectives or biodiversity importance of such an area.

27. The Borrower will meet the requirements of paragraphs 13 through 25 of this ESS, as applicable. In addition, the Borrower will:

- (a) Demonstrate that the proposed development in such areas is legally permitted;
- (b) Act in a manner consistent with any government recognized management plans for such areas;
- (c) Consult and involve protected area sponsors and managers, project-affected parties including Indigenous Peoples, and other interested parties on planning, designing, implementing, monitoring, and evaluating the proposed project, as appropriate; and
- (d) Implement additional programs, as appropriate, to promote and enhance the conservation aims and effective management of the area.

### *Invasive Alien Species*

28. Intentional or accidental introduction of alien, or non-native, species of flora and fauna into areas where they are not normally found can be a significant threat to biodiversity, since some alien species can become invasive, spreading rapidly and destroying or out-competing native species.

29. The Borrower will not intentionally introduce any new alien species (not currently established in the country or region of the project) unless this is carried out in accordance with the existing regulatory framework for such introduction. Notwithstanding the above, the Borrower will not deliberately introduce any alien species with a high risk of invasive behavior regardless of whether such introductions are

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<sup>15</sup> This ESS recognizes legally protected areas that meet the following definition: "A clearly defined geographical space, recognized, dedicated and managed, through legal or other effective means, to achieve the long-term conservation of nature with associated ecosystem services and cultural values." For the purpose of this ESS, this includes areas proposed by governments for such designation.

<sup>16</sup> Internationally recognized areas of high biodiversity value include World Heritage Natural Sites, Biosphere Reserves, Ramsar Wetlands of International Importance, Key Biodiversity Areas, Important Bird Areas, and Alliance for Zero Extinction Sites, among others.

## ESS6. Biodiversity Conservation and Sustainable Management of Living Natural Resources

permitted under the existing regulatory framework. All introductions of alien species will be subject to a risk assessment (as part of the Borrower's environmental and social assessment) to determine the potential for invasive behavior. The Borrower will implement measures to avoid the potential for accidental or unintended introductions including the transportation of substrates and vectors (such as soil, ballast, and plant materials) that may harbor alien species.

30. Where alien species are already established in the country or region of the proposed project, the Borrower will exercise diligence in not spreading them into areas in which they have not already become established. Where feasible, the Borrower will take measures to eradicate such species from the natural habitats over which the Borrower has management control.

### *Sustainable Management of Living Natural Resources*

31. The Borrower with projects involving primary production and harvesting of living natural resources will assess the overall sustainability of these activities, as well as their potential impacts on local, nearby or ecologically linked habitats, biodiversity and communities, including Indigenous Peoples.

32. The Borrower will manage living natural resources in a sustainable manner, through the application of good management practices and available technologies. Where such primary production practices are codified in standards that are globally, regionally, or nationally recognized, particularly for industrial-scale operations, the Borrower and the Bank will agree on the standards to be applied. In the absence of relevant standards for the particular living natural resources in the country concerned, the Borrower will apply GIIP.

33. For projects involving small scale producers<sup>17</sup>, the Borrower will require producers to operate in a sustainable manner and to gradually improve their practices where such opportunities exist. Where the project consists of a large number of small producers in the same geographical area, the Borrower will assess the potential for cumulative risks and impacts.

34. Where the project includes commercial agriculture and forestry plantations (particularly projects involving land clearing or afforestation), the Borrower will locate such projects on land that is already converted or highly degraded (excluding any land that has been converted in anticipation of the project). In view of the potential for plantation projects to introduce invasive alien species and threaten biodiversity, such projects will be designed to prevent and mitigate these potential threats to natural habitats. When the Borrower invests in production forestry in natural forests, these forests will be managed sustainably.

35. Where projects involve harvesting of living natural resources, the Borrower will require that these resources are managed in a sustainable manner. In particular, forests and aquatic systems are principal providers of these resources, and need to be managed as specified below.

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<sup>17</sup> Small scale can be determined by the national context of a given country and is generally relative to the average size of household landholdings.

## ESS6. Biodiversity Conservation and Sustainable Management of Living Natural Resources

- (a) For projects involving industrial-scale commercial forest harvesting operations, the Borrower will ensure such operations are certified under an independent forest certification system<sup>18</sup> or adhere to a time-bound phased action plan acceptable to the Bank for achieving certification to such a system.
- (b) For projects involving forest harvesting operations conducted by small-scale producers, by local communities under community forest management, or by such entities under joint forest management arrangements, where such operations are not directly associated with an industrial-scale operation, the Borrower will ensure that they: (i) have achieved a standard of sustainable forest management developed with the meaningful participation of project-affected parties including Indigenous Peoples, consistent with the principles and criteria of sustainable forest management, even if not formally certified; or (ii) adhere to a time-bound action plan to achieve such a standard. The action plan will be developed with the meaningful participation of project-affected parties and be acceptable to the Bank. The Borrower will ensure that all such operations are monitored with the meaningful participation of project-affected parties.
- (c) For projects involving industrial-scale harvesting of fish populations and all other types of marine and freshwater organisms, the Borrower will demonstrate that their activities are being undertaken in a sustainable manner, consistent with the principles and criteria for sustainable harvesting.

36. For projects that do not involve primary production or harvesting of living natural resources and entail salvage logging, for example in areas to be inundated, the Borrower will limit cleared areas to a minimum and justified by the project's technical requirements, and that relevant national legislation is being followed.

37. The Borrower involved in the industrial production of crops and animal husbandry will follow GIIP to avoid or minimize adverse risks or impacts. The Borrower involved in large-scale commercial farming, including breeding, rearing, housing, transport, and slaughter, of animals for meat or other animal products (such as milk, eggs, wool) will employ GIIP<sup>19</sup> in animal husbandry techniques, with due consideration for religious and cultural principles.

### B. Primary Suppliers

38. Where a Borrower is purchasing natural resource commodities, including food, timber and fiber, that are known to originate from areas where there is a risk of significant conversion or significant

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<sup>18</sup> An independent forest certification system will require independent, third-party assessment of forest management performance. It will be cost-effective and based on objective and measurable performance standards that are defined at the national level and are compatible with internationally accepted principles and criteria of sustainable forest management.

<sup>19</sup> Such as the IFC Good Practice Note on Improving Animal Welfare in Livestock Operations.

## ESS6. Biodiversity Conservation and Sustainable Management of Living Natural Resources

degradation of natural or critical habitats, the Borrower's environmental and social assessment will include an evaluation of the systems and verification practices used by the primary suppliers.<sup>20</sup>

39. The Borrower will establish systems and verification practices which will:
- (a) identify where the supply is coming from and the habitat type of the source area;
  - (b) where possible, limit procurement to those suppliers that can demonstrate<sup>21</sup> that they are not contributing to significant conversion or degradation of natural or critical habitats; and
  - (c) where possible and within a reasonable period, shift the Borrower's primary suppliers to suppliers that can demonstrate that they are not significantly adversely impacting these areas.
40. The ability of the Borrower to fully address these risks will depend upon the Borrower's level of control or influence over its primary suppliers.

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<sup>20</sup> Primary suppliers are those suppliers who, on an ongoing basis, provide directly to the project goods or materials essential for the core functions of the project. Core functions of a project constitute those production and/or service processes essential for a specific project activity without which the project cannot continue.

<sup>21</sup> This may be demonstrated by delivery of certified products or achieving compliance with one or more credible standards for sustainable management of living natural resources in respect of certain commodities or locations. This will include, where appropriate, compliance with independent certification systems or progress towards achieving compliance.

## Environmental and Social Standard 7.

### Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities

#### Introduction

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1. This ESS applies to a distinct social and cultural group identified in accordance with paragraphs 8 and 9 of this ESS. The terminology used for such groups varies from country to country, and often reflects national considerations. ESS7 uses the term “*Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities*”<sup>1</sup>, recognizing that groups identified under paragraphs 8 and 9 may be referred to in different countries by different terms. Such terms include “Sub-Saharan African historically underserved traditional local communities”, “indigenous ethnic minorities”, “aboriginals”, “hill tribes”, “vulnerable and marginalized groups”, “minority nationalities”, “scheduled tribes”, “first nations” or “tribal groups”. ESS7 applies to all such groups, providing they meet the criteria set out in paragraphs 8 and 9. For the purposes of this ESS, the term “Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities” includes all such alternative terminology.
  
2. ESS7 contributes to poverty reduction and sustainable development by ensuring that projects supported by the Bank enhance opportunities for Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities to participate in, and benefit from, the development process in ways that do not threaten their unique cultural identities and well-being.<sup>2</sup>
  
3. This ESS recognizes that Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities have identities and aspirations that are distinct from mainstream groups in national societies and often are disadvantaged by traditional models of development. In many instances, they are among the most economically marginalized and vulnerable segments of the population. Their economic, social, and legal status frequently limits their capacity to defend their rights to, and interests in, land, territories and natural and cultural resources, and may restrict their ability to participate in and benefit from development projects. In many cases, they do not receive equitable access to project benefits, or benefits are not devised or delivered in a form that is culturally appropriate, and they may not always be adequately consulted about the design or implementation of projects that would profoundly affect their lives or communities. This ESS recognizes that the roles of men and women in indigenous cultures are often different from those in the mainstream groups, and that women and children have frequently been marginalized both within their own communities and as a result of external developments, and may have specific needs.

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<sup>1</sup> ESS7 applies to a distinct social and cultural group, which has been identified as set out in paragraphs 8 and 9. The use of the terms “*Indigenous Peoples*”, “*Sub-Saharan African Historically Underserved Traditional Local Communities*” and any other alternative terminology does not broaden the scope of application of this ESS, in particular the criteria in paragraphs 8 and 9.

<sup>2</sup> This ESS recognizes that Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities have their own understanding and vision of their well-being and that, broadly, this is a holistic concept that relates to their intrinsic relationship to lands and traditional practices and is reflective of their way of life. This captures their core principles and aspirations of reaching harmony with their surroundings, and achieving solidarity, complementarity and communal living.

## ESS7. Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities

4. Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities are inextricably linked to the land on which they live and the natural resources on which they depend. They are therefore particularly vulnerable if their land and resources are transformed, encroached upon, or significantly degraded. Projects may also undermine language use, cultural practices, institutional arrangements, and religious or spiritual beliefs that Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities view as essential to their identity or well-being. However, projects may also create important opportunities for Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities to improve their quality of life and well-being. A project may create improved access to markets, schools, clinics and other services that seek to improve living conditions. Projects can create opportunities for Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities to participate in, and benefit from project-related activities that may help them fulfill an aspiration to play an active and meaningful role as citizens and partners in development. Furthermore, this ESS recognizes that Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities play a vital role in sustainable development.

5. This ESS recognizes that the situation of Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities varies from region to region and from country to country. The particular national and regional contexts and the different historical and cultural backgrounds will form part of the environmental and social assessment of the project. In this way, the assessment is intended to support identification of measures to address concerns that project activities may exacerbate tensions between different ethnic or cultural groups.

### Objectives

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- To ensure that the development process fosters full respect for the human rights, dignity, aspirations, identity, culture, and natural resource-based livelihoods of Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities.
- To avoid adverse impacts of projects on Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities, or when avoidance is not possible, to minimize, mitigate and/or compensate for such impacts.
- To promote sustainable development benefits and opportunities for Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities in a manner that is accessible, culturally appropriate and inclusive.
- To improve project design and promote local support by establishing and maintaining an ongoing relationship based on meaningful consultation with the Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities affected by a project throughout the project's life-cycle.
- To obtain the Free, Prior, and Informed Consent (FPIC)<sup>3</sup> of affected Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities in the three circumstances described in this ESS.

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<sup>3</sup> For the purposes of this ESS, FPIC is defined in paragraphs 25 and 26.

## ESS7. Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities

- To recognize, respect and preserve the culture, knowledge, and practices of Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities, and to provide them with an opportunity to adapt to changing conditions in a manner and in a timeframe acceptable to them.

### Scope of Application

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6. This ESS applies to a distinct social and cultural group identified in accordance with paragraphs 8 and 9 of this ESS. In some countries, such groups are referred to as 'Indigenous Peoples'. In other countries they may be referred to by other terms, such as "Sub-Saharan African historically underserved traditional local communities", "indigenous ethnic minorities", "aboriginals", "hill tribes", "vulnerable and marginalized groups", "minority nationalities", "scheduled tribes", "first nations", or "tribal groups." As the applicability of the term "Indigenous Peoples" varies widely from country to country, the Borrower may request the Bank to use an alternative terminology for the Indigenous Peoples as appropriate to the national context of the Borrower<sup>4</sup>. Regardless of which terminology is used, the requirements of this ESS will apply to all such groups. This ESS uses the term "Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities" in recognition of the different terminology which may be used to refer to Indigenous Peoples in the national context.

7. This ESS applies whenever Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities (as they may be referred to in the national context) are present in, or have collective attachment to a proposed project area, as determined during the environmental and social assessment. This ESS applies regardless of whether Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities are affected positively or negatively, and regardless of the significance of any such impacts<sup>5</sup>. This ESS also applies irrespective of the presence or absence of discernible economic, political or social vulnerabilities, although the nature and extent of vulnerability will be a key variable in designing plans to promote equitable access to benefits or to mitigate adverse impacts.

8. In this ESS, the term "Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities" (or as they may be referred to in the national context using an alternative terminology) is used in a generic sense to refer exclusively to a distinct social and cultural group possessing the following characteristics in varying degrees:

- (a) Self-identification as members of a distinct indigenous social and cultural group and recognition of this identity by others; and

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<sup>4</sup> The purpose of ESS7 is not to specify terminology to identify or describe these groups, which will be defined solely in accordance with the criteria set out in paragraphs 8 and 9.

<sup>5</sup> The scope and scale of consultation, as well as subsequent project planning and documentation processes, will be proportionate to the scope and scale of potential project risks and impacts as they may affect Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities. See paragraph 11.



## ESS7. Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities

- (b) Collective attachment<sup>6</sup> to geographically distinct habitats, ancestral territories, or areas of seasonal use or occupation, as well as to the natural resources in these areas; and
- (c) Customary cultural, economic, social, or political institutions that are distinct or separate from those of the mainstream society or culture; and
- (d) A distinct language or dialect, often different from the official language or languages of the country or region in which they reside.

9. This ESS also applies to communities or groups of Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities who, during the lifetime of members of the community or group, have lost collective attachment to distinct habitats or ancestral territories in the project area, because of forced severance, conflict, government resettlement programs, dispossession of their land, natural disasters, or incorporation of such territories into an urban area.<sup>7</sup> This ESS also applies to forest dwellers, hunter-gatherers, pastoralists or other nomadic groups, subject to satisfaction of the criteria in paragraph 8.

10. Following a determination by the World Bank that Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities are present in, or have collective attachment to the project area, the Borrower may be required to seek inputs from appropriate specialists to meet the consultation, planning, or other requirements of this ESS. The World Bank may follow national processes during project screening for the identification, in accordance with paragraphs 8 and 9, of Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities (as they may be referred to in the national context), where these processes meet the requirements of this ESS<sup>8</sup>.

### Requirements

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#### A. General

11. A key purpose of this ESS is to ensure that Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities present in, or with collective attachment to, the project area are fully consulted about, and have opportunities to actively participate in, project design and the

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<sup>6</sup> “Collective attachment” means that for generations there has been a physical presence in and economic ties to land and territories traditionally owned, or customarily used or occupied, by the group concerned, including areas that hold special significance for it, such as sacred sites.

<sup>7</sup> Care must be taken in application of this ESS in urban areas. Generally, it does not apply to individuals or small groups migrating to urban areas in search of economic opportunity. It may apply, however, where Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities have established distinct communities in or near urban areas but still possess the characteristics stated in paragraph 8.

<sup>8</sup> In conducting this screening, the Bank may seek the technical advice of specialists with expertise on the social and cultural groups in the project area. The Bank will also consult the Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities concerned and the Borrower. See paragraph 54 in the World Bank Environmental and Social Policy for Investment Project Financing.

## **ESS7. Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities**

determination of project implementation arrangements. The scope and scale of consultation, as well as subsequent project planning and documentation processes, will be proportionate to the scope and scale of potential project risks and impacts as they may affect Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities.

12. The Borrower will assess the nature and degree of the expected direct and indirect economic, social, cultural (including cultural heritage),<sup>9</sup> and environmental impacts on Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities who are present in, or have collective attachment to, the project area. The Borrower will prepare a consultation strategy and identify the means by which affected Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities will participate in project design and implementation. Subsequently, effective project design and documentation will be developed as set out below.

13. The Borrower's proposed measures and actions will be developed in consultation with the affected Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities and contained in a time-bound plan, such as an Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities plan. The scope and scale of the plan will be proportionate to the potential risks and impacts of the project. The format and title of the plan will be adjusted as appropriate to the project or country context, and will reflect any alternative terminology for the Indigenous Peoples, as referred to in paragraph 6.

### ***Projects Designed Solely to Benefit Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities***

14. Where projects are designed to provide benefits only to Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities, the Borrower will proactively engage with the relevant Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities to ensure their ownership and participation in project design, implementation, monitoring and evaluation. The Borrower will also consult with them as to the cultural appropriateness of proposed services or facilities, and will seek to identify and address any economic or social constraints (including those relating to gender) that may limit opportunities to benefit from, or participate in, the project.

15. When Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities are the sole, or the overwhelming majority of, project beneficiaries, the elements of the plan may be included in the overall project design, and preparation of a stand-alone Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities plan is not necessary.

### ***Projects Where Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities Are Not the Sole Beneficiaries***

16. When Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities are not the only beneficiaries of the project, planning requirements will vary with circumstances. The Borrower will design and implement the project in a manner that provides affected

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<sup>9</sup> Additional requirements on protection of cultural heritage are set out in ESS8.

## **ESS7. Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities**

Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities with equitable access to project benefits. The concerns or preferences of Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities will be addressed through meaningful consultation and project design, and documentation will summarize the consultation results and describe how Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities' issues have been addressed in project design. Arrangements for ongoing consultations during implementation and monitoring will also be described.

17. The Borrower will prepare a time-bound plan, such as an Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities plan setting out the measures or actions proposed. In some circumstances, a broader integrated community development plan<sup>10</sup> will be prepared, addressing all beneficiaries of the project and incorporating necessary information relating to the affected Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities.

### ***Avoidance of Adverse Impacts***

18. Adverse impacts on Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities will be avoided where possible. Where alternatives have been explored and adverse impacts are unavoidable, the Borrower will minimize and/or compensate for these impacts in a culturally appropriate manner proportionate to the nature and scale of such impacts and the form and degree of vulnerability of the affected Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities.

19. When situations arise in which projects potentially affect remote groups with limited external contact, also known as peoples "in voluntary isolation", "isolated peoples" or "in initial contact", the Borrower will take appropriate measures to recognize, respect and protect their land and territories, environment, health and culture, as well as measures to avoid all undesired contact with them as a consequence of the project. The aspects of the project that would result in such undesired contact will not be processed further.

### ***Mitigation and Development Benefits***

20. The Borrower and affected Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities will identify mitigation measures in alignment with the mitigation hierarchy described in ESS1 as well as opportunities for culturally appropriate and sustainable development benefits.

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<sup>10</sup> A community development plan may be appropriate in circumstances where other people, in addition to the Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities, will be affected by the risks and impacts of the project; where more than one Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities group is to be included; or where the regional or national scope of a programmatic project incorporates other population groups. In certain circumstances, a planning framework will be appropriate.

## **ESS7. Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities**

The scope of assessment and mitigation will include cultural impacts<sup>11</sup> as well as physical impacts. The Borrower will ensure the timely delivery of agreed measures to affected Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities.

21. The determination, delivery, and distribution of compensation and shared benefits to affected Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities will take account of the institutions, rules and customs of these Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities as well as their level of interaction with mainstream society. Eligibility for compensation can either be individually or collectively-based, or be a combination of both.<sup>12</sup> Where compensation occurs on a collective basis, as far as practicable mechanisms that promote the effective distribution of compensation to all eligible members, or collective use of compensation in a manner that benefits all members of the group, will be defined and implemented.

22. Various factors including, but not limited to, the nature of the project, the project context and the vulnerability of affected Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities will determine how affected Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities will benefit from the project. Identified opportunities will aim to address the goals and preferences of the affected Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities, including improving their standard of living and livelihoods in a culturally appropriate manner, and to foster the long-term sustainability of the natural resources on which they depend.

### ***Meaningful Consultation Tailored to Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities***

23. To promote effective project design, to build local project support or ownership, and to reduce the risk of project-related delays or controversies, the Borrower will undertake an engagement process with affected Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities, as required in ESS10. This engagement process will include stakeholder analysis and engagement planning, disclosure of information, and meaningful consultation, in a culturally appropriate and gender and inter-generationally inclusive manner. For Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities, the process of meaningful consultation will also:

- (a) Involve Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities' representative bodies and organizations<sup>13</sup> (e.g.,

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<sup>11</sup> Considerations relating to cultural impacts may include, for example, the language of instruction and curriculum content in education projects, or culturally sensitive or gender-sensitive procedures in projects such as health projects, and others.

<sup>12</sup> Where control of resources, assets and decision making are predominantly collective in nature, efforts will be made to ensure that, where possible, benefits and compensation are collective, and take account of intergenerational differences and needs.

<sup>13</sup> For projects that have a regional or national scope, the meaningful consultation may be carried out with Indigenous organizations or representatives at the relevant national or regional levels. These organizations or representatives will be identified in the stakeholder engagement process described in ESS10.

## ESS7. Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities

councils of elders or village councils, or chieftains) and, where appropriate, other community members;

- (b) Provide sufficient time for Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities' decision-making processes;<sup>14</sup> and
- (c) Allow for Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities' effective participation in the design of project activities or mitigation measures that could potentially affect them either positively or negatively.

### B. Circumstances Requiring Free, Prior and Informed Consent (FPIC)

24. Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities may be particularly vulnerable to the loss of, alienation from or exploitation of their land and access to natural and cultural resources. In recognition of this vulnerability, in addition to the General Requirements of this ESS (Section A) and those set out in ESSs 1 and 10, the Borrower will obtain the FPIC of the affected Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities in accordance with paragraphs 25 and 26 in circumstances in which the project will:

- (a) have adverse impacts on land and natural resources subject to traditional ownership or under customary use or occupation;
- (b) cause relocation of Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities from land and natural resources subject to traditional ownership or under customary use or occupation; or
- (c) have significant impacts on Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities' cultural heritage that is material to the identity and/or cultural, ceremonial, or spiritual aspects of the affected Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities' lives.

In these circumstances, the Borrower will engage independent specialists to assist in the identification of the project risks and impacts.

25. There is no universally accepted definition of FPIC. For the purposes of this ESS, FPIC is established as follows:

- (a) The scope of FPIC applies to project design, implementation arrangements and expected outcomes related to risks and impacts on the affected Indigenous

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<sup>14</sup> Internal decision making processes are generally but not always collective in nature. There may be internal dissent, and decisions may be challenged by some in the community. The consultation process should be sensitive to such dynamics and allow sufficient time for internal decision making processes to reach conclusions that are considered legitimate by the majority of the concerned participants.

## **ESS7. Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities**

Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities;

- (b) FPIC builds on and expands the process of meaningful consultation described in ESS10 and paragraph 23 above, and will be established through good faith negotiation between the Borrower and affected Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities;
- (c) The Borrower will document: (i) the mutually accepted process to carry out good faith negotiations that has been agreed by the Borrower and Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities; and (ii) the outcome of the good faith negotiations between the Borrower and Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities, including all agreements reached as well as dissenting views; and
- (d) FPIC does not require unanimity and may be achieved even when individuals or groups within or among affected Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities explicitly disagree.

26. For the purposes of this ESS, consent refers to the collective support of affected Indigenous Peoples communities/Sub-Saharan African Historically Underserved Traditional Local Communities for the project activities that affect them, reached through a culturally appropriate process. It may exist even if some individuals or groups object to such project activities, as recognized by paragraph 25 (d).

27. When the FPIC of the affected Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities cannot be ascertained by the Bank, the aspects of the project relevant to those affected Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities for which the FPIC cannot be ascertained will not be processed further. Where the Bank has made the decision to continue processing the project other than the aspects for which the FPIC of the affected Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities cannot be ascertained, the Borrower will ensure that no adverse impacts result on such Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities during the implementation of the project.

28. Agreements reached between the Borrower and affected Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities will be described, and actions necessary to accomplish agreements will be included, in the ESCP. During implementation, the Borrower will ensure that necessary actions are taken, and agreed benefits or improvements to services are delivered, so as to maintain Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities' support for the project.

## ESS7. Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities

### *Impacts on Lands and Natural Resources Subject to Traditional Ownership or Under Customary Use or Occupation*

29. Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities are often closely tied to their land and related natural resources.<sup>15</sup> Frequently, land is traditionally owned or under customary use or occupation. While Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities may not possess legal title to land as defined by national law, their use of the land, including seasonal or cyclical use, for their livelihoods, or for cultural, ceremonial, and spiritual purposes that define their identity and community, can often be substantiated and documented. Where projects involve (a) activities that are contingent on establishing legally recognized rights to lands and territories that Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities have traditionally owned or customarily used or occupied<sup>16</sup>, or (b) the acquisition of such lands, the Borrower will prepare a plan for the legal recognition of such ownership, occupation, or usage, with due respect to the customs, traditions and land tenure systems of the Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities concerned. The objective of such plans will be the following: (a) full legal recognition of existing customary land tenure systems of Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities; or (b) conversion of customary usage rights to communal and/or individual ownership rights<sup>17</sup>. If neither option is possible under national law, the plan includes measures for the legal recognition of Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities' perpetual or long-term renewable custodial or use rights.

30. If the Borrower proposes to locate a project, or commercially develop natural resources, on land traditionally owned by, or under the customary use or occupation of, Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities, and adverse impacts<sup>18</sup> can be expected, the Borrower will take the following steps and obtain their FPIC:

- (a) Document efforts to avoid and otherwise minimize the area of land proposed for the project;
- (b) Document efforts to avoid and otherwise minimize impacts on natural resources subject to traditional ownership or customary use or occupation;
- (c) Identify and review all property interests, tenurial arrangements, and traditional resource usage prior to purchasing, leasing or, as a last resort, undertaking land acquisition;

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<sup>15</sup> Examples include marine and aquatic resources, timber and non-timber forest products, medicinal plants, hunting and gathering grounds, and grazing and cropping areas.

<sup>16</sup> For example, extractive industries, creation of conservation areas, agro-development schemes, greenfield infrastructure development, land management or titling programs.

<sup>17</sup> Conversion of customary usage rights to individual ownership rights will only be an objective following consultation with the Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities concerned and assessment of the impacts of such conversion on the communities and their livelihoods.

<sup>18</sup> Such adverse impacts may include impacts from loss of access to assets or resources or restrictions on land use resulting from project activities.



## ESS7. Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities

- (d) Assess and document Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities' resource use without prejudicing any Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities' land claim. The assessment of land and natural resource use will be gender inclusive and specifically consider women's role in the management and use of these resources;
- (e) Ensure that affected Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities are informed of: (i) their land rights under national law, including any national law recognizing customary use rights; (ii) the scope and nature of the project; and (iii) the potential impacts of the project; and
- (f) Where a project promotes commercial development of their land or natural resources, afford due process, and offer compensation together with culturally appropriate sustainable development opportunities to Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities, at least equivalent to that to which any landowner with full legal title to the land would be entitled, including:
  - (i) Providing fair lease arrangements or, where land acquisition is necessary, providing land-based compensation or compensation in kind in lieu of cash compensation where feasible;<sup>19</sup>
  - (ii) Ensuring continued access to natural resources, identifying the equivalent replacement resources, or, as a last option, providing compensation and identifying alternative livelihoods if project development results in the loss of access to and the loss of natural resources independent of project land acquisition;
  - (iii) Enabling Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities to share equitably in the benefits to be derived from the commercial development of the land or natural resources where the Borrower intends to utilize land or natural resources that are central to the identity and livelihood of affected Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities and the usage thereof exacerbates livelihood risk; and
  - (iv) Providing affected Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities with access, usage, and transit on land the Borrower is developing subject to overriding health, safety, and security considerations.

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<sup>19</sup> If circumstances prevent the Borrower from offering suitable replacement land, the Borrower must provide verification that such is the case. Under such circumstances, the Borrower will provide non-land-based income-earning opportunities over and above cash compensation to affected Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities.



## ESS7. Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities

### *Relocation of Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities from Lands and Natural Resources Subject to Traditional Ownership or Under Customary Use or Occupation*

31. The Borrower will consider feasible alternative project designs to avoid the relocation of Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities from communally held<sup>20</sup> or attached land and natural resources subject to traditional ownership or customary use or occupation. If such relocation is unavoidable the Borrower will not proceed with the project unless FPIC has been obtained as described above; the Borrower will not resort to forced eviction,<sup>21</sup> and any relocation of Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities will meet the requirements of ESS5. Where feasible, the relocated Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities will be able to return to their traditional or customary land, should the cause of their relocation cease to exist.

### *Cultural Heritage*

32. Where a project may significantly impact cultural heritage<sup>22</sup> that is material to the identity and/or cultural, ceremonial, or spiritual aspects of the affected Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities' lives, priority will be given to the avoidance of such impacts. Where significant project impacts are unavoidable, the Borrower will obtain the FPIC of affected Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities.

33. Where a project proposes to use the cultural heritage of Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities for commercial purposes, the Borrower will inform the affected Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities of: (a) their rights under national law; (b) the scope and nature of the proposed commercial development; and (c) the potential consequences of such development; and obtain their FPIC. The Borrower will also enable Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities to share equitably in the benefits to be derived from commercial development of such cultural heritage, consistent with the customs and traditions of the Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities.

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<sup>20</sup> Typically, Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities claim rights and access to, and use of land and resources through traditional or customary systems, many of which entail communal property rights. These traditional claims to land and resources may not be recognized under national laws. Where Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities individually hold legal title, or where the relevant national law recognizes customary rights for individuals, the requirements of ESS5 will apply, in addition to the requirements under paragraph 31 of this ESS.

<sup>21</sup> See paragraph 31 of ESS5.

<sup>22</sup> 'Cultural heritage' is defined in ESS8. It includes natural areas with cultural and/or spiritual value such as sacred groves, sacred bodies of water and waterways, sacred mountains, sacred trees, sacred rocks, burial grounds and sites.

## **ESS7. Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities**

### **C. Grievance Mechanism**

34. The Borrower will ensure that a grievance mechanism is established for the project, as described in ESS10, which is culturally appropriate and accessible to affected Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities, and takes into account the availability of judicial recourse and customary dispute settlement mechanisms among Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities.

### **D. Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities and Broader Development Planning**

35. The Borrower may request Bank technical or financial support, in the context of a specific project or as a separate activity, for preparation of plans, strategies or other activities intended to strengthen consideration and participation of Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities (as they may be referred to in the national context) in the development process. This may include a variety of initiatives designed, for example, to: (a) strengthen local legislation to establish recognition of customary or traditional land tenure arrangements; (b) address the gender and intergenerational issues that exist among Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities; (c) protect indigenous knowledge including intellectual property rights; (d) strengthen the capacity of Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities to participate in development planning or programs; and (e) strengthen the capacity of government agencies providing services to Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities.

36. Affected Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities may themselves seek support for various initiatives and these should be taken into consideration by the Borrower and the Bank. They include: (a) support for the development priorities of Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities through programs (such as community-driven development programs and locally managed social funds) developed by governments in cooperation with Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities; (b) preparation of participatory profiles of Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities to document their culture, demographic structure, gender and intergenerational relations and social organization, institutions, production systems, religious beliefs, and resource use patterns; (c) facilitating partnerships among the government, Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities Organizations, Civil Society Organizations, and the private sector to promote Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities' development programs.

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

### **Introduction**

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1. ESS 8 recognizes that cultural heritage provides continuity in tangible and intangible 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 sets out measures designed to protect 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**

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- 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 meaningful consultation with stakeholders regarding cultural heritage.
- To promote the equitable sharing of benefits from the use of cultural heritage.

### **Scope of Application**

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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 - as well as the instruments, objects, artefacts and cultural spaces associated therewith – that communities and groups recognize as part of their cultural heritage, as transmitted from generation to generation and constantly recreated by them in response to their environment, their interaction with nature and their history.
  
5. 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:

## ESS8. Cultural Heritage

- (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 cultural heritage only if a physical component of a project will have a material impact on such cultural heritage or if a project intends to use such cultural heritage for commercial purposes.

### 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 the potential risks and impacts of the proposed activities of the project on 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 implement globally recognized practices for field-based study, documentation and protection of cultural heritage in connection with the project, including by contractors and other third parties.

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<sup>1</sup> Mitigation measures include, for example, relocating or modifying the physical footprint of the project; conservation and rehabilitation *in situ*; relocation of cultural heritage; documentation; 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.

## ESS8. Cultural Heritage

11. A chance finds procedure is a project-specific procedure which will be followed if previously unknown cultural heritage is encountered during project activities. It will be 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. Where necessary due to the potential risks and impacts of a project, the environmental and social assessment will involve 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 potential risks and impacts on cultural heritage, the Borrower will engage 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 within the country 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>3</sup> with stakeholders in accordance with ESS10 in order to identify cultural heritage that may be affected by the potential project; consider the significance<sup>4</sup> of the cultural heritage affected by the project; assess 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 endanger sources of information. In such cases, sensitive information may be omitted from public

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<sup>3</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>4</sup> The significance of cultural heritage is considered 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 cultural heritage.

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disclosure. If the project-affected parties (including individuals and communities) hold the location, characteristics, or traditional use of the cultural heritage 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, subject to overriding 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>5</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<sup>6</sup> 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 or high probability 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

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<sup>5</sup> Examples include world heritage sites and nationally and sub-nationally protected areas.

<sup>6</sup> The applicability of regional or international cultural heritage regulations to the project will be determined through the environmental and social assessment.

<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 in paragraph 18 are those unrelated to current populations living in the project area. For more recent burial places connected directly to project-affected parties, appropriate mitigation measures will be identified pursuant to paragraphs 8 and 9 through consultations with such parties.

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sites and materials 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 maintain the authenticity of form, construction materials and techniques of the structure(s).<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).

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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.

## ESS8. Cultural Heritage

26. Most natural features with cultural heritage significance are best protected by preservation *in situ*. If it is not possible to preserve the natural features in their existing location, the transfer of the cultural heritage to another location will be conducted in consultation with project-affected parties, in accordance with GIIP. The agreement that is reached regarding the transfer will respect and enable continuation of the traditional practices associated with the cultural heritage that has been transferred.

### *Movable Cultural Heritage*

27. 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.

28. 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. Commercial Use of Cultural Heritage**

29. Where a project intends to use cultural heritage 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.

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



## Environmental and Social Standard 9. Financial Intermediaries

### Introduction

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1. ESS9 recognizes that strong domestic capital and financial markets and access to finance are important for economic development, growth and poverty reduction. The Bank is committed to supporting sustainable financial sector development and enhancing the role of domestic capital and financial markets.
2. FIs are required to monitor and manage the environmental and social risks and impacts of their portfolio and FI subprojects, and monitor portfolio risk, as appropriate to the nature of intermediated financing. The way in which the FI will manage its portfolio will take various forms, depending on a number of considerations, including the capacity of the FI and the nature and scope of the funding to be provided by the FI.
3. FIs are required to develop and maintain, in the form of an Environmental and Social Management System (ESMS), effective environmental and social systems, procedures and capacity for assessing, managing, and monitoring risks and impacts of subprojects, as well as managing overall portfolio risk in a responsible manner.

### Objectives

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- To set out how the FI will assess and manage environmental and social risks and impacts associated with the subprojects it finances.
- To promote good environmental and social management practices in the subprojects the FI finances.
- To promote good environmental and sound human resources management within the FI.

### Scope of Application

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4. This ESS applies to Financial Intermediaries (FIs) that receive financial support from the Bank. FIs include public and private financial services providers, including national and regional development banks, which channel financial resources to a range of economic activities across industry sectors<sup>1</sup>. Financial intermediation also includes provision of financing or guarantees by FIs to other FIs. For the purposes of this ESS, the term “FI subproject” refers to projects financed by FIs with support from the Bank<sup>2</sup>. Where the project involves on-lending by the FI to another FI, the term “FI subproject” will include the subprojects of each subsequent FI.
5. The requirements of this ESS apply to all FIs that receive support from the Bank, either directly from the Bank or the Borrower, or through the Borrower or other FIs, as follows:

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<sup>1</sup> Such FIs use various financial products such as project finance, corporate finance, medium and small enterprise finance, microfinance, housing finance, leasing, and trade finance. This ESS covers all types of financing and financial products provided by FIs that are targeted to productive business activities.

<sup>2</sup> “FI subprojects” are defined as projects or activities financed by an FI. Where an FI provides financing or guarantees to other FIs, “FI subprojects” are defined as projects or activities financed by the latter FI with support from the former FI.

## ESS9. Financial Intermediaries

- (a) Where Bank support is provided to the FI to fund clearly-defined FI subprojects the requirements of this ESS will apply to each of the FI subprojects;
- (b) Where Bank support is provided to the FI for a general purpose<sup>3</sup>, the requirements of this ESS will apply to the entire portfolio of the FI's future subprojects from the date on which the legal agreement becomes effective.

6. Where an FI receiving support from the Bank provides financing or guarantees to other FIs, the FI will apply the requirements of this ESS and will cause each subsequent FI to apply the requirements of this ESS, as specified in paragraph 5 of this ESS.

### Requirements

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7. FIs will put in place and maintain an ESMS to identify, assess, manage, and monitor the environmental and social risks and impacts of FI subprojects on an ongoing basis. The ESMS will be commensurate with the nature and magnitude of environmental and social risks and impacts of FI subprojects, the types of financing, and the overall risk aggregated at the portfolio level.<sup>4</sup> Where the FI can demonstrate that it already has an ESMS in place, it will provide adequate documented evidence of such an ESMS, indicating which elements (if any) will be enhanced or modified to meet the requirements of this ESS.<sup>5</sup>

8. The FI's ESMS will include the following elements: (i) environmental and social policy; (ii) clearly defined procedures for the identification, assessment and management of the environmental and social risks and impacts of subprojects; (iii) organizational capacity and competency; (iv) monitoring and review of environmental and social risks of subprojects and the portfolio; and (v) external communications mechanism.

9. Where FI subprojects are likely to have minimal or no adverse environmental or social risks or impacts, the FI will apply national law.<sup>6</sup>

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<sup>3</sup> Support for a 'general purpose' means that the support cannot be traced to a specific FI subproject or specific types of financing.

<sup>4</sup> For the purpose of assessing the adequacy of the ESMS, the FI portfolio means the portfolio of current and/or proposed subprojects to which this ESS applies, as described in paragraph 5.

<sup>5</sup> Where the Bank is providing support to a project involving Financial Intermediaries (FIs), and other multilateral or bilateral funding agencies, including IFC and MIGA, will or have already provided financing to the same FIs, the Bank may agree to rely on the requirements of such other agencies for the assessment and management of environmental and social risks and impacts of the project, including the institutional arrangements already established by the participating FIs, provided that such requirements will enable the project to achieve objectives materially consistent with this ESS and other ESSs, as applicable. Following review by the Bank, an FI may be required to enhance its ESMS, as deemed necessary by the Bank.

<sup>6</sup> This will rely on an assessment of the risks of the potential FI subprojects and the FI is proposing to finance, and the capacity of the FI. This may apply to certain retail financial products, such as consumer loans or credit cards.

## ESS9. Financial Intermediaries

10. The FI will review and adjust, in a manner acceptable to the Bank, its ESMS from time to time, including when the environmental and social risk profile of its portfolio changes significantly.
11. The FI will comply with any exclusions in the legal agreement and apply relevant national law for all FI subprojects. In addition, the FI will apply the relevant requirements of the ESSs to any FI subproject that involves resettlement (unless the risks or impacts of such resettlement are minor), adverse risks or impacts on Indigenous Peoples or significant risks or impacts on the environment, community health and safety, labor and working conditions, biodiversity or cultural heritage.
12. An FI may be required to adopt and implement additional or alternative environmental and social requirements, depending on the nature of the FI, its activities, the sector or countries of operation, and the environmental and social risks and impacts of the potential FI subprojects<sup>7</sup>.
13. The FI will provide a safe and healthy working environment. Accordingly, relevant aspects of ESS2 will apply to the FI itself. The FI will have in place and maintain appropriate labor management procedures, including procedures relating to working conditions and terms of employment, non-discrimination and equal opportunity, grievance mechanisms and occupational health and safety. The FI will provide adequate documented evidence of such procedures.

### A. Environmental and Social Management System

#### *Environmental and Social Policy*

14. The environmental and social policy of the FI will be endorsed by the FI's senior management and will include organizational commitments, objectives, and metrics with regard to the FI's environmental and social risk management. The policy will clearly state applicable requirements for FI subprojects, and will include the following:
  - (a) All FI subprojects will be prepared and implemented in accordance with relevant environmental and social national and local laws and regulations;
  - (b) All FI subprojects will be screened against exclusions in the legal agreement<sup>8</sup>;
  - (c) All FI subprojects will be screened for environmental and social risks and impacts;
  - (d) All FI subprojects which involve resettlement (unless the risks or impacts of such resettlement are minor), adverse risks or impacts on Indigenous Peoples or significant risks or impacts on the environment, community health and safety, labor

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<sup>7</sup> These will be incorporated into the ESMS, the environmental and social procedures and/or set out in the legal agreement.

<sup>8</sup> These will be set out in the legal agreement between the FI and the entity providing financing to the FI, and will reflect the exclusions in the legal agreement pursuant to which the Bank provides its support.

## ESS9. Financial Intermediaries

and working conditions, biodiversity or cultural heritage will apply relevant requirements of ESSs.<sup>9</sup>

### *Environmental and Social Procedures*

15. The FI will put in place and maintain clearly defined environmental and social procedures which reflect and implement the FI's Environmental and Social Policy. The procedures will be proportionate to the nature of the FI and the level of potential environmental and social risks and impacts associated with the FI subprojects.<sup>10</sup>

16. The FI's environmental and social procedures will include measures to:

- (a) Screen all FI subprojects against any exclusions in the legal agreement;
- (b) Screen, review and categorize the FI subprojects according to their potential environmental and social risks and impacts;
- (c) Require that all FI subprojects are assessed, prepared and implemented to meet national law and, in addition, where an FI subproject involves resettlement (unless the risks or impacts of such resettlement are minor), adverse risks or impacts on Indigenous Peoples or significant risks or impacts on the environment, community health and safety, labor and working conditions, biodiversity or cultural heritage, the relevant requirements of the ESSs are applied<sup>11</sup>;
- (d) Ensure that the measures needed to satisfy the requirements of (c) above are set out in the legal agreement between the FI and the sub-borrower;
- (e) Monitor and keep and regularly update environmental and social information on FI subprojects;
- (f) If the risk profile of an FI subproject increases significantly, apply relevant requirements of the ESSs<sup>12</sup> and document these appropriately; and
- (g) Monitor the environmental and social risk of the FI portfolio.

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<sup>9</sup> The relevant requirements of the ESSs will be applied to such projects regardless of how such projects are categorized under the FI's own risk categorization system as referred to in paragraph 17.

<sup>10</sup> Where the FI already has appropriate environmental and social procedures in place, it will provide adequate documented evidence of such procedures to the Bank and, following review by the Bank, will enhance them, as deemed necessary by the Bank.

<sup>11</sup> The environmental and social procedures will require such FI subprojects to conduct stakeholder engagement pursuant to ESS10 in a manner proportionate to the risks and impacts of the FI subprojects.

<sup>12</sup> The 'relevant requirements of the ESSs' will relate to the reasons for which the risk profile of the FI subproject has increased.

## ESS9. Financial Intermediaries

17. As part of the environmental and social procedures, the FI will develop and adopt a categorization system for subprojects with clearly defined risk categories.<sup>13</sup> The categorization system will take into account (i) the nature and magnitude of environmental and social risks and impacts of subprojects; (ii) sectoral and geographical context; (iii) type of financing. The risk categorization will inform the scope and nature of the FI's environmental and social due diligence and risk management of its subprojects. Such categorization system will allow for a systematic aggregation and analysis of risk at the portfolio level.

18. As part of its environmental and social risk categorization system, the FIs will categorize any subproject which involves resettlement (unless the risks or impacts of such resettlement are minor), adverse risks or impacts on Indigenous Peoples or significant risks or impacts on the environment, community health and safety, labor and working conditions, biodiversity or cultural heritage, as high or substantial risk.

### *Organizational Capacity and Competency*

19. The FI will develop and maintain organizational capacity and competency for implementing the ESMS with clearly defined roles and responsibilities. The FI will designate a representative of the FI's senior management to have overall accountability for environmental and social performance of the FI subprojects, including the implementation of this ESS and ESS2 and resources necessary to support such implementation. The representative will: (a) designate a staff member to be responsible for day-to-day implementation of the ESMS, including the environmental and social procedures; (b) ensure that adequate resources are available for management of and training in environmental and social issues; and (c) ensure that adequate technical expertise, either in-house or external expert support, is available to carry out due diligence and manage the environmental and social risks of the FI subprojects, including providing implementation support as required.

20. The FI will ensure that the requirements of this ESS and ESS2 are clearly communicated to all relevant FI personnel<sup>14</sup>, and to ensure that relevant personnel have the necessary knowledge and capabilities<sup>15</sup> for managing environmental and social risks in accordance with the FI's ESMS.

### *Monitoring and Reporting*

21. The FI will monitor the environmental and social performance of the FI subprojects in a manner proportionate to the risks and impacts of the FI subprojects, and provide regular progress reports to the FI's senior management. This will include periodic review of the effectiveness of the FI's ESMS.

22. The FI will promptly notify the Bank of any significant accidents or incidents associated with FI subprojects. If the risk profile of an FI subproject increases significantly, the FI will notify the Bank and will apply relevant requirements of the ESSs in a manner agreed with the Bank, as set out in the ESMS. The FI will monitor the measures and actions agreed, and report to the Bank as appropriate.

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<sup>13</sup> A typical categorization system used by FIs may consist of three or four risk categories, which correspond to high, substantial, moderate, or low risk. Good international practice in some instances suggests that four risk categories allow for more comprehensive assessment and management of environmental and social risk by FIs.

<sup>14</sup> Such personnel may include investment, legal, and credit officers, security personnel etc.

<sup>15</sup> Including by providing appropriate training.

## ESS9. Financial Intermediaries

23. The FI will submit to the Bank annual Environmental and Social Reports on the implementation of its ESMS, including its environmental and social procedures, this ESS and ESS2, as well as the environmental and social performance of its portfolio of FI subprojects. The annual report will include details of how the requirements of this ESS are being met, the nature of the FI subprojects financed through the project, and the overall portfolio risk, profiled by sector.

### B. Stakeholder Engagement

24. The FI will require the FI subproject to conduct stakeholder engagement in a manner proportionate to the risks and impacts of the FI subproject, and which reflects the type of FI subprojects it will finance. The relevant provisions of ESS10 will be included in the FI's environmental and social procedures. In certain circumstances, depending on the risks and impacts of the project and the type of FI subprojects it will finance, the Bank may require the FI to be engaged in stakeholder engagement.

25. The FI will put in place procedures for external communications on environmental and social matters proportionate to the risks and impacts of the FI subprojects, and the risk profile of the FI's portfolio. The FI will respond to public enquiries and concerns in a timely manner.

26. The FI will disclose through the FI's website, if a website exists, and permit, in writing, the Bank to disclose on the Bank's website, a summary of each of the elements of the FI's ESMS.

27. The FI will require its sub-borrowers to disclose, in relation to FI subprojects, any project-related documents<sup>16</sup> required (a) by the application of the ESSs; (b) for any FI subprojects categorized as high risk in accordance with the FI's own categorization system; and (c) any environmental and social monitoring reports relating to (a) or (b).

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<sup>16</sup> For example, environmental and social assessment reports, resettlement action plans and Indigenous Peoples plans.

## Environmental and Social Standard 10. Stakeholder Engagement and Information Disclosure

### Introduction

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1. This ESS recognizes the importance of open and transparent engagement between the Borrower and project stakeholders as an essential element of good international practice. Effective stakeholder engagement can improve the environmental and social sustainability of projects, enhance project acceptance, and make a significant contribution to successful project design and implementation.
2. Stakeholder engagement is an inclusive process conducted throughout the project life-cycle. Where properly designed and implemented, it supports the development of strong, constructive and responsive relationships that are important for successful management of a project's environmental and social risks. Stakeholder engagement is most effective when initiated at an early stage of the project development process, and is an integral part of early project decisions and the assessment, management and monitoring of the project's environmental and social risks and impacts.
3. This ESS must be read in conjunction with ESS1. Requirements regarding engagement with workers are found in ESS2. Special provisions on emergency preparedness and response are covered in ESS2 and ESS4. In the case of projects involving involuntary resettlement, Indigenous Peoples or cultural heritage, the Borrower will also apply the special disclosure and consultation requirements set out in ESS5, ESS7 and ESS8.

### Objectives

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- To establish a systematic approach to stakeholder engagement that will help Borrowers identify stakeholders and build and maintain a constructive relationship with them, in particular project-affected parties.
- To assess the level of stakeholder interest and support for the project and to enable stakeholders' views to be taken into account in project design and environmental and social performance.
- To promote and provide means for effective and inclusive engagement with project-affected parties throughout the project life-cycle on issues that could potentially affect them.
- To ensure that appropriate project information on environmental and social risks and impacts is disclosed to stakeholders in a timely, understandable, accessible and appropriate manner and format.
- To provide project-affected parties with accessible and inclusive means to raise issues and grievances, and allow Borrowers to respond to and manage such grievances.

### Scope of Application

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4. ESS10 applies to all projects supported by the Bank through Investment Project Financing. The Borrower will engage with stakeholders as an integral part of the project's environmental and social assessment and project design and implementation, as outlined in ESS1.
5. For the purpose of this ESS, "**stakeholder**" refers to individuals or groups who:
  - (a) are affected or likely to be affected by the project (**project-affected parties**); and

## ESS10. Stakeholder Engagement and Information Disclosure

(b) may have an interest in the project (*other interested parties*).

### Requirements

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6. Borrowers will engage with stakeholders throughout the project life-cycle, commencing such engagement as early as possible in the project development process and in a timeframe that enables meaningful consultations with stakeholders on project design. The nature, scope and frequency of stakeholder engagement will be proportionate to the nature and scale of the project and its potential risks and impacts.

7. Borrowers will engage in meaningful consultations with all stakeholders. Borrowers will provide stakeholders with timely, relevant, understandable and accessible information, and consult with them in a culturally appropriate manner, which is free of manipulation, interference, coercion, discrimination and intimidation.

8. The process of stakeholder engagement will involve the following, as set out in further detail in this ESS: (i) stakeholder identification and analysis; (ii) planning how the engagement with stakeholders will take place; (iii) disclosure of information; (iv) consultation with stakeholders; (v) addressing and responding to grievances; and (vi) reporting to stakeholders.

9. The Borrower will maintain, and disclose as part of the environmental and social assessment, a documented record of stakeholder engagement, including a description of the stakeholders consulted, a summary of the feedback received and a brief explanation of how the feedback was taken into account, or the reasons why it was not.

### A. Engagement during Project Preparation

#### *Stakeholder Identification and Analysis*

10. The Borrower will identify the different stakeholders, both project-affected parties and other interested parties.<sup>1</sup> As set out in paragraph 5, individuals or groups that are affected or likely to be affected by the project will be identified as 'project-affected parties' and other individuals or groups that may have an interest in the project will be identified as 'other interested parties'.

11. The Borrower will identify those project-affected parties (individuals or groups) who, because of their particular circumstances, may be disadvantaged or vulnerable<sup>2</sup>. Based on this identification, the Borrower will further identify individuals or groups who may have different concerns and priorities about project impacts, mitigation mechanisms and benefits, and who may require different, or separate, forms

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<sup>1</sup> The stakeholders of a project will vary depending on the details of the project. They may include local communities, national and local authorities, neighboring projects, and nongovernmental organizations.

<sup>2</sup> Disadvantaged or vulnerable refers to those who may be more likely to be adversely affected by the project impacts and/or more limited than others in their ability to take advantage of a project's benefits. Such an individual/group is also more likely to be excluded from/unable to participate fully in the mainstream consultation process and as such may require specific measures and/or assistance to do so. This will take into account considerations relating to age, including the elderly and minors, and including in circumstances where they may be separated from their family, the community or other individuals upon which they depend.



## ESS10. Stakeholder Engagement and Information Disclosure

of engagement. An adequate level of detail will be included in the stakeholder identification and analysis so as to determine the level of communication that is appropriate for the project.

12. Depending on the potential significance of environmental and social risks and impacts, the Borrower may be required to retain independent third party specialists to assist in the stakeholder identification and analysis to support a comprehensive analysis and the design of an inclusive engagement process.

### *Stakeholder Engagement Plan*

13. In consultation with the Bank, the Borrower will develop and implement a Stakeholder Engagement Plan (SEP)<sup>3</sup> proportionate to the nature and scale of the project and its potential risks and impacts.<sup>4</sup> A draft of the SEP will be disclosed as early as possible, and before project appraisal, and the Borrower will seek the views of stakeholders on the SEP, including on the identification of stakeholders and the proposals for future engagement. If significant changes are made to the SEP, the Borrower will disclose the updated SEP.

14. The SEP will describe the timing and methods of engagement with stakeholders throughout the life-cycle of the project as agreed between Bank and Borrower, distinguishing between project-affected parties and other interested parties. The SEP will also describe the range and timing of information to be communicated to project-affected parties and other interested parties, as well as the type of information to be sought from them.

15. The SEP will be designed to take into account the main characteristics and interests of the stakeholders, and the different levels of engagement and consultation that will be appropriate for different stakeholders. The SEP will set out how communication with stakeholders will be handled throughout project preparation and implementation.

16. The SEP will describe the measures that will be used to remove obstacles to participation, and how the views of differently affected groups will be captured. Where applicable, the SEP will include differentiated measures to allow the effective participation of those identified as disadvantaged or vulnerable. Dedicated approaches and an increased level of resources may be needed for communication with such differently affected groups so that they can obtain the information they need regarding the issues that will potentially affect them.

17. When the stakeholder engagement with local individuals and communities depends substantially on community representatives,<sup>5</sup> the Borrower will make reasonable efforts to verify that such persons do,

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<sup>3</sup> Depending on the nature and the scale of the risks and impacts of the project, the elements of a SEP may be included as part of the ESCP and preparation of a stand-alone SEP may not be necessary.

<sup>4</sup> Where possible, stakeholder engagement will utilize engagement structures within the national system e.g. community meetings, supplemented as needed with project-specific arrangements.

<sup>5</sup> For example, village heads, clan heads, community and religious leaders, local government representatives, civil society representatives, politicians or teachers.

## ESS10. Stakeholder Engagement and Information Disclosure

in fact, represent the views of such individuals and communities, and that they are facilitating the communication process in an appropriate manner.<sup>6</sup>

18. In certain circumstance<sup>7</sup>, depending on the level of information available about the project, the SEP will take the format of a framework approach, outlining general principles and a collaborative strategy to identify stakeholders and plan for an engagement process in accordance with this ESS that will be implemented once the location is known.

### *Information Disclosure*

19. The Borrower will disclose project information to allow stakeholders to understand the risks and impacts of the project, and potential opportunities. The Borrower will provide stakeholders with access to the following information, as early as possible before the Bank proceeds to project appraisal, and in a timeframe that enables meaningful consultations with stakeholders on project design:

- (a) The purpose, nature and scale of the project;
- (b) The duration of proposed project activities;
- (c) Potential risks and impacts of the project on local communities, and the proposals for mitigating these, highlighting potential risks and impacts that might disproportionately affect vulnerable and disadvantaged groups and describing the differentiated measures taken to avoid and minimize these;
- (d) The proposed stakeholder engagement process highlighting the ways in which stakeholders can participate;
- (e) The time and venue of any proposed public consultation meetings, and the process by which meetings will be notified, summarized, and reported; and
- (f) The process and means by which grievances can be raised and will be addressed.

20. The information will be disclosed in relevant local languages and in a manner that is accessible and culturally appropriate, taking into account any specific needs of groups that may be differentially or disproportionately affected by the project or groups of the population with specific information needs (such as, disability, literacy, gender, mobility, differences in language or accessibility).

### *Meaningful Consultation*

21. The Borrower will undertake a process of meaningful consultation in a manner that provides stakeholders with opportunities to express their views on project risks, impacts, and mitigation measures, and allows the Borrower to consider and respond to them. Meaningful consultation will be carried out on an ongoing basis as the nature of issues, impacts and opportunities evolves.

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<sup>6</sup> For example, by conveying, in an accurate and timely manner, information provided by the Borrower to the communities and the comments and the concerns of such communities to the Borrower.

<sup>7</sup> For example, where the exact location of the project is not known.

## ESS10. Stakeholder Engagement and Information Disclosure

22. Meaningful consultation is a two-way process, that:
- (a) Begins early in the project planning process to gather initial views on the project proposal and inform project design;
  - (b) Encourages stakeholder feedback, particularly as a way of informing project design and engagement by stakeholders in the identification and mitigation of environmental and social risks and impacts;
  - (c) Continues on an ongoing basis, as risks and impacts arise;
  - (d) Is based on the prior disclosure and dissemination of relevant, transparent, objective, meaningful and easily accessible information in a timeframe that enables meaningful consultations with stakeholders in a culturally appropriate format, in relevant local language(s) and is understandable to stakeholders;
  - (e) Considers and responds to feedback;
  - (f) Supports active and inclusive engagement with project-affected parties;
  - (g) Is free of external manipulation, interference, coercion, discrimination, and intimidation; and
  - (h) Is documented and disclosed by the Borrower.

### B. Engagement during Project Implementation and External Reporting

23. The Borrower will continue to engage with, and provide information to, project-affected parties and other interested parties throughout the life-cycle of the project, in a manner appropriate to the nature of their interests and the potential environmental and social risks and impacts of the project.<sup>8</sup>

24. The Borrower will continue to conduct stakeholder engagement in accordance with the SEP, and will build upon the channels of communication and engagement already established with stakeholders. In particular, the Borrower will seek feedback from stakeholders on the environmental and social performance of the project, and the implementation of the mitigation measures in the ESCP.

25. If there are significant changes to the project that result in additional risks and impacts, particularly where these will impact project-affected parties, the Borrower will provide information on such risks and impacts and consult with project-affected parties as to how these risks and impacts will be mitigated. The Borrower will disclose an updated ESCP, setting out any additional mitigation measures.

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<sup>8</sup> Additional information may need to be disclosed at key stages in the project cycle, for example prior to start-up of operations, and on any specific issues that the disclosure and consultation process or grievance mechanism have identified as of concern to stakeholders.

## ESS10. Stakeholder Engagement and Information Disclosure

### C. Grievance Mechanism

26. The Borrower will respond to concerns and grievances of project-affected parties related to the environmental and social performance of the project in a timely manner. For this purpose, the Borrower will propose and implement a grievance mechanism<sup>9</sup> to receive and facilitate resolution of such concerns and grievances.

27. The grievance mechanism will be proportionate to the potential risks and impacts of the project and will be accessible and inclusive. Where feasible and suitable for the project, the grievance mechanism will utilize existing formal or informal grievance mechanisms, supplemented as needed with project-specific arrangements. Further details on grievance mechanisms are set out in Annex 1.

- (a) The grievance mechanism is expected to address concerns promptly and effectively, in a transparent manner that is culturally appropriate and readily accessible to all project-affected parties, at no cost and without retribution. The mechanism, process or procedure will not prevent access to judicial or administrative remedies. The Borrower will inform the project-affected parties about the grievance process in the course of its community engagement activities, and will make publicly available a record documenting the responses to all grievances received; and
- (b) Handling of grievances will be done in a culturally appropriate manner and be discreet, objective, sensitive and responsive to the needs and concerns of the project-affected parties. The mechanism will also allow for anonymous complaints to be raised and addressed.

### D. Organizational Capacity and Commitment

28. The Borrower will define clear roles, responsibilities and authority as well as designate specific personnel to be responsible for the implementation and monitoring of stakeholder engagement activities and compliance with this ESS.

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<sup>9</sup> The grievance mechanism to be provided under this ESS may be utilized as the grievance mechanism required under other ESSs (see ESSs 5 and 7). However, the grievance mechanism for project workers required under ESS2 will be provided separately.

## ESS10. Stakeholder Engagement and Information Disclosure

### ESS10 – ANNEX 1. GRIEVANCE MECHANISM

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1. The scope, scale and type of grievance mechanism required will be proportionate to the nature and scale of the potential risks and impacts of the project.
2. The grievance mechanism may include the following:
  - (a) Different ways in which users can submit their grievances, which may include submissions in person, by phone, text message, mail, email or via a web site;
  - (b) A log where grievances are registered in writing and maintained as a database;
  - (c) Publicly advertised procedures, setting out the length of time users can expect to wait for acknowledgement, response and resolution of their grievances;
  - (d) Transparency about the grievance procedure, governing structure and decision makers; and
  - (e) An appeals process (including the national judiciary) to which unsatisfied grievances may be referred when resolution of grievance has not been achieved.
3. The Borrower may provide mediation as an option where users are not satisfied with the proposed resolution.

## Glossary

- **Accessibility** refers to the identification and elimination of obstacles and barriers to provide access to the physical environment, to transportation, to information and communications and to other facilities and services.
- **Assimilative capacity** refers to the capacity of the environment for absorbing an incremental load of pollutants while remaining below a threshold of unacceptable risk to human health and the environment.
- **Associated Facilities** means facilities or activities that are not funded as part of the project and, in the judgment of the Bank, are: (a) directly and significantly related to the project; and (b) carried out, or planned to be carried out, contemporaneously with the project; and (c) necessary for the project to be viable and would not have been constructed, expanded or conducted if the project did not exist. For facilities or activities to be Associated Facilities, they must meet all three criteria.
- **Biodiversity** is the variability among living organisms from all sources including, inter alia, terrestrial, marine and other aquatic ecosystems and the ecological complexes of which they are a part; this includes diversity within species, between species, and of ecosystems.
- **Chance find (procedure)**. A chance find is archaeological material encountered unexpectedly during project construction or operation. A chance find procedure is a project-specific procedure which will be followed if previously unknown cultural heritage is encountered during project activities. 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 ESS8 and national law; and to train project personnel and project workers on chance find procedures.
- **Collective attachment** means that for generations there has been a physical presence in and economic ties to land and territories traditionally owned, or customarily used or occupied, by the group concerned, including areas that hold special significance for it, such as sacred sites.
- **Core functions** of a project constitute those production and/or service processes essential for a specific project activity without which the project cannot continue.
- **Critical habitat** is defined as areas with high biodiversity importance or value, including: (a) habitat of significant importance to Critically Endangered or Endangered species, as listed on the International Union for the Conservation of Nature (IUCN) Red List of threatened species or equivalent national approaches; (b) habitat of significant importance to endemic or restricted-range species; (c) habitat supporting globally or nationally significant concentrations of migratory or congregatory species; (d) highly threatened or unique system; (e) ecological functions or characteristics that are needed to maintaining the viability of the biodiversity values described above in (a) to (d).

## Glossary

- **Cultural heritage** is defined as resources with which people identify as a reflection and expression of their constantly evolving values, beliefs, knowledge and traditions.
- **Disadvantaged or vulnerable** refers to those who may be more likely to be adversely affected by the project impacts and/or more limited than others in their ability to take advantage of a project's benefits. Such an individual/group is also more likely to be excluded from/unable to participate fully in the mainstream consultation process and as such may require specific measures and/or assistance to do so. This will take into account considerations relating to age, including the elderly and minors, and including in circumstances where they may be separated from their family, the community or other individuals upon which they depend.
- **Ecosystem services** are the benefits that people derive from ecosystems. Ecosystem services are organized into four types: (i) provisioning services, which are the products people obtain from ecosystems and which may include food, freshwater, timbers, fibers, medicinal plants; (ii) regulating services, which are the benefits people obtain from the regulation of ecosystem processes and which may include surface water purification, carbon storage and sequestration, climate regulation, protection from natural hazards; (iii) cultural services, which are the nonmaterial benefits people obtain from ecosystems and which may include natural areas that are sacred sites and areas of importance for recreations and aesthetic enjoyment; and (iv) supporting services, which are the natural processes that maintain the other services and which may include soil formation, nutrient cycling and primary production.
- **Environmental, Health, and Safety Guidelines (EHSGs)** are technical reference documents with general and industry-specific statements of Good International Industry Practice. The EHSGs contain the performance levels and measures that are generally considered to be achievable in new facilities by existing technology at reasonable cost. For complete reference, consult *the World Bank Group Environmental, Health, and Safety Guidelines*, [http://www.ifc.org/wps/wcm/connect/Topics\\_Ext\\_Content/IFC\\_External\\_Corporate\\_Site/IFC+Sustainability/Sustainability+Framework/Environmental,+Health,+and+Safety+Guidelines/](http://www.ifc.org/wps/wcm/connect/Topics_Ext_Content/IFC_External_Corporate_Site/IFC+Sustainability/Sustainability+Framework/Environmental,+Health,+and+Safety+Guidelines/).
- **Financial feasibility** is based on relevant financial considerations, including relative magnitude of the incremental cost of adopting such measures and actions compared to the project's investment, operating, and maintenance costs, and on whether this incremental cost could make the project nonviable for the Borrower.
- **Forced eviction** is defined as the permanent or temporary removal against the will of individuals, families, and/or communities from the homes and/or land which they occupy without the provision of, and access to, appropriate forms of legal and other protection, including all applicable procedures and principles in ESS5. The exercise of eminent domain, compulsory acquisition or similar powers by a Borrower will not be considered to be forced eviction providing it complies with the requirements of national law and the provisions of ESS5, and is conducted in a manner consistent with basic principles of due process (including provision of adequate advance notice, meaningful opportunities to lodge grievances and appeals, and avoidance of the use of unnecessary, disproportionate or excessive force).

## Glossary

- **Good International Industry Practice (GIIP)** is defined as the exercise of professional skill, diligence, prudence, and foresight that would reasonably be expected from skilled and experienced professionals engaged in the same type of undertaking under the same or similar circumstances globally or regionally. The outcome of such exercise should be that the project employs the most appropriate technologies in the project-specific circumstances.
- **Habitat** is defined as a terrestrial, freshwater, or marine geographical unit or airway that supports assemblages of living organisms and their interactions with the non-living environment. Habitats vary in their sensitivity to impacts and in the various values society attributes to them.
- **Historical pollution** is defined as pollution from past activities affecting land and water resources for which no party has assumed or been assigned responsibility to address and carry out the required remediation.
- **Integrated Pest Management (IPM)** refers to a mix of farmer-driven, ecologically-based pest control practices that seeks to reduce reliance on synthetic chemical pesticides. It involves (a) managing pests (keeping them below economically damaging levels) rather than seeking to eradicate them; (b) integrating multiple methods (relying, to the extent possible, on nonchemical measures) to keep pest populations low; and (c) selecting and applying pesticides, when they have to be used, in a way that minimizes adverse effects on beneficial organisms, humans, and the environment.
- **Integrated Vector Management (IVM)** is a rational decision-making process for the optimal use of resources for vector control. The approach seeks to improve the efficacy, cost-effectiveness, ecological soundness and sustainability of disease-vector control.
- **Involuntary Resettlement.** Project-related land acquisition or restrictions on land use may cause physical displacement (relocation, loss of residential land or loss of shelter), economic displacement (loss of land, assets or access to assets, including those that lead to loss of income sources or other means of livelihood), or both. The term “**involuntary resettlement**” refers to these impacts. Resettlement is considered involuntary when affected persons or communities do not have the right to refuse land acquisition or restrictions on land use that result in displacement.
- **Land acquisition** refers to all methods of obtaining land for project purposes, which may include outright purchase, expropriation of property and acquisition of access rights, such as easements or rights of way. Land acquisition may also include: (a) acquisition of unoccupied or unutilized land whether or not the landholder relies upon such land for income or livelihood purposes; (b) repossession of public land that is used or occupied by individuals or households; and (c) project impacts that result in land being submerged or otherwise rendered unusable or inaccessible. “Land” includes anything growing on or permanently affixed to land, such as crops, buildings and other improvements, and appurtenant water bodies.



## Glossary

- **Livelihood** refers to the full range of means that individuals, families, and communities utilize to make a living, such as wage-based income, agriculture, fishing, foraging, other natural resource-based livelihoods, petty trade, and bartering.
- **Modified habitats** are areas that may contain a large proportion of plant and/or animal species of non-native origin, and/or where human activity has substantially modified an area's primary ecological functions and species composition. Modified habitats may include, for example, areas managed for agriculture, forest plantations, reclaimed coastal zones, and reclaimed wetlands.
- **Natural habitats** are areas composed of viable assemblages of plant and/or animal species of largely native origin, and/or where human activity has not essentially modified an area's primary ecological functions and species composition.
- **Pollution** refers to both hazardous and non-hazardous chemical pollutants in the solid, liquid, or gaseous phases, and includes other components such as thermal discharge to water, emissions of short- and long-lived climate pollutants, nuisance odors, noise, vibration, radiation, electromagnetic energy, and the creation of potential visual impacts including light.
- **Pollution management** includes measures designed to avoid or minimize emissions of pollutants, including short- and long-lived climate pollutants, given that measures which tend to encourage reduction in energy and raw material use, as well as emissions of local pollutants, also generally result in encouraging a reduction of emissions of short- and long-lived climate pollutants.
- **Primary suppliers** are those suppliers who, on an ongoing basis, provide directly to the project goods or materials essential for the core functions of the project.
- **Project** refers to the activities for which Bank support through Investment Project Financing is sought by the Borrower and as defined in the project's legal agreement between the Borrower and the Bank. These are projects to which OP/BP 10.00 Investment Project Financing, applies. The World Bank Environmental and Social Policy for Investment Project Financing does not cover operations supported by Development Policy lending (for which the environmental provisions are set out in OP/BP 8.60, *Development Policy Lending*), or those supported by Program-for-Results Financing (for which environmental provisions are set out in OP/BP 9.00, *Program-for-Results Financing*).
- **Project Worker** refers to: (a) people employed or engaged directly by the Borrower (including the project proponent and the project implementing agencies) to work specifically in relation to the project (**direct workers**); (b) people employed or engaged through third parties to perform work related to core functions of the project, regardless of the location (**contracted workers**); (c) people employed or engaged by the Borrower's primary suppliers (**primary supply workers**); and (d) people employed or engaged in providing community labor (**community workers**). This includes full-time, part-time, temporary, seasonal and migrant workers. Migrant workers are workers who have migrated from one country to another or from one part of the country to another for purposes of employment.

## Glossary

- **Replacement cost** is defined as a method of valuation yielding compensation sufficient to replace assets, plus necessary transaction costs associated with asset replacement. Where functioning markets exist, replacement cost is the market value as established through independent and competent real estate valuation, plus transaction costs. Where functioning markets do not exist, replacement cost may be determined through alternative means, such as calculation of output value for land or productive assets, or the undepreciated value of replacement material and labor for construction of structures or other fixed assets, plus transaction costs. In all instances where physical displacement results in loss of shelter, replacement cost must at least be sufficient to enable purchase or construction of housing that meets acceptable minimum community standards of quality and safety. The valuation method for determining replacement cost should be documented and included in relevant resettlement planning documents. Transaction costs include administrative charges, registration or title fees, reasonable moving expenses, and any similar costs imposed on affected persons. To ensure compensation at replacement cost, planned compensation rates may require updating in project areas where inflation is high or the period of time between calculation of compensation rates and delivery of compensation is extensive.
- **Restrictions on land use** refers to limitations or prohibitions on the use of agricultural, residential, commercial or other land that are directly introduced and put into effect as part of the project. These may include restrictions on access to legally designated parks and protected areas, restrictions on access to other common property resources, restrictions on land use within utility easements or safety zones.
- **Security of tenure** means that resettled individuals or communities are resettled to a site that they can legally occupy, where they are protected from the risk of eviction and where the tenure rights provided to them are socially and culturally appropriate. In no event will resettled persons be provided tenure rights that are in effect weaker than the rights they had to the land or assets from which they have been displaced.
- **Technical feasibility** is based on whether the proposed measures and actions can be implemented with commercially available skills, equipment, and materials, taking into consideration prevailing local factors such as climate, geography, demography, infrastructure, security, governance, capacity, and operational reliability.
- **Universal access** means unimpeded access for people of all ages and abilities in different situations and under various circumstances.

## **Attachment 2**

**Bank Directive Addressing Risks  
and Impacts on Disadvantaged or  
Vulnerable Individuals or Groups  
(Draft for information)**



**For Official Use Only**

*This document is being made publicly available prior to Board consideration. This does not imply a presumed outcome. This document may be updated following Board consideration and the updated document will be made publicly available in accordance with the Bank's Policy: Access to Information.*

# Bank Directive

## Addressing Risks and Impacts on Disadvantaged or Vulnerable Individuals or Groups

### **Bank Access to Information Policy Designation**

[Public] [Official Use Only] [Confidential] [Strictly Confidential]

### **Catalogue Number**

[Assigned by the P&PF Administrator within LEGVPU]

### **[Issued and effective] [Issued]<sup>i</sup>**

[Insert date]

### **[Effective]**

[Insert date]

### **Content**

Establishes directions for Bank staff in respect of disadvantaged or vulnerable individuals or groups as required under the Environmental and Social Framework

### **Applicable to**

IBRD and IDA

### **Issuer**

Vice President, OPCS

### **Sponsor**

Director, [Standards, Procurement & Financial Management Unit] [Operations Policy and Quality Department], OPCS

**DELIBERATIVE WORKING DRAFT**

**July 20, 2016**

## SECTION I – PURPOSE AND APPLICATION

1. This Directive establishes directions for Bank staff regarding due diligence obligations relating to the identification of, and mitigation of risks and impacts on, individuals or groups who, because of their particular circumstances, may be disadvantaged or vulnerable, as described in paragraph 4 (b) of the E&S Policy and paragraph 28 (b) of the ESS1.
2. This Directive applies to the Bank.

## SECTION II – DEFINITIONS

Capitalized terms and acronyms used in this Directive have the meanings set out: (a) in [Section xx of] the Bank Policy entitled “*Environmental and Social Policy for Investment Project Financing*”, [enter date], Catalogue No. [xxxx]; or (b) below.

1. “**disadvantaged or vulnerable**” refers to those individuals or groups who, by virtue of, for example, their 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, may be more likely to be adversely affected by the project impacts and/or more limited than others in their ability to take advantage of a project’s benefits. Such an individual/group is also more likely to be excluded from/unable to participate fully in the mainstream consultation process and as such may require specific measures and/or assistance to do so. This will take into account considerations relating to age, including the elderly and minors, and including in circumstances where they may be separated from their family, the community or other individuals upon whom they depend.
2. “**due diligence**” means the process conducted by the Bank pursuant to Section C of the E&S Policy.
3. “**ESCP**” or “**Environmental and Social Commitment Plan**” means the environmental and social commitment plan in respect of a project, the contents of which are described in Section E of the E&S Policy.
4. “**Environmental and Social Framework**” means the World Bank Environmental and Social Framework that comprises a “*Vision for Setting Environmental and Social Standard for Investment Project Financing*”, the “*World Bank Environmental and Social Policy for Investment Project Financing*” and the “*Environmental and Social Standards*”.
5. “**E&S Policy**” means the Bank Policy entitled “*World Bank Environmental and Social Policy for Investment Project Financing*”, [enter date], Catalogue No. [xxx].
6. “**environmental and social assessment**” means the process conducted by the Borrower pursuant to Section B of ESS1.

7. “**E&S Procedure**” means the procedure entitled “*Environmental and Social Procedure*” [enter date], Catalogue No. [xxx].
8. “**ESS 1**” means Environmental and Social Standard 1 on the Assessment and Management of Environmental and Social Risks and Impacts.
9. “**IPF**” or “**Investment Project Financing**” is as defined in paragraph 7 of the E&S Policy.
10. “**OESRC**” means the Operations Environmental and Social Review Committee of the Bank referred to in the Environmental and Social Procedure.
11. “**project**” means the project as defined in paragraph 8 of the E&S Policy.
12. “**Stakeholder Engagement Plan**” or “**SEP**” means the plan developed in accordance with ESS 10.

### SECTION III – SCOPE

1. The task team supports the Borrower’s preparation and implementation of the project in accordance with, among other things, OP/BP10.00 *Investment Project Financing*, the relevant IPF instructions/procedures, the E&S Policy and the E&S Procedure. Where a project poses specific risks and impacts to individuals or groups who, because of their particular circumstances, may be disadvantaged or vulnerable, the task team approaches such risks and impacts as set out below.
2. The task team assists the Borrower in establishing arrangements for the undertaking and preparation of the environmental and social assessment of the project as required by ESS1<sup>1</sup>, including by reviewing and providing its no-objection to relevant terms of reference (if any) prepared by the Borrower with respect to the assessment and, as and when appropriate, supports the Borrower in carrying out consultations with stakeholders.
3. The task team reviews the terms of reference for the environmental and social assessment to verify that, in accordance with paragraphs 28 (b) (ii) and (iii) and 29 of ESS1, the terms of reference:
  - (a) identifies (or require the identification of) groups or individuals affected by the project that may be disadvantaged or vulnerable; and

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<sup>1</sup> See in particular paragraphs 28 (b) (ii) and (iii) and 29 of ESS1.

- (b) requires an assessment of project risks and impacts, and identification of differentiated mitigation measures, as they pertain to the disadvantaged or vulnerable individuals or groups that are identified.
4. The Borrower is also required to engage with the different stakeholders as an integral part of the environmental and social assessment in accordance with ESS10<sup>2</sup>. The task team reviews the Borrower's Stakeholder Engagement Plan (SEP) to verify that:
- (a) the SEP identifies the disadvantaged or vulnerable individuals or groups as referred to in paragraph 1 of Section II;
  - (b) where applicable, the SEP includes differentiated measures to allow the effective participation of such individuals or groups; and
  - (c) the Borrower has engaged and consulted with such individuals and groups in accordance with the SEP.
5. The task team undertakes its due diligence of the project, with respect to disadvantaged or vulnerable individuals or groups, by (as applicable):
- (a) reviewing the environmental and social assessment conducted by the Borrower to verify that it addresses the relevant project risks and impacts, including the (i) risk that project-related impacts fall disproportionately on individuals or groups who, because of their particular circumstances, may be disadvantaged or vulnerable; and (ii) risk of prejudice or discrimination toward individuals or groups in providing access to [development resources and] project benefits, particularly in the case of those who may be disadvantaged or vulnerable;
  - (b) if appropriate in the context of a particular project, participating in the consultation activities of the Borrower, including with disadvantaged or vulnerable individuals or groups<sup>3</sup>.
  - (c) considering the potential significance of risks and impacts on disadvantaged or vulnerable individuals or groups in order to determine whether to require the Borrower to retain, or whether the Bank should retain, independent third party specialists to assist in the identification of such individuals or groups and assessment of the risks and impacts on them; and
  - (d) reviewing information provided by the Borrower or through the Bank's own efforts about the project's risks and impacts on disadvantaged or vulnerable individuals or groups.

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<sup>2</sup> See in particular paragraphs 11 and 16 of ESS10.

<sup>3</sup> See the E&S Policy, paragraph 53.

6. Through its due diligence, the task team ascertains whether: (i) the environmental and social assessment has properly identified the disadvantaged or vulnerable individuals or groups; and (ii) appropriate differentiated mitigation measures have been incorporated into project design and documented in relevant project documents so that adverse impacts do not fall disproportionately on the disadvantaged or vulnerable, and they are not disadvantaged in sharing any development benefits resulting from the project. This will contribute to the Bank's decision making as to whether to proceed with the proposed project or not.
7. There may be circumstances in which the application of this Directive (including the identification of disadvantaged or vulnerable individuals or groups or differentiated mitigation measures) could expose such individuals or groups to risk of harm. In such circumstances the task team will seek the advice of the OESRC, which will also consider any implications that this may have for the task team itself. The OESRC will consider the project-specific circumstances and the risk of harm, and advise the task team as to whether or not it should proceed with the project and, if so, on what basis. Where the project will proceed, the task team will comply with this Directive in the manner advised by the OESRC. The task team will document its good faith efforts to apply this Directive and the response of the Borrower to such efforts.
8. The task team ensures that the ESCP reflects in adequate detail the measures and actions agreed between the Bank and the Borrower to address risks or impacts on disadvantaged or vulnerable individuals or groups. The task team attaches the ESCP to the legal agreement and includes in the legal agreement any appropriate obligations to be met by the Borrower in relation to disadvantaged or vulnerable individuals or groups.
9. During the implementation support and monitoring phase, the task team monitors the Borrower's obligations with respect to disadvantaged or vulnerable individuals or groups.
10. The task team may engage independent third party specialists or consult with stakeholders to verify project monitoring information related to disadvantaged or vulnerable individuals or groups.

#### SECTION IV – EXCEPTION

[Specify: (1) any Exception<sup>ii</sup> to any provision in the document; (2) the specific circumstances and requirements under which the Exception may be approved; and (3) who may approve the Exception.]

#### SECTION V – WAIVER

A provision of this Directive may be waived in accordance with [Bank Policy “Operational Policy Waivers”, April 7, 2014, Catalogue No. OPCS05.06-POL.01]

#### SECTION VI – OTHER PROVISIONS



[Specify any other matter that is not addressed in the above sections and is appropriate to be included in the document.]

## Section VII – TEMPORARY PROVISIONS

[Specify any transitional requirements or provisions in effect for a limited period of time.]

## SECTION VIII – EFFECTIVE DATE

This Directive is effective [*insert date*].

## SECTION IX – ISSUER

The Issuer of this Directive is [*insert title of Issuer*].

## SECTION X – SPONSOR

The Sponsor of this Directive is [*insert title of Sponsor*].

## SECTION XI – RELATED DOCUMENTS

[List any Board paper, Policy, Directive, Procedure, Guidance, delegation of authority to grant Waivers, and other important documents that relate to the subject matters covered by this document. For any reference to a P&P Document or other document listed under this Section provide its title, date, the P&P Repository catalogue number (if applicable), and the hyperlink. If any of the documents listed under this section is also available in languages other than English, the Sponsor sends to the P&PF Administrator the non-English versions as a link or attachment, so that it can be included.]

Questions regarding this Directive should be addressed to the Sponsor.

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<sup>i</sup> The term “Issued and Effective” is used only if the two dates are the same. If not, show each date on a separate line, as indicated. The term “Last Revised Date” refers to the date when the document was last revised. If the document was not previously revised, the Last Revised Date reference is not used.

<sup>ii</sup> As defined in Section II of the P&P F Directive, “Exception” is a deviation from a requirement of a Policy, Directive or Procedure that is explicitly permitted by such document’s terms.

# **Attachment 3**

## **Environmental and Social Procedure (Draft for information)**



*This document is being made publicly available prior to Board consideration. This does not imply a presumed outcome. This document may be updated following Board consideration and the updated document will be made publicly available in accordance with the Bank's Policy: Access to Information.*

# Bank Procedure

## Environmental and Social Procedure

**Bank Access to Information Policy Designation**  
Public

**Catalogue Number**  
*[Assigned by the P&PF Administrator within LEGVPU]*

**[Issued and effective] [Issued] [Last Revised]**  
*[Insert date]*

**[Effective]**  
*[Insert date]*

**Content**  
*[Brief summary of the document]*

**Applicable to**  
*[Insert the institution or staff within the institution for which the document applies]*

**Issuer**  
*[OPCS VP]*

**Sponsor**  
*[CESSO]*

**DELIBERATIVE WORKING DRAFT**

**July 20, 2016**

## SECTION I – PURPOSE AND APPLICATION

1. This Procedure sets out the mandatory requirements for the implementation of the Environmental and Social Policy for Investment Project Financing.
2. This Procedure applies to the Bank.

## SECTION II – DEFINITIONS AND ACRONYMS

3. As used in this Procedure, the capitalized terms or acronyms have the meanings set out below.
  - 1) **Access to Information Policy:** the Bank’s Access to Information Policy, dated July 1, 2013, as amended from time to time.
  - 2) **APES:** the Accreditation Panel for Environmental and Social Standards of the Bank constituted of the Chief Environmental and Social Standards Officer (CESSO); the Director, GENDR; the Director, GSURR; and the LEGEN CC, with appropriate regional representation as determined by the CESSO.
  - 3) **Bank:** IBRD and IDA.
  - 4) **Board:** the Executive Directors of IBRD or IDA, or both, as applicable.
  - 5) **Borrower:** the borrower or recipient of Bank financing for an investment project, and any other entity responsible for the implementation of the project.
  - 6) **Borrower’s ES Framework:** the Borrower’s Environmental and Social Framework, as described in Section B of the Policy.
  - 7) **CESSO:** the Chief Environmental and Social Standards Officer of the Bank.
  - 8) **Directive:** the Bank Directive Addressing Risks and Impacts on Disadvantaged or Vulnerable Individuals or Groups.
  - 9) **EHSGs:** the Environmental, Health and Safety Guidelines of the World Bank Group, dated April 30, 2007, as amended from time to time.
  - 10) **ES:** Environmental and Social.
  - 11) **ESCP:** the Environmental and Social Commitment Plan.

- 12) **ESF:** the Environmental and Social Framework of the Bank, dated \_\_\_\_\_, as may be amended from time to time, which consists of a Vision for Sustainable Development, the Environmental and Social Policy and the ten Environmental and Social Standards.
- 13) **Environmental and Social Policy for Investment Project Financing:** the Environmental and Social Policy of the Bank, dated \_\_\_\_\_, as amended from time to time.
- 14) **Environmental and Social Procedure:** the Environmental and Social Procedure of the Bank, dated \_\_\_\_\_, as amended from time to time.
- 15) **ESRC:** The Environmental and Social Risk Classification of a project as *High Risk, Substantial Risk, Moderate Risk* or *Low Risk* in accordance with Section VI.
- 16) **ESRS:** the Environmental and Social Review Summary, in the form required, as amended from time to time.
- 17) **ESS:** the Environmental and Social Standards of the Bank, dated \_\_\_\_\_, as amended from time to time.
- 18) **ESSA:** an Environmental and Social Standards Advisor (previously, the Regional Safeguards Advisor).
- 19) **ES Specialist:** an Environmental and/or Social Specialist of the Bank.
- 20) **ICR:** an Implementation Completion and Results Report.
- 21) **IPF:** Investment Project Financing, as defined under OP/BP 10.00.
- 22) **ISR:** Implementation Status and Results Report.
- 23) **GENDR:** Environmental and Natural Resources Global Practice.
- 24) **Global Practice Senior Director/Director:** the Senior Director or Director of a GP of the Bank.
- 25) **GP:** a Global Practice of the Bank.
- 26) **GRS:** the Grievance Redress Service of the Bank.
- 27) **GSURR:** Social, Urban, Rural and Resilience Development Global Practice.
- 28) **Legal agreement:** The legal agreement entered into between the Bank and the Borrower to provide Bank financing for the Borrower's investment project.

- 29) **LEG**: the Legal Vice-Presidency of the Bank.
- 30) **LEGEN**: the Environment and International Law Unit of LEG.
- 31) **LEGEN CC**: Chief Counsel, LEGEN.
- 32) **Management**: the President or a Manager of the Bank, or some or all of these persons, as applicable.
- 33) **Manager**: a person identified as a manager in the Bank's human resources system.
- 34) **Managing Director or MD**: the Managing Director and Chief Operating Officer of the Bank.
- 35) **OESRC**: the Operations Environmental and Social Review Committee of the Bank, which consists of the CESSO (Chair); the Manager, Environmental and Social Standards, OPCS; Global Leads for Safeguards/Standards from GENDR and GSURR; Director-level representation from key Global Practices involved in ES issues (such as GENDR, GSURR, GP Social Protection); LEGEN CC; ESSAs (as relevant); and Regional Director(s) of Strategy and Operations on a rotational basis (as relevant).
- 36) **OPCS**: the Operations Policy and Country Services Vice-Presidency of the Bank.
- 37) **PAD**: a Project Appraisal Document.
- 38) **President**: the President of the Bank.
- 39) **TL**: the Team Leader.
- 40) **TOR**: Terms of Reference for the relevant assessment to be used by the Borrower to assess potential risks and impacts of the project.
- 41) **TT**: the Task Team.

### SECTION III – SCOPE

4. This Procedure applies to all projects subject to OP 10.00 on Investment Project Financing.
5. As set out in the Policy, paragraph 3, the responsibilities of the Bank to manage ES risks and impacts of a project are:
  - a. undertake its own due diligence on the proposed project, proportionate to the nature and potential significance of the ES risks and impacts related to the project;

- b. as and where required, support the Borrower in carrying out early and continuing engagement and meaningful consultation with stakeholders, in particular project-affected parties, and in providing project-based grievance mechanisms;
- c. assist the Borrower in identifying appropriate methods and tools to assess and manage the potential ES risks and impacts of the project;
- d. agree with the Borrower on the conditions under which the Bank is prepared to provide support to the project, as set out in the Environmental and Social Commitment Plan (ESCP); and
- e. monitor the ES performance of the project in accordance with the ESCP and the ESSs.

#### SECTION IV – ROLES AND RESPONSIBILITIES [Text in brackets indicates language that is under development]

- 6. The management of ES risks and impacts within the Bank is carried out primarily by responsible officials in OPCS, the GPs (GENDR and GSURR), LEG (LEGEN), and members of the TT. Each of these officials, together with the relevant Bank staff, are responsible for carrying out the tasks set out in this Section.
- 7. [The CESSO has overall responsibility and accountability for general oversight of ESF implementation and, together with relevant Bank staff, carries out the following:
  - a. advising on the application of the ESF;
  - b. proposing amendments to, and leading any review and update of, the ESF;
  - c. issuing guidance in relation to Bank safeguards and standards;
  - d. monitoring the overall functioning of the ESF, including through thematic reviews, and reporting on its implementation and application to senior Management and the Board, including the due diligence process conducted by the Bank, and the formulation of measures to support such implementation;
  - e. endorsing proposals for waivers to the provisions of the ESF for submission to MD for clearance and Board approval;
  - f. approving proposals for waivers to the provisions of the Environmental and Social Procedure;
  - g. ensuring central monitoring of ES-related grievances submitted through the GRS;

- h. managing the ESF accreditation process and clearing accreditation decisions;
  - i. overseeing design and implementation of knowledge management and learning activities of the ESF (including those related to capacity building of Borrowers) , jointly with GPs and LEGEN; and
  - j. engaging with other multilateral and bilateral organizations and development agencies on environmental and social policy issues with the objective of enhancing co-operation and harmonization of Bank requirements relating to ES risks and impacts, including the ESF.]
8. [The Director, GENDR and the Director, GSURR, are responsible and accountable for the implementation of the ESF and, together with relevant Bank staff, carries out the following:
- a. developing and implementing processes for the effective implementation of the ESF, including planning and budgeting, programming deployment, monitoring and reporting on ESF-related project-level support;
  - b. providing oversight of ES issues during the project life-cycle;
  - c. allocating ES specialists and consultants to the TT and supervising them;
  - d. advising and assisting the TT on ES risks and impacts;
  - e. providing advisory support and monitoring to projects throughout the project life-cycle;
  - f. undertaking and assisting with portfolio reviews of ES performance;
  - g. providing specialized technical advisory services relating to the ESF; and
  - h. assisting with the development of Borrower capacity building strategies and implementation.]
9. [The LEGEN CC is responsible for and, together with relevant Bank staff, carries out the following:
- a. providing advice on the ESF and ES risk-related guidance;
  - b. reviewing and clearing terms of reference for consultants being hired to carry out legal work with ES content; and
  - c. advising on the assessment of the Borrower's ES Framework.]



10. [TT (including ESF Accredited Staff) are responsible and accountable for project-level preparation, implementation support and monitoring activities relating to the ESF, and carries out the following:
- a. Conducting project ES due diligence, and advising on appropriate ES mitigation measures;
  - b. assisting the Borrower in the identification of relevant ES tools and instruments;
  - c. carrying out ES-related implementation support and monitoring;
  - d. promptly notifying the GPs responsible for the project, the relevant region and OPCS (ESSA and CESSO) of material adverse events or changes during project preparation and implementation;
  - e. handling grievances related to implementation at the project level.]
11. [The OESRC has overall responsibility and accountability for reviewing and advising on ES issues of corporate relevance, including the following:
- a. at the request of any members of OESRC or senior Management at any time during the project life-cycle, providing advice and guidance on *High Risk*, sensitive or complex projects or issues, including those raising policy interpretation issues or of a controversial or innovative nature, regardless of the ESRC;
  - b. requiring the TT to notify OESRC promptly of any significant event or change in the ES issues associated with a project, regardless of the ESRC, and where necessary providing advice and guidance as to how the event or issue is addressed; and
  - c. providing support to the CESSO in advising on the application of the ESF, monitoring such application and advising on changes to the ESF.]
12. [The APESS is chaired by the CESSO and is responsible for:
- a. developing core competency requirements and setting professional standards for Bank staff to be accredited as ESF Accredited staff;
  - b. operating the ESF Accreditation Process, including reviewing and recommending ESF Accreditation;
  - c. maintaining and making available registers of ESF Accredited staff;
  - d. providing advice and guidance on developing and maintaining core competencies and specializations; and

- e. monitoring adequacy of resources and competencies to meet the requirements and support the integrity of the ESF.]

## SECTION V – SCREENING THE PROJECT

13. The TL assembles a TT for the proposed project. An ES specialist is assigned by the relevant GP Managers to all projects. The experience and expertise of ES specialist assigned takes into account the potential risks and impacts of the project, including the type and scale of such risk and impacts and the context of the project.
14. The ESSA (a) reviews and advises on the type and scope of due diligence studies required for the project; and (b) decides on the ESRC for the project; and (c) advises whether the project should be retained for ESSA oversight or transferred to the relevant GPs.
15. The TT screens the proposed project to identify, with the available information, the key ES risks and impacts and capacity issues associated with the project. The initial screening of potential ES risks and impacts is based on an examination of the type, sector, location, sensitivity and scale of the proposed project, and the nature and magnitude of its potential ES risks and impacts.
16. The preliminary screening informs the initial ESRC, and the extent to which the Borrower's ES Framework will be assessed. It also provides the basis for the TT to consider the type of ES assessment that is required, so that the risks and impacts, and any other issues that may arise, can be addressed effectively in project planning, design and implementation.
17. The TT reviews the capacity and commitment of the Borrower to develop and implement the project in accordance with the ESSs. The TT reviews the need, if any, for enhancement of the Borrower's capacity to meet the requirements of the ESSs, particularly in respect of relevant baseline data and information, on-site training, institutional strengthening, and inter-institutional collaboration. The TT considers the need for capacity enhancement, including project components to strengthen capacity.
18. The TT undertakes an initial review of the Borrower's ES Framework specific to the project upon Borrower request. (For further requirements, see Section IX.)
19. During the initial screening, the TT gathers sufficient information regarding the project to enable the TT to:
  - a. identify key ES risks and impacts, and their nature and magnitude;
  - b. propose aESRC;
  - c. consider the most appropriate type of ES assessment to be conducted by the Borrower and the methods and tools to be used;

- d. identify and assess details of the Borrower’s ES Framework and possible gaps;
  - e. propose a preliminary schedule for consultation with stakeholders; and
  - f. consider the type of ES due diligence that will be required of the Bank, and propose a preliminary ES due diligence schedule.
20. The TT discusses with the Borrower the information on the project, and the measures and actions that will be required for the Borrower to conduct ES assessment of the project, including the methods and tools to be used (as described in ESS1, Annex 1) and the type and timeframe for the preparation of specific instruments, including any ESS-specific plans.
21. If the potential ES risks and impacts of the proposed project are considered to be *High Risk* or *Substantial Risk*, the TT includes dedicated ES specialists. The type and level of expertise of the ES specialists reflects the type and level of risks and impacts of the project.

## SECTION VI – RISK CLASSIFICATION

22. The ES specialists, together with the TL proposes an Environmental and Social Risk Classification (ESRC). The ESRC will be one of the four categories set out in this section, that is *High Risk*, *Substantial Risk*, *Moderate Risk* or *Low Risk*. The ESSA reviews and clears the ESRC. The ESRC is imported into the SORT. Where there are differences of opinion over the ESRC, the CESSO advises Management on the appropriate ESRC. The ESRC for the project is amended as appropriate.
23. The ESRC is used by the Bank as a tool to review and monitor the ES performance of a project on a regular basis throughout the project life-cycle. The Bank allocates its resources, and provides corporate oversight and implementation support to a project, in accordance with the ESRC of the project. The ESRC is intended to ensure that:
- a. the Bank has accurate and up-to-date information regarding the status of the project, including issues that could affect the ES performance and outcomes of the project; and
  - b. the Borrower dedicates sufficient resources, and is provided with targeted implementation support, to support the implementation of the commitments set out in the legal agreement, including the ESCP.
24. The Bank takes the necessary steps to ensure that the ESRC of the project is based on accurate and up-to-date information, and is made in accordance with the ES Policy and this Procedure.
25. The Bank classifies a project as *High Risk*, *Substantial Risk*, *Moderate Risk* or *Low Risk* taking into account all relevant potential risks and impacts, including the following:

- a. the type, location, sensitivity and scale of the project including, *inter alia*, the physical considerations of the project; type of infrastructure (e.g., dams and reservoirs, power plants, airports, major roads); volume of hazardous waste management and disposal, geographical area of influence;
- b. the nature and magnitude of the potential ES risks and impacts, including, *inter alia*, impacts on greenfield sites; impacts on brownfield sites including (e.g., rehabilitation, maintenance or upgrading activities); the nature of the potential risks and impacts (e.g. whether they are irreversible, unprecedented or complex); resettlement activities; presence of Indigenous Peoples; and possible mitigation measures considering the mitigation hierarchy;
- c. the capacity and commitment of the Borrower to manage such risks and impacts in a manner consistent with the ESSs, including, *inter alia*, the country's policy, legal and institutional framework; laws, regulations, rules and procedures applicable to the project sector, including regional and local requirements; the technical and institutional capacity of the Borrower; the Borrower's track record of past project implementation; and the financial and human resources available for management of the project;
- d. other areas of risk that may be relevant to the delivery of ES mitigation measures and outcomes, depending on the specific project and the context in which it is being developed, including, *inter alia*, the nature of the mitigation and technology being proposed, considerations relating to domestic and/or regional stability, conflict or security.

26. The Bank classifies a project as **High Risk** after considering, in an integrated manner, the risks and impacts of the project, and determining the following:

- a. the project is likely to generate a wide range of significant adverse risks and impacts on human populations or the environment. This could be because of the complex nature of the project, the scale (large to very large) or the sensitivity of the location(s) of the project. This would take into account whether the potential risks and impacts associated with the project have the majority or all of the following characteristics:
  - (i) long term, permanent and/or irreversible (e.g., loss of major natural habitat or conversion of wetland), and impossible to avoid entirely due to the nature of the project;
  - (ii) high in magnitude and/or in spatial extent (the geographical area or size of the population likely to be affected is large to very large);
  - (iii) significant adverse cumulative impact;

- (iv) significant adverse transboundary impacts and;
  - (v) a high probability of serious adverse effects to human health and/or the environment (e.g., due to accidents, toxic waste disposal, etc.);
- b. the area likely to be affected is of high value and sensitivity, for example sensitive and valuable ecosystems and habitats (protected areas, National Parks, World Heritage Sites, Important Bird Areas), lands or rights of Indigenous Peoples or other vulnerable minorities, intensive or complex involuntary resettlement or land acquisition, impacts on cultural heritage or densely populated urban areas;
  - c. some of the significant adverse ES risk and impacts of the project cannot be mitigated or specific mitigation measures require complex and/or unproven mitigation, compensatory measures or technology, or sophisticated social analysis and implementation;
  - d. there are significant concerns that the adverse social impacts of the project, and the associated mitigation measures, may give rise to significant social conflict or harm or significant risks to human security;
  - e. there is a history of unrest in the area of the project or the sector, and there may be significant concerns regarding the activities of security forces;
  - f. the project is being developed in a legal or regulatory environment where there is significant uncertainty or conflict as to jurisdiction of competing agencies, or where the legislation or regulations do not adequately address the risks and impacts of complex projects, or changes to applicable legislation are being made, or enforcement is weak;
  - g. the past experience of the Borrower and the implementing agencies in developing complex projects project is limited, their track record regarding ES issues would present significant challenges or concerns given the nature of the project's potential risks and impacts;
  - h. there are significant concerns related to the capacity and commitment for, and track record of relevant project parties, in relation to stakeholder engagement;
  - i. there are a number of factors outside the control of the project that could have a significant impact on the ES performance and outcomes of the project.

27. The Bank classifies a project as **Substantial Risk** after considering, in an integrated manner, the risks and impacts of the project, and determining the following:

- a. the project may not be as complex as *High Risk* projects, its ES scale and impact may be smaller (large to medium) and the location may not be in such a sensitive

area. This would take into account whether the potential risks and impacts have the majority or all of the following characteristics;

- b. they are mostly temporary, predictable and/or reversible, and the nature of the project does not preclude the possibility of avoiding or reversing them (although substantial investment and time may be required);
- c. there are concerns that the adverse social impacts of the project, and the associated mitigation measures, may give rise to a limited degree of social conflict, harm or risks to human security;
- d. they are medium in magnitude and/or in spatial extent (the geographical area and size of the population likely to be affected are medium to large);
- e. the potential for cumulative and/or transboundary impacts may exist, but they are less severe and more readily avoided or mitigated than for *High Risk* projects;
- f. there is medium to low probability of serious adverse effects to human health and/or the environment (e.g., due to accidents, toxic waste disposal, etc.), and there are known and reliable mechanisms available to prevent or minimize such incidents;
- g. the effects of the project on areas of high value or sensitivity will be lower than *High Risk* projects;
- h. mitigatory and/or compensatory measures may be designed more readily and be more reliable than those of *High Risk* projects.
- i. the project is being developed in a legal or regulatory environment where there is uncertainty or conflict as to jurisdiction of competing agencies, or where the legislation or regulations do not adequately address the risks and impacts of complex projects, or changes to applicable legislation are being made, or enforcement is weak.
- j. the past experience of the Borrower and the implementing agencies in developing complex projects project is limited in some respects, and their track record regarding ES issues suggests some concerns which can be readily addressed through implementation support.
- k. There are some concerns over capacity and experience in managing stakeholder engagement but these could be readily addressed through implementation support.

28. The Bank classifies a project as **Moderate Risk** after considering, in an integrated manner, the risks and impacts of the project, and determining the following:

- a. the potential adverse risks and impacts on human populations and/or the environment are not likely to be significant. This is because the project is not complex and/or large, does not involve activities that have a high potential for harming people or the environment, and is located away from environmentally or socially sensitive areas. As such, the potential risks and impacts and issues are likely to have the following characteristics:
    - (i) predictable and expected to be temporary and/or reversible;
    - (ii) low in magnitude;
    - (iii) site-specific, without likelihood of impacts beyond the actual footprint of the project
    - (iv) low probability of serious adverse effects to human health and/or the environment (e.g., do not involve use or disposal of toxic materials, routine safety precautions are expected to be sufficient to prevent accidents, etc.)
  - b. risks and impacts can be easily mitigated in a predictable manner.
29. The Bank classifies a project as **Low Risk** if its potential adverse risks to and impacts on human populations and/or the environment are likely to be minimal or negligible. These projects, with few or no adverse risks and impacts and issues, do not require further ES assessment following the initial screening.
30. The Bank reviews the ESRC on a regular basis throughout the project life-cycle in order to ensure that it continues to reflect accurately the level of risk the project presents. In particular, the Bank takes into account risks or impacts of the project that were not foreseen or anticipated; changes to the Borrower ES Framework; the ongoing ES performance of the project; the commitment of the Borrower; and the information contained in the following to assess whether the ESRC continues to be appropriate:
- a. the ESCP implementation reports;
  - b. the annual monitoring report; and
  - c. the ISR.

## SECTION VII –SUPPORT FOR ENVIRONMENTAL AND SOCIAL ASSESSMENT

31. The Bank advises the Borrower on carrying out the ES assessment of the project in accordance with the requirements of ESS1.
32. The Bank assists the Borrower in determining the process to be followed, and the different methods and tools to be used by the Borrower to carry out the ES assessment and to document the results of such assessment. These are described in general terms in ESS1, Annex 1. Guidance, including templates and checklists, will provide further clarification and

will be amended from time to time. The assessment assesses the ES risks of the project throughout the project life-cycle, and identifies appropriate mitigation measures.

33. As necessary, the Bank assists the Borrower in preparing the TORs for any tools (including those required by specific ESSs) to be used as part of the ES assessment, ensuring that the TORs reflect the need for adequate inter-agency coordination and consultation with stakeholders.
34. Bank staff may assist Borrowers in carrying out Greenhouse Gas estimates for projects, where capacity is lacking, for example, in FCS and IDA projects. Further information is provided in Guidance.

## SECTION VIII – BANK DUE DILIGENCE

35. The Bank carries out ES due diligence of all proposed projects, including as required by OP/BP 10.00. The ES due diligence is appropriate to the nature and scale of the project, and proportionate to the level of ES risks and impacts.
36. The Bank's ES due diligence assesses whether the project is capable of being developed and implemented in accordance with the ESSs or, where the Bank is relying on the Borrower's ES Framework for all or part of the project, whether the project is able to achieve objectives materially consistent with the ESSs.
37. The Bank reviews all relevant project information and documents provided by the Borrower. If the Bank has insufficient information to conduct its due diligence, it requests additional and relevant information from the Borrower.
38. Where a project poses specific risks and impacts to individuals or groups who, because of their particular circumstances, may be disadvantaged or vulnerable, the TT will approach such risks and impacts in accordance with *Bank Directive on Addressing Risks and Impacts on Disadvantaged or Vulnerable Individuals or Groups*.
39. If a project is classified by the Bank as *High Risk or Substantial Risk*, the Bank's due diligence includes site visits by an environmental and/or social specialist, as appropriate. The ESSA provides advice, guidance and clearance during project preparation, and during implementation for *High Risk* and, where considered appropriate, *Substantial Risk* projects.
40. In particular, as part of the Bank's due diligence, the Bank:
  - a. reviews relevant aspects of the ES assessment with the Borrower;
  - b. assesses the adequacy of the institutions responsible for management of ES risks and impacts;



- c. discusses and agrees with the Borrower on the adequacy of financing arrangements for the measures and actions set out in the legal agreement, including the ESCP;
  - d. determines whether the recommendations of the ES assessment are properly addressed in project design;
  - e. discusses with the Borrower the measures and actions and a completion date for such measures and actions to be included in the ESCP; and
  - f. reviews the Borrower's ES Framework and time table for gap filling measures, if applicable.
41. Based on the results of the Bank's due diligence, the Bank:
- a. confirms or revises the ESRC of the project;
  - b. agrees with the Borrower on the measures and actions and a completion date for such measures and actions to be included in the legal agreement, including the ESCP;
  - c. ensures that the ESCP is attached to legal agreement and that the legal agreement takes into account the findings of the ES assessment, the Bank's ES due diligence, and the results of engagement with stakeholders;
  - d. includes ES-related covenants in the legal agreement, and in the monitoring system for the project; and
  - e. prepares the Environmental and Social Review Summary (ESRS).
42. The ESRS sets out an accurate and comprehensive record of the Bank's due diligence of the project, and includes the following:
- a. an accurate description of the project and any Associated Facilities (as defined in ESS1);
  - b. a description of the key potential ES risks and impacts of the project;
  - c. the sources of information on which the Bank's due diligence and the ESRS has been based;
  - d. a discussion of the key ES risks and impacts by reference to the relevant ESS, and the proposed mitigation measures; and
  - e. a summary of the key measures and actions agreed to in the legal agreement, including the ESCP, together with timeframes for implementation.

43. Where a project involves subprojects, the Bank agrees and documents arrangements with the Borrower to ensure that the implementing institutions will be able to carry out or oversee the ES assessment of proposed subprojects and/or conduct appropriate due diligence, and that an appropriate division of responsibilities is agreed upon and the required expertise is made available.

## SECTION IX – BORROWER’S ES FRAMEWORK

44. In accordance with Section B of the Policy, the Bank and Borrower consider whether to use all, or part, of the Borrower’s ES Framework in the assessment, development and implementation of a project supported by the Bank. The approach and methodology outlined in this Procedure supports the use of the Borrower’s ES Framework when appropriate.

45. If the Bank and the Borrower propose to use the Borrower’s ES Framework, the Bank conducts an assessment of the relevant aspects of the Borrower’s ES Framework. The review conducted by the Bank will assess the extent to which such use is likely to address the environmental and social risks and impacts of the project, and enable the project to achieve objectives materially consistent with the ESSs.

46. As part of the assessment, the Bank considers whether such use will result in an environmental and social assessment of the project which properly identifies the material risks and impacts of the project and supports the design and implementation of mitigation measures consistent with the mitigation hierarchy set out in ESS1 and, as relevant, in the ESSs. Depending on the significance of specific risks and impacts of the project, the assessment of the Borrower’s ES Framework may include an evaluation of specific aspects of the Borrower’s ES Framework against the relevant requirements of the ESSs. The assessment is carried out only where there is a reasonable likelihood that the specified aspects could be utilized, in accordance with the requirement of paragraph 45.

47. The Concept ESRS (or other similar document) records the Bank’s intention to conduct the assessment, and provides details of the aspects of the Borrower’s ES Framework that are being considered for use in the project, together with a summary of any preliminary information available.

48. The scope of assessment, and the aspects of the Borrower’s ES Framework to be reviewed, will vary from project to project, depending on factors relevant to the project including the type, scale and complexity of the project and the potential environmental and social risks and impacts of the project (including, but not limited to, those identified in the ESSs)

49. The Bank’s assessment of the Borrower’s ES Framework will include a review of:

- a. the country's general policy, legal and institutional framework, as these are relevant to the specific ES risks and impacts of the project;
  - b. laws, regulations, rules and procedures (including permits and approval requirements) applicable to the project's sector, including regional and local requirements that are relevant to the ES risks and impacts of the project;
  - c. inconsistencies, lack of clarity or conflict as to relevant authorities or jurisdiction, including differences between national and regional/local authorities or jurisdictions;
  - d. previous experience with the Bank or other IFIs and the track record of the Borrower and the national, subnational, sectoral and local institutions involved in the preparation and/or implementation of the project; and
  - e. technical and institutional capacity of the Borrower and relevant national, subnational or sectoral implementing institutions or agencies related to the project, as these are relevant to the ES risks and impacts of the project.
50. As part of the assessment, the Bank conducts consultations with relevant stakeholders. The aim of these consultations is to inform the Bank's assessment of the Borrower's ES Framework and the design of measures and actions to address any gaps that may be identified.
51. Where, in the context of other projects, the Bank has already conducted an assessment of aspects of the Borrower's ES Framework relevant to the proposed project or the Bank has conducted an overview assessment of the Borrower's existing policy, legal and institutional framework for addressing environmental and social risks and impacts, the Bank may take the conclusions of such assessments into account, providing the assessments are recent, pertinent to the project under preparation and the Bank is not aware of any material change to the conclusions reached.
52. In reviewing the Borrower's ES Framework, the Bank:
- a. assesses whether use of the Borrower's ES Framework, or aspects thereof, is likely to address the environmental and social risks and impacts of the project, and enable the project to achieve objectives materially consistent with the ESSs;
  - b. identifies gaps in the Borrower's ES Framework that would prevent the project from achieving objectives materially consistent with the ESSs;
  - c. identifies project-specific actions and measures to fill the identified gaps;
  - d. identifies gaps in the Borrower's ES Framework for which there are no feasible project-specific actions and measures; and

- e. recommends whether to use all or part of the Borrower’s ES Framework.
53. The Bank works with the Borrower to agree on project-specific measures and actions to address the identified gaps in the Borrower’s ES Framework. The Bank ensures that the ESCP incorporates such measures and actions, as well as the agreed timeframes and all the relevant information to ensure the implementation of these actions and measures.
54. Following completion of the assessment, the CESSO decides on use of all, or part, of the Borrower’s ES Framework. The decision is documented in the Project Appraisal Document, which:
- a. summarizes the conclusions of the evaluation conducted by the Bank;
  - b. specifies the aspects of the Borrower’s ES Framework that will be used in the assessment, development and implementation of the project; and
  - c. specifies the measures and actions agreed by the Borrower to address identified gaps.
55. The Bank may also recommend not using the Borrower’ ES Framework. This may be appropriate in such cases where, *inter alia*, the project is complex and *High Risk*; capacity and institutional aspects are limited; the context is one of fragility and/or conflict; or gaps have been identified for which no project-specific actions and measures are feasible or the identified measures and actions are unlikely to be implemented.
56. Bank staff monitor the application of the Borrower’s ES Framework to the project, the Borrower’s implementation and enforcement practices, track record and capacity in accordance with the Bank’s review and the project-specific measures and actions identified in the ESCP, for the duration of the project.
57. Where the Bank becomes aware of a change in the Borrower’s ES Framework that may materially adversely affect the project, the Bank assesses the extent to which the change is inconsistent with the ESSs and the ESCP and discusses with the Borrower ways to address the change, and agree on any additional actions and measures that may be required.

## SECTION X – OTHER MULTILATERAL OR BILATERAL FUNDING AGENCIES

58. Where the Bank has agreed:
- a. on a common approach for the assessment and management of ES risks and impacts of a project or Associated Facilities;
  - b. to apply the requirements of other multilateral or bilateral funding agencies for the assessment and management of ES risks and impacts of a project involving an FI; or

- c. to apply the requirements of other multilateral or bilateral funding agencies for the assessment and management of ES risks and impacts of a project involving Associated Facilities;

the Bank records this agreement in the legal agreement, including the ESCP, and in the PAD.

59. In determining whether the common approach or the requirements referred to in paragraph 58 are acceptable, the TT takes into account the policies, standards and implementation procedures of the multilateral or bilateral funding agencies.
60. Where the Bank has agreed to apply a common approach or rely on the requirements of other agencies, the Bank may choose to rely on the ES due diligence, supervision and implementation support conducted by such agencies.
61. If the Bank chooses to rely on the activities of other agencies for preparation or implementation support, the Bank concludes written arrangements with such agencies and the Borrower, so that the Bank is kept adequately informed on an ongoing basis of:
- a. the status of the project's compliance with the agreed ES requirements;
  - b. any material changes to the agencies' ES policies and procedures; and
  - c. the material consistency of the implementation of the proposed project with the objectives of the ESSs.
62. The measures and actions that have been agreed with such agencies and the Borrower are included in the legal agreement, including the ESCP.

## SECTION XI – MONITORING AND IMPLEMENTATION SUPPORT

63. In accordance with OP/BP 10.00, the Bank carries out regular reviews of the Borrower's compliance with the ES requirements relating to the project, as set out in the legal agreement, including the ESCP. Review activities are appropriate to the type and scope of the requirements, and include:
- a. reviewing monitoring reports;
  - b. conducting monitoring site visits;
  - c. reviewing project-related information that becomes available;
  - d. reviewing the Borrower's compliance with ES requirements, including covenants, disbursement conditions prior to all disbursements, and the ESCP;
  - e. advising the Borrower on how to manage ES project issues; and

- f. communicating risks and probable consequences of Borrower failure to comply with the ES requirements, and initiating remedies if the Borrower fails to (re)establish compliance.

## SECTION XII – DISCLOSURE

64. The Bank applies the World Bank Policy on Access to Information with regard to all documents provided to it by the Borrower.
65. The TT requires that sufficient information about the potential risks and impacts of the project is made available by the Borrower in a timely manner, in an accessible place, and in a form and language understandable to project-affected people and other interested parties, as set out in ESS10, so they can provide meaningful input into project design and mitigation measures.
66. At Concept Review, the TT discloses, in the Concept ESRS (or other similar document) information on the type and scope of the proposed project, its potential risks and impacts, the ESRC, the type of environmental and social assessment to be conducted and information on the provisional timeframe for conduct of the assessment. This includes any preliminary information on the identity of stakeholders, and the nature of stakeholder engagement.
67. Before the Bank commences Appraisal, the Bank and the Borrower disclose draft documentation relating to the environmental and social assessment of the project. The draft documentation identifies and considers, in adequate detail, the key environmental and social risks and impacts of the project. It provides accurate and relevant information about such risks and impacts, including a summary of key findings and proposed mitigation measures. Where aspects of the draft documentation are to be developed at a later stage, the draft documentation includes an outline of what will be done, including any studies or assessment to be completed, and this will be recorded in the ESCP.
68. Where the ESRC for the project is *High Risk* or *Substantial Risk*, draft documentation may include the instruments that have been identified by the Borrower in accordance with paragraph 32, reflecting the methods and tools set out in ESS1, Annex 1 (such as an ESIA, ESMP, ES Audit, ESMF, Resettlement Plan or Indigenous Peoples Plan). As relevant, the draft documentation includes the following information:
  - a. a description of the project and the proposed project activities;
  - b. the rationale for the project;
  - c. the key results of the scoping of the project;

- d. the aspects of the Borrower's ES Framework that will be utilized in the project (including where relevant, the permitting requirements of the Borrower);
- e. information regarding the environmental and social baseline, including information on data gaps, the significance of these gaps for decision-making and how these gaps will be addressed;
- f. the nature of the potential risks and Impacts of the project, together with an assessment of their significance;
- g. methods of mitigation in line with the mitigation hierarchy;
- h. the way in which the impacts of the project and the implementation of mitigation measures will be monitored.

69. Notwithstanding the above, the TT may propose, subject to the approval of the ESSA, that certain studies or mitigation plans are prepared after Board approval. The Bank discloses such details in the Project Appraisal Document and the Appraisal ESRS (or other similar document). This will include, where possible, the following information:

- a. the objectives and proposed content of the document;
- b. the rationale for the timing of preparation;
- c. the estimated cost associated with preparation and implementation of the document; and
- d. the source of funding, the arrangements for preparation and the timing for completing the document.

70. During implementation, the TT will disclose any changes to the ESRC and updated or final versions of ES documentation.

### SECTION XIII – PROJECT DOCUMENTS

71. The TT ensures that the documents relating to the ES assessment and management of the project provide adequate, accurate and up to date information regarding the potential risks and impacts of the project, and the agreed mitigation measures.

72. The Bank summarizes in the PAD material information relating to the assessment and management of the ES risks and impacts of the project, including:

- a. key features of the project and any Associated Facilities;
- b. the potential ES risks and impacts;
- c. the reasons for the ESRC;
- d. the type of ES assessment conducted, and the tools used;
- e. any information required pursuant to paragraph 69;
- f. any potential risks and impacts that require specific attention, including those addressed by ESS2-ESS9;
- g. key mitigation measures and actions;
- h. the feasibility of the proposed measures and actions, and the risks associated with implementation;
- i. details of consultations with stakeholders, including project-affected parties, including the issues raised and how they have been taken into account;
- j. institutional arrangements, timetable, budget, including adequate and timely provision of counterpart funds, and performance monitoring indicators;
- k. details of the ES requirements of the legal agreement, including the ESCP, including the timeframe and manner agreed with the Borrower for implementation of relevant measures and actions; and
- l. details of the ES representations, conditions and covenants.

73. The TT includes an updated ESRS and ESCP as attachments to the PAD.

#### SECTION XIV – WAIVER

The provisions of this Procedure may be waived in accordance with the Waiver Policy and Procedure.

#### SECTION XV – EFFECTIVE DATE

This Procedure is effective [*insert date*].

#### SECTION XVI – ISSUER

The Issuer of this Procedure is [*OPCS VP*].



## SECTION XVII – SPONSOR

The Sponsor of this Procedure is [CESSO]. Questions regarding this Procedure should be addressed to the Sponsor.

## SECTION XVIII – RELATED DOCUMENTS

The World Bank Access to Information Policy

Operational Policy and Bank Procedures (OP/BP) 10.00, Investment Project Financing

Operational Policy and Bank Procedures (OP/BP) 4.03, Performance Standards for Private Sector Activities

Operational Policy and Bank Procedures (OP/BP) 7.50, Projects on International Waterways

Operational Policy and Bank Procedures (OP/BP) 7.60, Projects in Disputed Territories

Operational Policy Waivers

The World Bank Group Environmental, Health and Safety Guidelines (EHSGs)

# **Attachment 4**

## Information Note

### Approach to Assessing Borrower Frameworks

(Draft for information)



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**DELIBERATIVE WORKING DRAFT**

July 20, 2016

**INFORMATION NOTE**

**Assessing the Borrower's Environmental and Social Framework**

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**Section I - Introduction**

1. The aim of this Information Note is to provide further information and guidance to Bank staff on making decisions, together with the Borrower, on the potential use of all or parts of a Borrower's Environmental and Social (**ES**) Framework to assess and manage environmental and social risks and impacts of projects supported by the World Bank through Investment Project Financing (**IPF**). This Information Note accompanies the World Bank's Environmental and Social Framework and is to be read in conjunction with the Environmental and Social Policy (**ESP**), the Environmental and Social Procedure (**ESPP**), and the Environmental and Social Standard 1 on Assessment and Management of Environmental and Social Risks and Impacts (**ESS1**).
2. The Bank supports the use of all or part of the Borrower's ES Framework, provided this is likely to address the risks and impacts of the project, and enable the project to achieve objectives materially consistent with the World Bank's Environmental and Social Standards (**ESSs**).
3. The Bank and the Borrower will consider whether to use the Borrower's ES Framework for the assessment, development and implementation of a project. If this is proposed, the Bank will conduct an assessment of the relevant aspects of the Borrower's ES Framework, and the extent of such use will be agreed between the Bank and the Borrower after the assessment has been completed.

**Section II – Application: What are Borrower ES Frameworks?**

4. The Borrower's ES Framework includes those aspects of the national and sub-national system that the Borrower relies on to assess, manage and regulate the environmental and social risks associated with activities carried out within its sovereign territory. This ES Framework typically comprises three main elements (i) relevant aspects of the country's policy and legal framework at the national and sub-national (for example, district, state, province) level; (ii) relevant authorizing and implementing agencies, bodies and institutions that operationalize policy and law through rules, procedures and practices, and (iii) the implementation capacity of responsible competent officials, civil servants and others involved in the assessment, approval, permitting, monitoring, supervision and enforcement related to the environmental and social risks and impacts of projects. These three main elements are discussed in further detail below.



### ***Section III – What is the benefit of using Borrower ES Frameworks in the Bank’s Investment Projects?***

5. Governments rely on their ES Framework as a means for reviewing, permitting and exercising legal and regulatory oversight of projects, and protecting the environment and people. In many countries, a considerable part of the environmental and social assessment of a proposed project is carried out in the context of broader territorial, spatial, or land use planning. For example, Government planning processes may play a significant role in identifying the most appropriate locations for a landfill, urban development, or roads project. In such cases, the Borrower’s ES Framework provides the context for the project, generating data and analysis which informs the project-specific environmental and social assessment. In focusing on the Borrower’s ES Framework, the Bank recognizes that it is important to avoid duplicating such effort as far as possible in the environmental and social assessment for a Bank-financed project.
6. The capacity of ES Frameworks will vary widely across countries. Some Borrowers will have comprehensive frameworks in place that are likely to be able to address many of the risks and impacts of the project and therefore enable the project to achieve objectives materially consistent with the ESSs. Other Borrowers will have frameworks that focus only on specific risks and impacts, but not on the full range covered by the Bank’s Environmental and Social Framework (**ESF**).
7. In all countries, however, Governments, private parties, the Bank and other lenders are engaging in activities which, as a matter of national law, utilize and rely on the Borrower’s ES Framework. Using the Borrower’s ES Framework to support project development will bring benefits in terms of better coherence and improved practices.
8. Using a Borrower’s ES Frameworks also strengthens the Borrower’s approach to managing environmental and social risks and impacts. Where environmental and social risks and impacts are managed by Borrower staff through national processes and requirements, it enhances ownership and capacity, builds institutions over the long term, and provides opportunities for collaboration and training. It also increases efficiency as it avoids duplication of Borrower and Bank requirements, speeding up processes and reducing costs.

### ***Section IV - How can assessment of Borrower ES Frameworks contribute to capacity building within a country?***

9. In considering the use of Borrower ES Frameworks, attention must be paid to identifying any areas where elements of the Borrower ES Framework needs to be strengthened in order to enable it to address the risks and impacts of the project, and enable the project to achieve objectives materially consistent with the ESSs. Areas identified for strengthening can be addressed either in relation to specific projects or through broader, more strategic interventions aimed at the country’s institutions. Dialogue with the Borrower will help to target appropriate support.
10. The first focus of the assessment of the Borrower ES Framework will be at the project level, where the Bank is providing support, and where the environmental and social risks of the project will need to be assessed and managed.
11. Where the Bank has agreed to use all, or part, of the Borrower’s ES Framework and where gaps have been identified, the Bank will work with the Borrower to identify and agree on project-specific measures and actions to address those gaps and strengthen the Borrower’s ES Framework. The agreed measures and actions, together with the timeframes for completion of



such measures and actions, will form part of the Environmental and Social Commitment Plan (ESCP<sup>1</sup>).

12. The Borrower will implement the measures and actions that have been agreed to address the gaps. In many cases, the project will include a specific component to provide advice and support to enhance capacity. Bank staff will provide implementation support to the Borrower and the implementing agencies in relation to the project itself. Over time, experience will deepen and capacity will be enhanced. Where this experience and enhanced capacity is adopted by the Borrower's own staff and institutions, this will lead to broader improvements in the Borrower's ES Framework.
13. Assessments of the Borrower's policy, legal and institutional framework for addressing environmental and social risks and impacts, and related implementation capacity, can also be conducted at the national level to provide an overview of the existing framework. This overview assessment would be done at the Borrower's request if the Bank agrees that it would be feasible. The objective would be to identify opportunities to strengthen specific aspects of the Borrower's ES Framework. This assessment is not necessary in order to use the Borrower's ES Framework for a specific project, but if it is done, it would inform the Bank's assessment of the Borrower's ES Framework for that project.

#### ***Section V – Can Borrower ES Frameworks be used in part?***

14. The Bank and the Borrower may consider the use of all, or part, of the Borrower's existing ES Framework. Where such use has been proposed, the Bank will review the Borrower's ES Framework to assess which, if any, elements of the ESF would allow the environmental and social risks and impacts of the project to be managed so that the project can achieve objectives materially consistent with the ESSs. The scope and manner of the assessment will be different depending on the type of project and the potential risks and impacts. The aspects of the Borrower's existing ES Framework that will be relevant will depend on such factors as the scale, location, potential environmental and social risks and impacts of the project and the role and authority of different institutions. For example, some countries will have adequate requirements on land acquisition, but may not have a system that operates adequately in relation to the treatment of hazardous waste. Other countries may have robust legislation at a national level, but challenges in implementation and enforcement at a regional level. The assessment of the Borrower's ESF will need to take such considerations into account.

#### ***Section VI – Is the assessment of the Borrower ES Framework always at the project level?***

15. It is expected that initially the assessment will be at the project level, particularly in the early years of implementation of the World Bank's ESF. The information gained from assessing the Borrower's ES Framework for several projects across sectors and regions will be integrated, over time, into a better overall understanding of the Borrower's ES Framework. This understanding will inform future decisions on using all or parts of the Borrower's ES Framework for projects.
16. Ultimately, over time and through project experience, a more comprehensive picture of a country's ES Framework will be developed. In some cases, in particular in small countries with

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<sup>1</sup> See ESP, Section E.



centralized agencies with high environmental and social risk management capacity, a one-time, upfront assessment of the option of using the Borrower's ES Framework may be possible.

17. As stated in paragraph 9, upon a Borrower's request and where the Bank agrees, an overview assessment can be conducted with the objective of identifying aspects of the existing framework that can be strengthened and the capacity-building needed to support this. The overview assessment will not be a prerequisite for the use of all, or part of, the Borrower's ES Framework.

### **Section VII– How do Bank and Borrower decide on the use of Borrower ES Frameworks?**

18. As a first step, the Bank and Borrower will agree to propose an assessment of the extent to which the Borrower might be able to use parts or all of their ES Framework for a Bank-financed project. There may be a number of reasons why a Borrower might not want to have its ES Framework assessed. The Borrower may not have the financial or technical resources to strengthen its ES Framework to the extent required. Amending legislation related to the preparation of an environmental and social assessment could be more onerous and complex than ensuring that the assessment conducted for the project covers what is required by the Bank's ESF.
19. After preliminary discussions with the Borrower, a Task Team or CMU may propose consideration of the use of all or part of the Borrower's ES Framework for a particular project or sector based on their experience and knowledge of the Borrower's ES Framework (the consideration to use all or part of the Borrower's ES Framework may apply to a project, sector, region, or at the national level). The Chief Environmental and Social Standards Officer (CESSO) will decide on whether to proceed with the assessment. The assessment will involve staff from LEG, OPCS and the GPs concerned. The assessment will be carried out quickly and efficiently, making use of relevant available information and prior project experience.
20. The Borrower will provide the necessary information on its ES Framework to the Bank to enable the assessment to be carried out. In conducting the assessment, the Bank will draw upon information derived from past projects, any country, sector or subject matter reports prepared for or held by, inter alia, the EU, UN agencies, Convention secretariats and other relevant sources of information such as that arising from public consultation (see below).
21. Following completion of the assessment, the decision on use of all or part of the Borrower's ES Framework will be made by the CESSO. The decision will be documented in the Project Appraisal Document (**PAD**), which will:
  - summarize the conclusions of the assessment conducted by the Bank;
  - document the stakeholder engagement and input resulting from stakeholder consultation on the summary of the assessment;
  - specify the aspects of the Borrower's ES Framework that will be used in the assessment, development and implementation of the project (or above and beyond the project level if appropriate); and
  - summarize, in as much detail as feasible, the measures and actions agreed by the Borrower to address identified gaps.
22. The Bank may decide not to use the Borrower's ES Framework if it comes to the conclusion that the Borrower's ES Framework is unlikely to be able to address the risks and impacts of the project,



and would not enable the project to achieve objectives materially consistent with the ESSs. This decision may be taken by the CESSO either before the assessment is undertaken or following the result of the assessment. This may be appropriate in such cases where, inter alia, the project is complex and High Risk; capacity and institutional aspects are limited; the implementing agency has an inconsistent track record of managing environmental and social risk; the context is one of fragility and/or conflict; or (where the assessment has been conducted) gaps have been identified for which no appropriate project-specific actions and measures are feasible or the identified measures and actions are not supported by the Borrower.

### **Section VIII – Will the intention to use a Borrower ES Framework be consulted upon?**

23. To promote transparency and facilitate accountability, the Bank will make public, following the Concept Review Meeting, its intention to consider the use of all or part of a Borrowers ES Framework. This will be set out in the Concept stage Environmental and Social Review Summary (**ESRS**) or similar document, in which the Bank will disclose details of which aspects of the Borrower’s ES Framework are being considered for use in the project, together with any preliminary information available and a summary of the assessment that will be conducted by the Bank. If there is a decision to consider the use of Borrower Frameworks at the sector, region, or national level, this will be disclosed in the appropriate documentation.
24. Following disclosure of the Concept stage ESRS (or similar document), the Bank will conduct consultations with project affected people and other stakeholders to inform the Bank’s assessment of the Borrower’s ES Framework.
25. The Bank will disclose a summary of the key findings from its assessment, including the comments received as a result of disclosure or arising during consultation.

### **Section IX – What is the general approach to carrying out the assessment?**

26. There is no single uniform approach to assessing Borrowers’ ES Frameworks. Rather, there are varying approaches which are appropriate in different country and project contexts. For example, the approach in small countries with uniform national frameworks would be different than in large countries that have subsidiarity at the state or province level. In the latter, more granularity in the assessment is required at the sub-national level since local requirements, implementation, enforcement and institutional capacity may differ markedly from one level of government to another. Regardless of the approach taken, all assessments must focus on the nature of project outcomes which could be reasonably anticipated if the identified aspects of a Borrower ES Framework are used in conjunction with the application of the ESSs.
27. Where the Bank has existing experience with a Borrower’s ES Framework or where there is extensive secondary data available from development partners (other MDBs, bilateral donor agencies, NGOs), particularly in relation to a specific type of project or sector, the Bank may decide, in consultation with the Borrower, to take this information into account during the assessment process. These studies must be relevant to the project in question and, for assessments relating to *High Risk* and *Substantial Risk* projects, must be undertaken by an internationally recognized institution, expert, or consultancy with experience relevant to





environmental and social risk management. In such circumstances, the Borrower will not be required to duplicate or carry out similar studies.

28. The assessment will focus not only on what is written (for example, in legislation and in connection with prior projects), but will also take into account how the framework operates in practice. It will include discussions with government officials and development partners, engagement with civil society and project affected persons to identify gaps and measures to address these gaps. Various tools such as checklists will be available to assist Task Teams in carrying out the assessments.
29. Several key questions need to be considered when assessing the potential use of a Borrower's ES Framework for a project:
  - To what extent does the Borrower's ES Framework address the environmental and social risks and impacts of the project?
  - Will use of the Borrower's ES Framework enable the project to achieve objectives materially consistent with the ESSs?
  - Could use of the Borrower ES Framework contribute to efficiency gains with regard to savings in staff/Borrower time and cost for the preparation of environmental and social assessments and management instruments?
  - Does the assessment identify opportunities to strengthen the Borrower's ES Framework?
30. The Bank will consider whether use of the Borrower's ES Framework will result in an environmental and social assessment of the project that properly identifies the material risks and impacts of the project and supports the design and implementation of mitigation measures consistent with the mitigation hierarchy set out in ESS1 and, as relevant, in the ESSs. Mitigation measures should also be consistent with relevant GIIP.
31. Depending on the significance of specific risks and impacts of the project, the assessment of the Borrower's ES Framework will consider specific requirements of the ESSs. For example, if a project is likely to involve significant movement of construction equipment in a country that does not have detailed requirements on road traffic safety, the assessment may consider the requirements set out in ESS4.

### ***Section X – What are the elements of the Borrower's ES Framework being assessed?***

32. The Bank's assessment of the Borrower's ES Framework will include a review of:
  - a. the country's general policy, legal and institutional framework, as these are relevant to the specific ES risks and impacts of the project;
  - b. laws, regulations, rules and procedures (including permits and approval requirements) applicable to the project, including regional and local requirements that are relevant to the ES risks and impacts of the project;
  - c. clarity and consistency regarding relevant authorities or jurisdiction, including relationships between national and regional/local authorities or jurisdictions;
  - d. technical and institutional capacity of the Borrower and relevant national, subnational or sectoral implementing institutions or agencies related to the project,





as these are relevant to the ES risks and impacts of the project, including an assessment of staffing, allocated budget, training and prior experience relevant to the proposed project;

- e. previous experience with the Bank or other IFIs and the track record of the Borrower and the national, subnational, sectoral and local institutions involved in the preparation and/or implementation of the project; and
- f. technical and institutional capacity of the Borrower and relevant national, subnational or sectoral implementing institutions or agencies related to the project, as these are relevant to the ES risks and impacts of the project.

33. In reviewing the Borrower's ES Framework, the Bank:

- a. assesses whether use of all or part (as applicable) of the Borrower's ES Framework will enable the project to achieve objectives materially consistent with the ESSs;
- b. assesses whether use of all or part (as applicable) of the Borrower's ES Framework will result in an environmental and social assessment of the project which properly identifies the material risks and impacts of the project and supports the design and implementation of mitigation measures consistent with the mitigation hierarchy set out in ESS1 and, as relevant, in other ESSs;
- c. identifies gaps in the Borrower's ES Framework that would prevent the project from achieving objectives materially consistent with the ESSs or (where relevant) the requirements of the ESSs;
- d. identifies project-specific actions and measures to fill the identified gaps; and
- e. identifies gaps in the Borrower's ES Framework for which there are no feasible project-specific actions and measures.

### **Section XI – How should the assessment take place?**

34. The World Bank's ESF requires the consideration of processes and outcomes, but not a test of legal equivalence with the Bank's ESSs, as was required in OP/BP 4.00, *Piloting the Use of Borrower Systems to Address Environmental and Social Safeguard Issues in Bank-Supported Projects*.

35. The assessment of the Borrower's ES Framework will consider whether the use of all or part of the Borrower's ES Framework can reasonably be expected to allow the project to achieve environmental and social outcomes that are materially consistent with the ESSs. This requires an approach that goes beyond looking at individual legislation, to understanding the overall systems and the outcomes they produce. The assessment of the Borrower's ES Framework will analyze how the aspects of the Borrower's ES Framework address a specific project risk or specific project impacts and how they produce the project outcomes expected on the ground. An 'efficient/effective' Borrower ES Framework translates the intent from the policy level through legislation and implementation to the outcome at the project level.

36. In carrying out the assessment, it is important to note how the Borrower's ES Framework, including the legislative and regulatory environment (both the requirements and the enforcement), will contribute to each ESS' objective (or addresses specific requirements of the ESSs where the Bank deems this is necessary in relation to specific risks or impacts). The desired



outcomes for the project are described in the objectives of each ESS. The ESS then sets out specific requirements designed to help the Borrower achieve the objectives of the ESS through means that are appropriate to the nature and scale of the project and proportionate to the level of environmental and social risks and impacts. In some cases, application of the Borrower's ES Framework will support delivery of the objectives of the ESS as relevant to the specific project. In other cases, the assessment conducted by the Bank may indicate that application of specific aspects of the ES Framework would not allow the project to achieve the objectives.

37. Three examples illustrate the process of assessment:

- *The Mitigation Hierarchy.* Is the mitigation hierarchy explicitly reflected in the Borrower's ES Framework fully, partially or not at all? If not explicitly mentioned, can one infer from the rules and regulation that the Borrower uses, and from the way in which they are implemented and enforced, that elements of the mitigation hierarchy are present? Do those responsible for conducting, reviewing or approving environmental and social assessments or issuing permits, licenses and approvals take the mitigation hierarchy into account, such as determining whether all feasible options to avoid adverse impacts have been taken into account in project siting and design?
- *Environmental and Social Assessments.* Do government officials understand and enforce what is required in relation to the environmental and social assessment or the permits, licenses and approvals? What are the 'gaps' in legislative and regulatory requirements or process flow and how can they be addressed?
- *Cumulative Impacts.* Is the requirement to consider cumulative impacts in the environmental and social assessment explicitly stated? Does the requirement 'flow' through practice and processes to yield the expected outcome, which is that cumulative impacts are addressed? If the Borrower's ES Framework does not contain explicit requirements, is the need to consider cumulative impacts inferred or is it carried out as a matter of good practice by a limited number of professionals in specific scenarios? What gaps need to be filled to ensure that cumulative impacts will be considered appropriately?

### **Section XII – What is the difference between the Borrower Frameworks and Country Systems approach?**

38. There are three differences between the use of Borrower frameworks and the approach of Country Systems as set out in OP/BP 4.00: (a) scope of application; (b) the level of granularity at which the assessment takes place and (c) the range of issues addressed in the ESF as compared to Annex 1 of OP/BP 4.00.
39. The ESF approach clarifies that parts or all of the Borrower's ES Framework can be used for some projects or (depending on experience) for some sectors, but not all projects or sectors in the country. In contrast, OP/BP 4.00 purported to aim to assess and "clear" Borrower systems at the country level.
40. The country systems approach in OP/BP 4.00 focused on 'building Borrower capacity beyond individual project settings.' This has proven to be overly ambitious, and beyond what is required for effective preparation and implementation of a specific project. By contrast, the approach being proposed in the ESF on use of the Borrower ES Frameworks focuses on the project, on



building capacity in connection with the delivery of the project, and seeking incremental change over time. The intention is to foster a dialogue with the Borrower on capacity building and institution strengthening at a broader regional or national scale, while at the same time delivering outcomes at the project level.

41. The use of OP/BP 4.00 yielded studies on legal equivalence that were highly granular, costly and time-consuming, and were difficult to apply at the project level. In contrast, the ESF requires a more systematic analysis of the expected project-level outcomes when using parts or all of the Borrower's ES Framework to achieve the objectives of the ESSs.
42. It is important to consider the different ways in which these two sets of requirements are meant to be implemented. OP/BP 4.00 considers a Borrower's environmental and social safeguard system to be equivalent to the Bank's if the Borrower's system is designed to achieve the objectives and adhere to the applicable operational principles set out in Table A1 in OP 4.00, which are very detailed and set a high threshold for equivalence. In contrast, the ESF's approach to Borrower frameworks aims to *enable the project to achieve objectives materially consistent with the ESSs*. The term 'materially consistent' is subject to qualitative interpretation, but in essence it means 'substantially' or 'considerably' similar to or 'agreeing/according' in substance with the ESS objectives.
43. The third difference between the OP and ESF approaches is that the ESF includes requirements that cover a broader range of issues than those listed in Table A1 in OP 4.00.

### **Section XIII – Does the Bank still review instruments prepared through the use of Borrower ES Frameworks?**

44. Using a Borrower's ES Framework will not relieve the Bank of its obligations to conduct due diligence, monitor, and provide implementation support. The Bank will review the adequacy and results of the environmental and social assessment to determine whether the risks and impacts of the project have been adequately addressed and whether the project is likely to achieve outcomes materially consistent with the ESSs. The Bank will also monitor application of any measures necessary to fill the gaps between the ESF and the Borrower's ES Framework.

### **Section XIV – What if the Borrower ES Framework changes during project implementation?**

45. Bank staff will monitor the application of the Borrower's ES Framework, the Borrower's implementation and enforcement practices, track record, and capacity in accordance with the Bank's review process and the project-specific measures and actions identified in the ESCP, for the duration of the project.
46. Where the Bank becomes aware of a change in the Borrower's ES Framework that may materially and adversely affect the project, the Bank will discuss this with the Borrower. The Bank will assess the significance of the change, and discuss with the Borrower ways to address the change, including agreeing on any additional actions and measures that may be required. The Borrower will also be required to monitor the way in which the agreed aspects of its ES Framework apply to the project, and to report to the Bank if there are any changes.

# **Attachment 5**

## **Responses to Issues from Phase 3 Consultations**



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**Responses to List of Issues for Consultation on the Proposed Environmental and Social Framework (ESF)**

<b>ESF</b>	<b>Issue</b>	<b>Items</b>	<b>Responses</b>
Vision	Human Rights	<ul style="list-style-type: none"><li>• Approach to human rights in the ESF</li></ul>	<ul style="list-style-type: none"><li>• See Vision statement, para 3 of the Vision</li></ul>
ESP/ ESS1	Non-discrimination and vulnerable groups	<ul style="list-style-type: none"><li>• 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>• Specific aspects of the non-discrimination principle in complex social and political contexts, including where recognition of certain groups is not in accordance with national law</li></ul>	<ul style="list-style-type: none"><li>• See Bank Directive on Addressing Risks and Impacts on Disadvantaged or Vulnerable Individuals or Groups</li></ul>
	Use of Borrower's Environmental and Social Framework	<ul style="list-style-type: none"><li>• Role of Borrower frameworks in the management and assessment of environmental and social (E&amp;S) risks and impacts where these will allow projects to achieve objectives materially consistent with Environmental and Social Standards (ESSs)</li><li>• 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</li></ul>	<ul style="list-style-type: none"><li>• See Policy, paras 23-29</li><li>• See ESS1, paras 19-22</li><li>• See Information Note on Assessing the Borrower's Environmental and Social Framework</li></ul>

		<ul style="list-style-type: none"> <li>• Role of Borrower frameworks in high and substantial risk projects</li> </ul>	<ul style="list-style-type: none"> <li>• Management proposes not to limit the potential use of all or parts of a Borrower’s E&amp;S framework to projects with a specific risk rating because risk ratings may change over time and because some Borrower frameworks may be deemed adequate for all risk categories.</li> </ul>
	Co-financing/ common approach	<ul style="list-style-type: none"> <li>• Arrangements on E&amp;S standards in co-financing situations where the co-financier’s standards are different from those of the Bank</li> </ul>	<ul style="list-style-type: none"> <li>• See Policy, paras 9, 12a, footnotes 16, 40</li> <li>• See ESS1, para 9, 12a, 38, footnote 10</li> </ul>
	Adaptive risk management	<ul style="list-style-type: none"> <li>• Approach to monitoring E&amp;S compliance and changes to the project during implementation</li> </ul>	<ul style="list-style-type: none"> <li>• The ESSs would apply regardless of any changes in the environmental and social risk situation of a project The Bank will monitor all projects in a manner proportionate to the significance of risks and impacts. Where appropriate, third party monitoring and thematic reviews would be carried out. OPCS would maintain oversight over high risk projects during implementation. The recently established Operations Environmental and Social Review Committee would review on a regular basis the overall portfolio risk for each region. The proposed Policy (para 48) clarifies that a process for adaptive risk management will be set out in the (Environment and Social Commitment Plan (ESCP) and that this process will specify how any changes are to be managed and reported.</li> </ul>
	Risk classification	<ul style="list-style-type: none"> <li>• Approach to determining and reviewing the risk level of a project</li> </ul>	<ul style="list-style-type: none"> <li>• See Procedure, Section VI</li> </ul>
ESS1	Assessment and management of environmental and social risks and impacts	<ul style="list-style-type: none"> <li>• Assessment and nature of cumulative and indirect impacts to be taken into account</li> <li>• Treatment of cumulative and indirect impacts when identified in the assessment of the project</li> </ul>	<ul style="list-style-type: none"> <li>• See ESS1, para 23, footnotes 21-22, Annex 1 (paras 3, 5, 13)</li> <li>• See ESS3, paras 9, 13</li> <li>• See ESS6, paras 8, 33</li> <li>• See ESS8, para 8</li> </ul>

		<ul style="list-style-type: none"> <li>Establishing project boundaries and the applicability of the ESSs to Associated Facilities, contractors, primary suppliers, FI subprojects and directly funded sub-projects</li> </ul>	<ul style="list-style-type: none"> <li>For Associated Facilities, see Policy paras 10-12, footnotes 17-18; ESS1, paras 10-12, para 32, footnotes 11-12, Annex 1 (para 16); Glossary</li> <li>For contractors, see ESS1, footnote 1, Annex 3</li> <li>For primary suppliers, see ESS1, para 34, footnote 34</li> <li>For FI subprojects, see Policy, paras 13, 20, 40-45; See ESS9</li> <li>For directly funded subprojects, see Policy, paras 36-39, footnote 29; ESS1, paras 30-31, footnotes 30-31, Annex 1 (para 5)</li> </ul>
		<ul style="list-style-type: none"> <li>Circumstances under which the Bank will determine whether the Borrower will be required to retain independent third party specialists</li> </ul>	<ul style="list-style-type: none"> <li>See Policy, paras 35, 58</li> <li>See ESS1, paras 25, 33, 45, footnote 33, Annex 1 (para 8)</li> <li>See ESS4, paras 8, 11, Annex (paras 3, 8)</li> <li>See ESS6, para 17</li> <li>See ESS7, para 24</li> <li>See ESS10, para 12</li> </ul>
	Environmental and Social Commitment Plan (ESCP)	<ul style="list-style-type: none"> <li>Legal standing of the ESCP and implications of changes to the ESCP as part of the legal agreement</li> </ul>	<ul style="list-style-type: none"> <li>See Policy, paras 3(d), 3(e), 17-18, 27-28, 39, 46-48, 52</li> <li>See ESS1, paras 15(c)-17, 21-22, 31, 36-44, 48, Annex 2</li> </ul>
ESS2	Labor and working conditions	<ul style="list-style-type: none"> <li>Definition and necessity of and requirements for managing labor employed by certain third parties (brokers, agents and intermediaries)</li> </ul>	<ul style="list-style-type: none"> <li>See ESS1, Annex 3</li> <li>See ESS2, paras 3b, 5, 9, 31-33</li> </ul>
		<ul style="list-style-type: none"> <li>Application and implementation impacts of certain labor requirements to contractors, community and voluntary labor and primary suppliers</li> <li>Constraints in making grievance mechanisms available to all project workers</li> </ul>	<ul style="list-style-type: none"> <li>For contractors, see ESS2, paras 5, 9, 31-33</li> <li>For community labor, see ESS2, paras 34-38</li> <li>For voluntary labor, see ESS 2, para 22, footnote 14</li> <li>For primary suppliers, see ESS1, para 34; ESS2, paras 39-42</li> <li>For direct and contracted workers, see ESS2, paras 21-23</li> <li>For community workers, see ESS2, para 36</li> <li>See also ESS10, para 27-28, footnote 10 and Annex 1</li> </ul>

		<ul style="list-style-type: none"> <li>• Referencing national law in the objective of supporting freedom of association and collective bargaining</li> </ul>	<ul style="list-style-type: none"> <li>• See ESS2, Objectives. The relevant objective has been rephrased to read “to support the principles of freedom of association and collective bargaining of project workers in a manner consistent with national law.”</li> </ul>
		<ul style="list-style-type: none"> <li>• Operationalization of an alternative mechanism relating to freedom of association and collective bargaining where national law does not recognize such rights</li> <li>• Issues in operationalizing the Occupational Health and Safety (OHS) provisions/standards</li> </ul>	<ul style="list-style-type: none"> <li>• See ESS2, paras 16, 22</li> <li>• Further guidance on alternative mechanisms will be proved in Guidance</li> <li>• See ESS2, paras 24 to 30</li> <li>• For application to community workers, see ESS2, para 35</li> <li>• For application to primary suppliers, see ESS2, para 41</li> </ul>
ESS3	Climate change and GHG emissions	<ul style="list-style-type: none"> <li>• The relation between provisions on climate change in the ESF and broader climate change commitments, specifically UNFCCC</li> </ul>	<ul style="list-style-type: none"> <li>• Upon release of the second draft ESF, some Borrowers were concerned that the ESF could preempt the outcome of UNFCCC COP 21. This agreement was signed in April 2016. The proposed requirement to estimate GHG emissions is made with the intention of improving energy efficiency where technically and financially feasible.</li> </ul>
		<ul style="list-style-type: none"> <li>• 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</li> <li>• Implications required for the Borrower of estimating and reducing GHG emissions for Bank projects, in line with the proposed standard</li> </ul>	<ul style="list-style-type: none"> <li>• See ESS3, para 16 and footnotes 13-15</li> <li>• The purpose of estimating GHG emissions is to inform decisions as to whether GHG emissions, and thus, energy use, can be reduced where technically and financially feasible. This decision will be made by the Bank in consultation with the Borrower.</li> </ul>



ESS5	Land acquisition and involuntary resettlement	<ul style="list-style-type: none"> <li>• Treatment and rights of informal occupants and approach to forced evictions in situations unrelated to land acquisitions</li> <li>• Interpretation of the concept of resettlement as a “development opportunity” in different project circumstances</li> </ul>	<ul style="list-style-type: none"> <li>• For informal occupants, see ESS5, paras 4(d), 10(c), paras 30</li> <li>• For evictions, see ESS5, para 1, footnote 1, second Objective and para 31</li> <li>• In situations unrelated to land acquisition, see ESS1, para 27(b)</li> <li>• See ESS5, Objectives</li> </ul>
ESS6	Biodiversity	<ul style="list-style-type: none"> <li>• Operationalization of the provisions on primary suppliers and ecosystem services, especially in situation with low capacity</li> <li>• Role of national law with regard to protecting and conserving natural and critical habitats</li> </ul>	<ul style="list-style-type: none"> <li>• For ecosystem services, see ESS1, para 28(a); ESS4, para 14; ESS6, para 1</li> <li>• For primary suppliers, see ESS1, para 34; ESS6, para 38-40, footnotes 20-21</li> <li>• See ESS1, para 19-22</li> <li>• ESS6, paras 23-26</li> </ul>
		<ul style="list-style-type: none"> <li>• Criteria for biodiversity offsets, including consideration of project benefits</li> <li>• Definition and application of net gains for biodiversity</li> </ul>	<ul style="list-style-type: none"> <li>• See ESS6, paras 10, 15-18, 22(b), footnotes 6-10</li> <li>• See ESS6, para 16, footnote 9</li> </ul>
ESS7	Indigenous Peoples	<ul style="list-style-type: none"> <li>• Implementation of the Indigenous Peoples standard in complex political and cultural contexts</li> <li>• Implementation of ESS7 in countries where the constitution does not acknowledge Indigenous Peoples or only recognizes certain groups as indigenous</li> </ul>	<ul style="list-style-type: none"> <li>• See ESS1, para 28(b)</li> <li>• See ESS7, para 5</li> </ul>

		<ul style="list-style-type: none"> <li>• Possible approaches to reflect alternative terminologies used in different countries to describe Indigenous Peoples</li> <li>• 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</li> <li>• Criteria for establishing and implementation of Free, Prior and Informed Consent (FPIC)</li> <li>• Comparison of proposed FPIC with existing requirements on consultation</li> <li>• Application of FPIC to impacts on Indigenous Peoples' cultural heritage</li> </ul>	<ul style="list-style-type: none"> <li>• See ESS7, title, paras 1, 6, 10, footnote 1</li> <li>• The flexibilities proposed through the revised ESS7 are designed to respond to the concerns of Borrowers who may have sought waivers to accommodate the specific circumstances in their countries.</li> <li>• See ESS7, paras 24-28</li> <li>• See ESS7, paras 32-33</li> </ul>
ESS8	Cultural Heritage	<ul style="list-style-type: none"> <li>• Treatment of intangible cultural heritage</li> <li>• Application of intangible cultural heritage when the project intends to commercialize such heritage</li> <li>• Application of cultural heritage requirements when cultural heritage has not been legally protected or previously identified or disturbed</li> </ul>	<ul style="list-style-type: none"> <li>• See ESS8, paras 4 and 7</li> <li>• See ESS8, paras 29 and 30</li> <li>• See ESS8, para 6</li> </ul>
ESS9	Financial Intermediaries	<ul style="list-style-type: none"> <li>• Application of standard to FI subprojects and resource implications depending on risk</li> </ul>	<ul style="list-style-type: none"> <li>• For application of standards, see ESS9, para 9, 11, 14, 16(c)</li> <li>• For ESMS, see paras 7, 10, footnote 4</li> <li>• For FI's own categorization system, see paras 17-18</li> </ul>

		<ul style="list-style-type: none"> <li>• Harmonization of approach with IFC and Equator Banks</li> </ul>	<ul style="list-style-type: none"> <li>• The proposed ESS9 is informed by IFC’s Performance Standards with adjustments to reflect the nature of public sector lending.</li> <li>• See also ESS1, para 9 and ESS9, footnote 5</li> </ul>
ESS10	Stakeholder engagement	<ul style="list-style-type: none"> <li>• Definition and identification of project stakeholders and nature of engagement</li> <li>• Role of borrowing countries or implementing agencies in identifying project stakeholders</li> </ul>	<ul style="list-style-type: none"> <li>• For the definition of stakeholders, see ESS10, paras 5, 10-11, footnote 1</li> <li>• For the nature of the engagement, see paras 6-8, paras 13-16, paras 19-20, para</li> <li>• See ESS10, paras 10-11</li> </ul>
General	EHSG and GIIP	<ul style="list-style-type: none"> <li>• 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</li> </ul>	<ul style="list-style-type: none"> <li>• For general application, see Policy, para 19 and ESS1, paras 18, 26</li> <li>• See also ESS3, paras 2, 4, 6, 10, 11, 18, 24</li> <li>• See also ESS4, paras 6, 11, 12, 16, 32, 37</li> </ul>
	Feasibility and resources for implementation	<ul style="list-style-type: none"> <li>• 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</li> </ul>	<ul style="list-style-type: none"> <li>• Implementation and resource implications for Borrowers were at the core of the consultation discussions. To better understand the incremental effort required of the Bank and Borrowers, Bank staff discussed 42 case studies with Borrowers during consultations, comparing the effort needed to implement the requirements of the second draft ESF with the effort needed to implement the current safeguard policies appropriately. Results suggest that the overall additional effort for the average project would not entail overly burdensome requirements and that there are opportunities to achieve operational efficiencies. Incremental effort would be higher for implementing ESS1, ESS2, and ESS10. The road-testing highlights the fact that current practice already accounts for many of the proposed requirements: projects with good environmental</li> </ul>

			<p>and social planning already take into account, for example, inclusion, stakeholder engagement, or labor risk, among other things. Thus, the proposed ESF, first and foremost, aims to standardize environmental and social risk management performance, make it more consistent across projects, and achieve a common level of high quality in implementation.</p>
		<ul style="list-style-type: none"> <li>• Mitigation of additional burden and cost and options for improving implementation efficiency while maintaining effectiveness</li> </ul>	<ul style="list-style-type: none"> <li>• The implications of additional costs for the Borrower will be discussed with shareholders after Board approval of the proposed ESF. The proposed Standards identify specific areas in which the Bank will assist Borrowers in fulfilling their requirements—for instance, with regard to the ESCP (ESS1), GHG emission estimation (ESS3), and the SEP (ESS10). The Bank will work closely with Borrowers to ensure the efficient and effective implementation of the proposed ESF requirements.</li> </ul>
<p>Client capacity building and implementation support</p>		<ul style="list-style-type: none"> <li>• Funding for client capacity building</li> <li>• Approaches and areas of focus</li> <li>• Approach to implementing the ESF in situations with capacity constraints, e.g., FCS, small states and emergency situations</li> </ul>	<ul style="list-style-type: none"> <li>• Consultation participants widely agreed on the importance of client capacity building as a central element in the Bank’s effort to modernize its approach to environmental and social risk management. The extension of the scope of risk assessment and management and its proposed shift to an outcome-based, adaptive risk management approach will need to be accompanied by increased efforts to strengthen institutions in borrowing countries, especially in the agencies that implement Bank-funded projects and among the professions that assess environmental and social risk.</li> </ul> <p>The ESF is designed to strengthen the partnerships between the Bank and its Borrowers, with the specific aim of building capacity in borrowing countries and in other relevant groups. Activities to strengthen borrower capacity will be identified in countries based on evident capacity gaps, the track record of existing programs, current and projected lending volumes, and the need for additional resources. This work would be funded from a variety of sources: borrowing, reimbursable advisory services, donor funding, the Bank’s budget and, in some cases, the country’s own resources. In</p>

			<p>addition, Management will seek to establish a multidonor trust fund (MDTF) for situations of FCV and for Borrowers with low capacity.</p> <p>In some cases where the Bank and Borrowers have agreed to use the Borrower’s frameworks, capacity building approaches for countries and agencies will be developed on the basis of an assessment of Borrowers’ environmental and social frameworks. The assessment will determine the acceptability of part or all of a borrower’s frameworks for individual projects and will be used to identify measures to strengthen the relevant frameworks. The approach to capacity building would be based on a needs assessment conducted in collaboration with the Borrower. Capacity building measures would include short-term awareness raising and training on particular aspects of the ESF, especially with regard to the ESSs that Borrowers are required to implement. This training would be delivered in selected countries over a period of 6 months after Board approval of the proposed ESF. Beyond this short-term effort, the Bank would engage in long-term, systematic institution building. This effort would be based on dialogue with governments, linked to the Borrower Framework Assessment process and reflected in the Country Partnership Framework (CPF), as appropriate.</p>
Disclosure	<ul style="list-style-type: none"> <li>• Timing of the preparation and disclosure of specific environmental and social impact assessment documents (related to ESS1 and ESS10)</li> </ul>	<ul style="list-style-type: none"> <li>• See the Policy, paras 48-51</li> <li>• Re stakeholders, se ESS10, para 6, 7, 19-20</li> <li>• Re the ESCP, see ESS1, para 35 and 43</li> </ul>	
Implementation of the ESF	<ul style="list-style-type: none"> <li>• Bank internal capacity building, resourcing, and behavioral change in order to successfully implement the ESF</li> </ul>	<ul style="list-style-type: none"> <li>• The Bank’s capacity to implement the ESF was an important topic for donor shareholders during consultations. The Bank will prepare an implementation approach that will outline the planned approach to internal capacity building, resourcing, and behavior change.</li> </ul>	

		<ul style="list-style-type: none"><li>• Ways of reaching mutual understanding between Borrower and Bank on issues of difficult interpretation</li></ul>	<ul style="list-style-type: none"><li>• The Bank is committed to working closely with Borrowers on addressing implementation issues. In case of different interpretation of the ESF, the Bank and the Borrower will engage in dialogue to reach mutual agreement.</li></ul>
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# **Attachment 6**

## **Summary of Phase 3 Consultations and Bank Management Responses**



*This document is being made publicly available prior to Board consideration. This does not imply a presumed outcome. This document may be updated following Board consideration and the updated document will be made publicly available in accordance with the Bank's Policy: Access to Information.*

## **Summary of Phase 3 Consultations and Bank Management Responses**

### **1. Overview**

**At the meeting on July 1, 2015, the Committee on Development Effectiveness (CODE) of the World Bank endorsed the third round of consultations on the second draft Environmental and Social Framework (ESF).** An indicative list of 52 issues was developed following the CODE meeting, which sets out specific issues to be included in the forthcoming consultation meetings, especially those to be conducted with governments. The consultations focused on gathering feedback from borrowing countries and other stakeholders on these and other issues as well as on the resources and implementation of the ESF.

**The third consultation phase was conducted from August 4, 2015, to March 15, 2016. Consultations included 72 meetings in 31 countries (including 28 Borrower countries) with close to 3,000 stakeholders from 93 countries.** The Bank also hosted six expert focus groups on non-discrimination, Indigenous Peoples, labor and working conditions, impact assessment, financial intermediaries, and religious concerns and considerations, and met with representatives from the International Labor Organization (ILO) and the United Nations Office of the High Commissioner for Human Rights (UNOHCHR). Summaries from all consultation meetings as well as written submissions are published on the World Bank's dedicated consultation website<sup>1</sup>.

### **2. Summary of Key Comments and Bank Management Responses**

The extensive feedback which Management received from stakeholders was carefully reviewed and analyzed by Bank staff across the World Bank Group. **Below is a list of key issues raised by stakeholders during Phase 3 consultations. This is followed by a matrix with a detailed summary of the feedback from stakeholders and Bank Management responses, categorized by these key issues.** While this summary does not fully capture the richness of the discussions, it reflects the key aspirations, concerns and recommendations of participants. The feedback demonstrated the varied and sometimes conflicting views that the World Bank has taken into consideration. As the World Bank moves into the implementation phase, a number of guidance documents will be prepared and **the comments received from stakeholders will continue to be reviewed to take further suggestions into account.** For ease of reference, the comments in the following matrix have been summarized. The commenters' identities are not attributed in the matrix. The verbatim original comments are found on the World Bank consultation website.

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<sup>1</sup> <http://consultations.worldbank.org/consultation/review-and-update-world-bank-safeguard-policies>



# **Summary of Phase 3 Consultations and Bank Management Responses**

## **I. Issues on the Issues List**

### ➤ **Human Rights**

1. Approach to human rights in the Environmental and Social Framework (ESF)

### ➤ **Non-Discrimination and Vulnerable Groups**

2. Explicit listing of specific vulnerable groups by type/name (age, gender, ethnicity, religion, physical, mental or other disability, social, civic or health status, sexual orientation, gender identity, economic disadvantages or indigenous status, and/or dependence on unique natural resources)
3. Specific aspects of the non-discrimination principle in complex social and political contexts, including where recognition of certain groups is not in accordance with national law

### ➤ **Use of Borrower's Environmental and Social Framework**

4. Role of Borrower frameworks in the management and assessment of environmental and social (E&S) risks and impacts where these will allow projects to achieve objectives materially consistent with Environmental and Social Standards (ESSs)
5. Approach for making decision on the use of Borrower frameworks, including the methodology for assessing where frameworks will allow projects to achieve objectives materially consistent with the ESSs, and the exercise of Bank discretion
6. Role of Borrower frameworks in high and substantial risk projects

### ➤ **Co-financing/Common approach**

7. Arrangements on E&S standards in co-financing situations where the co-financier's standards are different from those of the Bank

### ➤ **Adaptive Risk Management**

8. Approach to monitoring E&S compliance and changes to the project during implementation

### ➤ **Risk Classification**

9. Approach to determining and reviewing the risk level of a project

### ➤ **Assessment and Management of Environmental and Social Risks and Impacts**

10. Assessment and nature of cumulative and indirect impacts to be taken into account
11. Treatment of cumulative and indirect impacts when identified in the assessment of the project
12. Establishing project boundaries and the applicability of the ESSs to Associated Facilities, contractors, primary suppliers, FI subprojects and directly funded sub-projects
13. Circumstances under which the Bank will determine whether the Borrower will be required to retain independent third party specialists

## **Summary of Phase 3 Consultations and Bank Management Responses**

### ➤ **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

### ➤ **Labor and Working Conditions**

15. Definition and necessity of and requirements for managing labor employed by certain third parties (brokers, agents and intermediaries)
16. Application and implementation impacts of certain labor requirements to contractors, community and voluntary labor and primary suppliers
17. Constraints in making grievance mechanisms available to all project workers
18. Referencing national law in the objective of supporting freedom of association and collective bargaining
19. Operationalization of an alternative mechanism relating to freedom of association and collective bargaining where national law does not recognize such rights
20. Issues in operationalizing the Occupational Health and Safety (OHS) provisions/standards

### ➤ **Climate Change and GHG Emissions**

21. The relation between provisions on climate change in the ESF and broader climate change commitments, specifically United Nations Framework Convention on Climate Change (UNFCCC)
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
23. Implications required for the Borrower of estimating and reducing GHG emissions for Bank projects, in line with the proposed standard

### ➤ **Land Acquisition and Involuntary Resettlement**

24. Treatment and rights of informal occupants and approach to forced evictions in situations unrelated to land acquisitions
25. Interpretation of the concept of resettlement as a “development opportunity” in different project circumstances

### ➤ **Biodiversity**

26. Operationalization of the provisions on primary suppliers and ecosystem services, especially in situation with low capacity
27. Role of national law with regard to protecting and conserving natural and critical habitats
28. Criteria for biodiversity offsets, including consideration of project benefits
29. Definition and application of net gains for biodiversity

### ➤ **Indigenous Peoples**

30. Implementation of the Indigenous Peoples standard in complex political and cultural contexts

## **Summary of Phase 3 Consultations and Bank Management Responses**

31. Implementation of ESS7 in countries where the constitution does not acknowledge Indigenous Peoples or only recognizes certain groups as indigenous
  32. Possible approaches to reflect alternative terminologies used in different countries to describe Indigenous Peoples
  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
  34. Criteria for establishing and implementation of Free, Prior and Informed Consent (FPIC)
  35. Comparison of proposed FPIC with existing requirements on consultation
  36. Application of FPIC to impacts on Indigenous Peoples' cultural heritage
- **Cultural Heritage**
37. Treatment of intangible cultural heritage
  38. Application of intangible cultural heritage when the project intends to commercialize such heritage
  39. Application of cultural heritage requirements when cultural heritage has not been legally protected or previously identified or disturbed
- **Financial Intermediaries (FI)**
40. Application of standard to FI subprojects and resource implications depending on risk
  41. Harmonization of approach with IFC and Equator Banks
- **Stakeholder Engagement**
42. Definition and identification of project stakeholders and nature of engagement
  43. Role of borrowing countries or implementing agencies in identifying project stakeholders
- **Environmental, Health and Safety Guidelines (EHSGs) and Good International Industry Practice (GIIP)**
44. Application of the EHSGs and GIIP, especially when different to national law or where the Borrower has technical or financial constraints and/or in view of project specific circumstances
- **Feasibility and Resources For Implementation**
45. Implementation and resource implications for Borrowers, taking into account factors such as the expanded scope of the proposed ESF (e.g., labor standard), different Borrower capacities and adaptive management approach
  46. Mitigation of additional burden and cost and options for improving implementation efficiency while maintaining effectiveness
- **Client Capacity Building and Implementation Support**
47. Funding for client capacity building
  48. Approaches and areas of focus
  49. Approach to implementing the ESF in situations with capacity constraints, e.g., Fragile and Conflict-affected Situations (FCS), small states and emergency situations

## **Summary of Phase 3 Consultations and Bank Management Responses**

- **Disclosure**
  - 50. Timing of the preparation and disclosure of specific environmental and social impact assessment documents (related to ESS1 and ESS10)
- **Implementation of the ESF**
  - 51. Bank internal capacity building, resourcing, and behavioral change in order to successfully implement the ESF
  - 52. Ways of reaching mutual understanding between Borrower and Bank on issues of difficult interpretation

### **II. Other Key Issues Raised During Phase 3 Consultations**

- **Cross-Cutting Issues**
  - 53. Objectives of each ESS
  - 54. Disability
- **ESS1**
  - 55. Livelihood restoration
  - 56. “Technically and financially feasible”
- **ESS2**
  - 57. No retaliation relating to worker’s organization
  - 58. Light works done by children for their family activities
- **ESS3**
  - 59. Air pollution and mitigation options
- **ESS4**
  - 60. Community health and safety and the vulnerable
- **ESS5**
  - 61. “De facto” land taking
  - 62. Escrow arrangements
- **ESS6**
  - 63. Animal welfare
- **ESS7**

## **Summary of Phase 3 Consultations and Bank Management Responses**

- 64. Identification of IPs
- 65. Conversion of customary land usage right

➤ **ESS8**

- 66. Transfer of natural features with cultural significance

➤ **ESS9**

- 67. Stakeholder engagement and disclosure of information by FI

# **Summary of Phase 3 Consultations and Bank Management Responses**

## **I. Issues on the Issues List**

## Summary of Phase 3 Consultations and Bank Management Responses

Human Rights		
Issues	Key Comments from Stakeholders	Bank Management Responses
<p><b>1. Approach to human rights in the ESF</b></p>	<ul style="list-style-type: none"> <li>• World Bank Articles of Agreement <b>prohibit</b> the Bank to get into <b>political</b> issues. Therefore, the language related to human right issue needs to be in <b>compliance with the Articles of Agreement</b> of WB.</li> <li>• Our country supports a <b>general statement</b> on human rights in Vision statement in the ES Framework. The Bank should not be used as an instrument for human rights dialogue, otherwise it would bring Bank’s work to a political level. The Bank should stick to its <b>non-political</b> stand and not interfere with domestic affairs of borrowing countries.</li> <li>• We recommend revising to Vision Statement to clarify that <b>human rights are not aspirational</b> and that they are a relevant reference point for assessing Bank activities <i>via</i> the ESF. The use of the term “<b>aspirations</b>” in the latest draft can be read as treating human rights as “optional” objectives, which are “marginal” to the Bank’s activities.</li> <li>• We recommend that the Bank adds language into its current definition of “<b>social risks and impacts</b>” in ESS1 that explicitly references “human rights”.</li> <li>• The Bank should require the use of <b>Human Rights Impact Assessments</b>, especially those that are community based, so that basic rights – such as the right to food or the right to adequate housing are not violated.</li> <li>• The draft <b>ESF fails to reference the international treaty obligations</b> of Borrowers and does not recognize the World Bank’s procedural duty to ensure, as far as possible, that the projects that it supports are not associated with potential human rights violations. The human rights provision in the Vision statement (para 3) is confusing and potentially damaging in that it seems to imply that international human rights law, as applicable to Bank-supported projects, is merely aspirational rather than the subject of binding legal obligations for Borrowers.</li> </ul>	<p>Human rights issues were raised mostly by donor governments and CSOs who supported incorporating a strong human rights focus in the ESF. Some Borrowers challenged the proposed scope of human rights in the ESF noting that the ESF should not be used as vehicle to promote values that might contravene national values or even laws. Consistency with the Bank’s Articles of Agreement was also raised as a major concern. Given the divergent views on human rights coverage in the ESF among shareholders and stakeholders, Management suggests that the current approach, addressing human rights in the Vision statement, be maintained. A revised draft of the language in the Vision statement is in para 3 of the Vision.</p>

## Summary of Phase 3 Consultations and Bank Management Responses

Non-Discrimination and Vulnerable Groups		
Issues	Key Comments from Stakeholders	Bank Management Responses
<p><b>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)</b></p>	<ul style="list-style-type: none"> <li>• A very elaborate definition of the <b>disadvantaged and vulnerable</b> has been provided in the ESF. This should be <b>restricted to as accepted under the national law</b>. We agree with the general compliance to the principle of non-discrimination. However, we do not recognize the need for <b>specific listing</b> of such groups.</li> <li>• We believe it is of great importance that the <b>definition in its entirety be retained</b> (and consistently referenced throughout the Safeguards). The nature of the societal discrimination and vulnerabilities experienced by <b>persons with disabilities</b> (and other groups captured by the current definition), necessarily means that they are at risk of being forgotten, ignored, or otherwise marginalized in various phases of the project life cycle. The definition serves a critical purpose of highlighting these groups, and thus facilitating their engagement in the process so that they can benefit from projects on an equal basis with others, and avoid unnecessary and disproportionate burdens that may otherwise occur.</li> <li>• On the listing of vulnerable groups, participants requested that it should be clear that the list is open and not restrictive and that the Bank should add “<b>other social groups</b>” to the list. Also, participants asked that the Bank add other characteristics such as culture, language, belief, descent, politics, migration, and different opinions.</li> <li>• We specifically recommend that <b>caste-affected groups</b> are included in the definition of disadvantaged or vulnerable groups (on page 10) under the World Bank Environmental and Social Policy. This, so that risks that project impacts fall disproportionately on caste-affected groups are taken into account.</li> <li>• The definition of vulnerable groups should be <b>in the main text</b> rather than a footnote.</li> </ul>	<p>The majority of stakeholders continue to broadly support the general principles of non-discrimination. However, many borrowing countries in which consultations were held expressed significant concerns with the explicit listing of examples of disadvantaged or vulnerable groups in the ESF. Management therefore proposes to include in the ESF an affirmative reference to the principles of non-discrimination and inclusion. A general, non-exclusive list of examples of disadvantaged or vulnerable groups will be included in a Directive for Bank staff, to be issued by the President of the World Bank. Bank Directives represent mandatory instructions to Bank staff and their implementation is subject to review by the Inspection Panel. Staff Guidance will also be provided on how to identify and address disadvantaged or vulnerable groups.</p>



## Summary of Phase 3 Consultations and Bank Management Responses

Non-Discrimination and Vulnerable Groups		
Issues	Key Comments from Stakeholders	Bank Management Responses
<p><b>3. Specific aspects of the non-discrimination principle in complex social and political contexts, including where recognition of certain groups is not in accordance with national law</b></p>	<ul style="list-style-type: none"> <li>• Our government has no problem with the principle of non-discrimination and much is enshrined in our laws and practice but the <b>approach to the LGBTI issue is against</b> our profound religious and cultural <b>values</b>. People find it offensive and this would never be tolerated in our country.</li> <li>• There are groups mentioned in the ESF that many find <b>controversial</b>, which the laws of many Borrower countries <b>do not recognize as legal</b>, such as SOGIE or religious groups (cult). Also, since information on mental and physical disability or health status should be treated as <b>private and confidential</b>, it is unclear how the Borrower and Bank staff could implement the requirement of non-discrimination in this regard.</li> <li>• With respect to the definition of “disadvantaged or vulnerable” groups, we are <b>strong proponents of retaining the definition</b>, including the different categories listed in the footnotes of ESP and ESS1. We support retention of the references to “gender identity” and “sexual orientation.”</li> <li>• Without a <b>mandatory safeguard for gender and SOGIE</b>, it is unclear how the Bank will protect these communities from harm, or indeed allow them to share in the benefits of a development intervention. The requirement for a mandatory social assessment by the borrower, which considers gender and SOGIE differentiated impacts of a project, has not been included in the revised draft. This means the Bank will be unable to determine the specific and unique risks posed by a project to women, girls and SOGIE communities. This also fails to acknowledge the unique situation of transgender individuals and intersex persons and the impacts development projects can have on them. The Bank must include explicit reference to gender identity and expression, as well as sexual orientation, in all relevant sections of the ESF.</li> </ul>	

## Summary of Phase 3 Consultations and Bank Management Responses

Use of Borrower’s Environmental and Social Framework		
Issues	Key Comments from Stakeholders	Bank Management Responses
<p><b>4. Role of Borrower frameworks in the management and assessment of environmental and social (E&amp;S) risks and impacts where these will allow projects to achieve objectives materially consistent with Environmental and Social Standards (ESSs)</b></p>	<ul style="list-style-type: none"> <li>We are pleased to see the ESF attempting to mainstream the use of the borrower’s ES Framework. This would <b>reduce the project cost</b>.</li> </ul>	<p>The World Bank and most of its shareholders endorsed the Paris Declaration, Accra Agenda for Action, and Busan Partnership for Effective Development Cooperation—agreements emphasizing that using and strengthening national systems in borrowing countries is a central development goal. The Bank supports the use of all or part of the Borrower’s E&amp;S Framework, as long as the framework is likely to address the risks and impacts of the project, and enable the project to achieve objectives that are materially consistent with the World Bank’s Environmental and Social Standards (ESSs).</p>
	<ul style="list-style-type: none"> <li>The Bank should <b>always consider the use of Borrower's systems</b> as a means to improve and strengthen national frameworks. This would enable a more sustainable approach to environmental and social safeguards, leading to increased capacities and more effective domestic frameworks.</li> </ul>	
	<ul style="list-style-type: none"> <li>We understand that the use of alternative systems are not subject to an “all or nothing”, but their assessment must be <b>measured against the substantive requirements</b> of the ESSs, not just the objectives. And those substantive requirements should be clear and mandatory.</li> </ul>	
<p><b>5. Approach for making decision on the use of Borrower frameworks, including the methodology for assessing where frameworks will allow projects to</b></p>	<ul style="list-style-type: none"> <li>The Borrower’s framework, if assessed to be in line with the proposed ESF standard should be the primary framework for use in the Bank’s projects. Hence the decision to use available ESF, if deemed appropriate, should be the default option. <b>There should not be any ‘discretion’</b>.</li> </ul>	<p>The use of Borrower frameworks will be agreed between the Bank and the Borrower (ESP, para 23). In the second draft, the use of Borrower’s ES Framework was determined at the discretion of the Bank.</p> <p>A clarification has been added that the decision to use the Borrower’s framework will not relieve the Bank of</p>
	<ul style="list-style-type: none"> <li>Participants stated that the World Bank should be <b>more flexible</b> in the use of borrower systems. They stated that, up to now, the World Bank has looked for equivalency when trying to use Borrower’s systems.</li> </ul>	

## Summary of Phase 3 Consultations and Bank Management Responses

Use of Borrower's Environmental and Social Framework		
Issues	Key Comments from Stakeholders	Bank Management Responses
<p><b>achieve objectives materially consistent with the ESSs, and the exercise of Bank discretion</b></p>	<ul style="list-style-type: none"> <li>• <b>Rigorous and objective assessment</b> of a borrower's framework is important. It is important that staff have <b>clear guidance</b> on how such assessments will be conducted and that World Bank shareholders as well as external stakeholders have a shared understanding of when a borrower framework is adequate. We are not there yet and this is why we continue to request more detail on the methodology – prior to the Board's consideration of the final ESF.</li> </ul>	<p>any of its due diligence obligations (ESP, footnote 22) and that key information for the use of Borrower's environmental and social framework will be disclosed for stakeholder engagement as early as possible (ESP, paragraph 26).</p> <p>The proposed Information Note on Assessing the Borrower's Environmental and Social Framework sets out an approach and process to assessing Borrower frameworks.</p>
	<ul style="list-style-type: none"> <li>• Ensure there will be <b>public consultation</b> and Board review of the use of alternative systems. In each case, the decision to use alternative systems must be subject to meaningful public consultation prior to approval, including full disclosure of assessments and their methodology. The Bank must also play an active <b>supervisory role</b> in any use of alternative systems, regularly monitoring for material changes in alternative systems or implementation practices, and track record, commitment and capacity that could affect implementation. Projects relying on country systems should be required to have community or third-party monitoring, as well as an effective grievance mechanism that communities can access early on in the project if needed.</li> </ul>	
<p><b>6. Role of Borrower frameworks in high and substantial risk projects</b></p>	<ul style="list-style-type: none"> <li>• In our national law, a simplified environmental assessment is applied for <b>low risk projects</b>, including in the agriculture sector. It is recommended that the Bank use the borrower's framework for low risk projects.</li> </ul>	<p>Management proposes not to limit the potential use of all or parts of a Borrower's ES Framework to projects with a specific risk rating because risk ratings may change over time and because some Borrower frameworks, or aspects of such frameworks, may be deemed adequate (from both a legal and institutional standpoint) for all risk categories.</p>
	<ul style="list-style-type: none"> <li>• We recommend that <b>all high risk activities should be excluded</b> from any delegation, either through the use of Borrower Frameworks, common approaches, Financial Intermediaries or associated facilities, for a five year period of initial ESF implementation.</li> </ul>	

## Summary of Phase 3 Consultations and Bank Management Responses

Co-financing/Common approach		
Issues	Key Comments from Stakeholders	Bank Management Responses
<p><b>7. Arrangements on E&amp;S standards in co-financing situations where the co-financier’s standards are different from those of the Bank</b></p>	<ul style="list-style-type: none"> <li>• Many donors, including the Bank and ADB, are involved in our country, for example in the water sector. Recognizing that implementation capacity of the country is weak, the policies and guidelines of such <b>donors should be harmonized.</b></li> <li>• We are very comfortable with the logic behind the so-called “common approach” described in the ESF when the World Bank is co-financing a single activity with other institutions. Harmonizing requirements and reducing unnecessary burdens on borrowing countries is an objective with which it is agreed as long as the Bank is not allowing the application of another institution’s weaker standards to govern its lending.</li> <li>• As with Borrower frameworks, <b>the proposed standard and the approach for determining whether the standard is met is unclear.</b> In cases where the Bank is co-financing with other institutions, the “common approach” should achieve compliance with the Bank’s standards.</li> <li>• The harmonization of ESF with other donors at policy level needs to be complemented by <b>coordination of donors on operational level</b> in the borrower country. This will require resources and the establishment of effective platforms for getting all stakeholders on the same page. The Bank is expected to assume a leading role in organizing and coordinating such efforts.</li> <li>• “Common Approach” in co-finance with MDBs which, in the future, are likely to include the AIIB, and bilaterals, some of which are likely to have low safeguard standards) implies that this could well spark <b>a race to the bottom</b> and downward harmonization since even the new, weakened Bank safeguard framework would not apply.</li> </ul>	<p>The common approach was introduced in the ESF with the objective of harmonizing donor requirements for environmental and social risk management so that projects can be prepared and implemented faster and more efficiently, while maintaining a strong approach to risk management. A more detailed guidance on the common approach will be provided in guidance notes.</p>

## Summary of Phase 3 Consultations and Bank Management Responses

Adaptive Risk Management		
Issues	Key Comments from Stakeholders	Bank Management Responses
<p><b>8. Approach to monitoring E&amp;S compliance and changes to the project during implementation</b></p>	<ul style="list-style-type: none"> <li>• The shift of focus from project preparation to life-time risk management will have <b>higher cost implications</b> for Project Management Offices (PMOs). Adaptive risk management should not introduce such complex processes for local implementers.</li> <li>• The ESF should clarify that World Bank’s monitoring and supervision role (implementation-phase due diligence) extends to <b>changes in the ESCP</b> that respond to “risk-increasing” changes in project design or project changes through the process of adaptive management.</li> <li>• The Environmental and Social Policy states that <b>the ESCP will include an adaptive management “process”</b> agreed between the borrower and the Bank, an approach that we support. However, this requirement does not appear in ESS1.</li> <li>• <b>The ESCP should be disclosed</b> for consultation and should accompany project materials to the Board.</li> </ul>	<p>The proposed outcomes-based approach in the ESF shifts the emphasis of environmental and social risk management from processes to focus on how the Bank and the Borrower can achieve better development outcomes. It allows for adaptive management of project risks and impacts. This will help improve the Borrower’s ability to address unexpected changes and will potentially reduce the need for legal restructuring of projects.</p> <p>A clarification has been made that the ESCP will include an adaptive management process (ESS1, para 39) and that the ESCP will be disclosed as early as possible before project appraisal and any revised ESCP will be also disclosed (ESP, para 47 and ESS1, paras 36 and 44).</p>
	<ul style="list-style-type: none"> <li>• The adaptive risk approach depends heavily on close follow up, supervision and monitoring. The Bank’s own Independent Evaluation Group’s 2010 Safeguards study identified inadequate supervision as a key shortcoming of the current safeguards regime. We appreciate that the Bank is in part responding to the IEG’s recommendations to <b>balance upfront risk assessment with implementation support through this approach</b>, however we do not think that the approach achieves the right balance, nor has the Bank outlined how this approach will become operationalized successfully.</li> </ul>	

Risk Classification		
Issues	Key Comments from Stakeholders	Bank Management Responses
<p><b>9. Approach to determining and</b></p>	<ul style="list-style-type: none"> <li>• Classification of a new project, under one of the four risk categories, shall be <b>mutually agreed upon by the Bank and the Borrower</b>.</li> </ul>	<p>The risk classification system will be used by Bank staff as a tool to review</p>

## Summary of Phase 3 Consultations and Bank Management Responses

Risk Classification		
Issues	Key Comments from Stakeholders	Bank Management Responses
<p><b>reviewing the risk level of a project</b></p>	<ul style="list-style-type: none"> <li>• It is suggested that all projects and activities be <b>categorized</b> into two categories - Category A and Category B, <b>as per the country’s national policy</b>, if the national laws broadly meet proposed ESF standards.</li> <li>• The risk classification needs to be explicit in <b>publicly disclosed</b> information and information provided to the Board about both overall risk classification and if there are potential significant impacts of projects and, where relevant, subprojects. New risk classification should not replace evaluation of severity of risks, but enhance it.</li> <li>• Because classification and categorization of risk is inherently judgement based, but needs to be done consistently by large numbers of people, we suggest that the World Bank <b>develop guidance and examples</b>, potentially sector-specific, to assist Bank staff and other institutions -- who will categorize subprojects -- in operationalizing its approach.</li> <li>• The rationale and criteria for determining each <b>risk classification is still unclear in the ES Procedure and should be refined.</b></li> </ul>	<p>and monitor the ES performance of a project throughout the project life-cycle. The Bank will allocate its resources, and provides corporate oversight and operational support to a project, in accordance with the risk classification of the project. The decision on the risk classification will be made by the Bank, as is the case with the current safeguard policies. Because the Bank’s classification system will indicate the resources and oversight required for the project, this system will be independent of the national system on risk categorization.</p> <p>A clarification has been added that the Bank will disclose the project’s classification, including any change to the classification, and the basis for such classification on the Bank’s website and in project documents (ESP, paras 20 and 21).</p> <p>The text on risk classification in the ES Procedure has been revised to provide more clarity on the criteria for each risk level (ES Procedure, Section VI). More details and examples on risk classification will be provided in guidance notes.</p>



## Summary of Phase 3 Consultations and Bank Management Responses

Assessment and Management of Environmental and Social Risks and Impacts		
Issues	Key Comments from Stakeholders	Bank Management Responses
<b>10. Assessment and nature of cumulative and indirect impacts to be taken into account</b>	<ul style="list-style-type: none"> <li>• <b>Cumulative and indirect impact:</b> Under ESS1, assessment of cumulative and indirect impact is required. This will result in cost and time overrun. This responsibility will fall only for that project which is funded by the Bank in a cluster of projects. The purpose of this requirement will be difficult to achieve when many entities are involved and impact management is not the responsibility of a single entity.</li> </ul>	<p>Assessing and mitigating cumulative and indirect impacts has been an accepted practice for years and relevant requirements are included in the Bank’s safeguard policies as well as in the legislation of many borrowing countries.</p> <p>The Bank has clarified, in a footnote, that the environmental and social assessment will consider cumulative impacts that are recognized as important on the basis of scientific concerns and/or that reflect the concerns of project-affected parties. The potential cumulative impacts will be determined as early as possible, ideally as part of project scoping (ESS1, footnote 22).</p> <p>For indirect impacts, a new footnote clarifies that these will not include induced impacts (ESS1, footnote 21).</p> <p>The requirement to compensate for or to offset residual impacts has been limited to significant residual impacts (ESS1, para 27), given that all adverse direct, indirect and cumulative impacts are to be addressed through the application of</p>
	<ul style="list-style-type: none"> <li>• <b>Cumulative impacts</b> are important and needs to be properly documented. How does the Bank think this should be done? Such impacts are not being properly monitored.</li> </ul>	
<b>11. Treatment of cumulative and indirect impacts when identified in the assessment of the project</b>	<ul style="list-style-type: none"> <li>• ESS1 should include a requirement that people whose <b>livelihoods</b> and living standards are adversely affected by project impacts, other than land takings or restrictions on access, have mitigation measures such that their livelihoods and living standards are improved.</li> </ul>	
	<ul style="list-style-type: none"> <li>• Participants emphasized the need for greater attention to assessment of <b>downstream impacts</b> – including from deforestation and land use conversion – and the need to establish a hierarchy of direct and indirect impacts. Participants further pointed out that it should be recognized that in some projects indirect impacts can be greater than direct impacts.</li> </ul>	

## Summary of Phase 3 Consultations and Bank Management Responses

Assessment and Management of Environmental and Social Risks and Impacts		
Issues	Key Comments from Stakeholders	Bank Management Responses
		the mitigation hierarchy. Guidance for Bank staff and for Borrowers will be issued after the ESF is approved by the Board.
<b>12. Establishing project boundaries and the applicability of the ESSs to Associated Facilities, contractors, primary suppliers, FI subprojects and directly funded sub-projects</b>	<ul style="list-style-type: none"> <li>• <b>Project boundary:</b> The ESF appears to apply all associated and existing facilities, which may not be funded by but significantly related to the project. It may include other activities undertaken and facilities created by the same implementing agency of our country but not funded by the Bank. For example, maintenance dredging may be impeded by the ESF, which may restrict normal operations on the river. This could lead to creation of shoals restricting movement of cargo of important shippers and also defeat of the project objectives. Therefore, extension of project boundaries should have rational basis and always subject to express agreement between the Bank and the Borrower.</li> </ul>	<p>The Bank’s proposed approach to project boundaries and the applicability of the ESSs to Associated Facilities, contractors, primary suppliers, FI subprojects and directly funded sub-projects is consistent with the approach of other MDBs.</p> <p>A footnote was added to clarify that Associated Facilities are only considered as such if they are not funded as part of the project and meet all three of the following: (a) directly and significantly related to the project; (b) carried out, or planned to be carried out, contemporaneously with the project; and (c) necessary for the project to be viable and would not have been constructed or expanded if the project did not exist (ESS1, footnote 12).</p> <p>Regarding contractors, relevant provisions have been amended to address the concerns of implementability raised during</p>
	<ul style="list-style-type: none"> <li>• <b>Associated facilities:</b> It is needed for clearer definition of Associated Facilities under the ESF. <b>All three criteria given for associated facilities should be met.</b> Otherwise the project boundary would expand too much.</li> </ul>	
	<ul style="list-style-type: none"> <li>• In ESS1, Annex 3, Borrowers’ management of <b>contractors</b> is made more onerous. Contractor’s capacity to abide by norms will have to be assessed and monitored at pre-qualification and execution. This will lead to more intricate request for proposals (RFPs), <b>more time, less competition and more cost.</b></li> </ul>	
	<ul style="list-style-type: none"> <li>• <b>Primary supplier and contractor:</b> Questioning the application of the policy expanded to primary suppliers and contractors. The project boundary should be more clearly defined.</li> </ul>	
	<ul style="list-style-type: none"> <li>• There is a Bank-funded project in which <b>27 million poor households</b> are involved through social mobilization <b>subprojects</b>. In such a project, it is impossible to develop capacity of community institutions to undertake the ESF, including ES assessment, ESCP, management</li> </ul>	



## Summary of Phase 3 Consultations and Bank Management Responses

Assessment and Management of Environmental and Social Risks and Impacts		
Issues	Key Comments from Stakeholders	Bank Management Responses
	<p>contractors, and monitoring and reporting. Applying the ESF to such subprojects would cause serious project delay and cost increase, which would make the project unviable subject to agreement between Bank &amp; Borrower. The ESF may set a threshold for its application to subprojects.</p> <ul style="list-style-type: none"> <li>For <b>FI</b> projects, <b>there should be a cut-off value</b> (cost of the project) to determine if a project would be subjected to risk assessment (environment and social). Only projects greater than or equal to the cut off value should be assessed and put in different categories.</li> </ul>	<p>consultations (ESS1, Annex 3; and ESS2, para 31).</p> <p>Requirements regarding primary suppliers are limited to ESS2 and ESS6 (ESS1, para 34). These requirements have been amended to address the concerns on implementability raised during consultations. It has also been clarified that Borrowers will address the risks and impacts associated with primary suppliers in a manner proportionate to the Borrower's control or influence over those suppliers (ESS1, para 34).</p> <p>With regard to FI subprojects, only the relevant aspects the ESSs apply. The FI's responsibility vis-à-vis FI subprojects are set out in ESS9.</p> <p>With regard to directly funded subprojects, consultations revealed considerable debate and a range of views among shareholders and stakeholders on the need to apply all requirements of all ESSs at all times. Considering both the need for the diligent application of the standards and Borrowers' ability to implement the requirements, a key consideration</p>

## Summary of Phase 3 Consultations and Bank Management Responses

Assessment and Management of Environmental and Social Risks and Impacts		
Issues	Key Comments from Stakeholders	Bank Management Responses
		would be the nature of the impacts and risks and the multiplicity of the subprojects. A new footnote has been added to clarify that where subprojects are likely to have minimal or no adverse environmental and social risks and impacts, such subprojects do not require further environmental and social assessment following the initial screening (ESP, footnote 30).
<b>13. Circumstances under which the Bank will determine whether the Borrower will be required to retain independent third party specialists</b>	<ul style="list-style-type: none"> <li>• <b>Local expert:</b> ES assessment is very important to ensure that impacts are assessed before the implementation of the project. The Bank should involve local experts to hear the voice of local people, since these are the people the Bank is ultimately seeking to assist. While it is useful to hear from external experts, sometimes they lack local knowledge. The Bank should keep a balance between local and outside experts.</li> </ul>	In some circumstances the Borrower or the Bank may need to draw on the expertise and advice of specialized experts, particularly, although not necessarily exclusively, where there is no in-house capacity available. During consultations, some countries pointed out that requiring international experts may not be necessary if sufficient expertise is available in country. This was reflected in the Annex to ESS4 on the dam safety panel (ESS4, Annex 1 footnote 4). A footnote 33 in ESS1 and a paragraph 8 has been added to Annex 1 of ESS1, specifying the meaning of independence of experts. ESS1 (para 45) clarifies that third party monitoring will be agreed between the Bank and the Borrower and set out in the ESCP.
	<ul style="list-style-type: none"> <li>• Provisions related to independent international expert for project oversight shall not be agreed. However, in <b>High Risk</b> projects, it may be agreeable to commission an External Completion Audit to assess impact of project activities and propose corrective measures as needed.</li> </ul>	
	<ul style="list-style-type: none"> <li>• <b>Third party monitoring:</b> Third party monitoring may be good to ensure effectiveness of project. But the <b>cost</b> of such monitoring should be borne by both the borrower and the Bank.</li> </ul>	
	<ul style="list-style-type: none"> <li>• Please consider requiring the Borrower to designate a <b>3<sup>rd</sup> party monitor within the ESMP</b> to ensure compliance with the ESIA and other assessments and plans made in connection with the ESIA.</li> </ul>	

## Summary of Phase 3 Consultations and Bank Management Responses

Environmental and Social Commitment Plan (ESCP)		
Issues	Key Comments from Stakeholders	Bank Management Responses
<b>14. Legal standing of the ESCP and implications of changes to the ESCP as part of the legal agreement</b>	<ul style="list-style-type: none"> <li>Participants expressed concern that the ESCP would be part of the Loan Agreement. In that regard, they stated that changes to the ESCP would require amendments to the Loan Agreement. They mentioned that that would surely lead to <b>extensive processing</b> within the government and would make changes <b>costly</b> and difficult to achieve.</li> </ul>	<p>This issue was actively discussed during consultations. The ESCP is part of the legal agreement between the Bank and the Borrower. The ESCP will contain a “management of change” clause, which would allow changes to be addressed. This adaptive risk management approach should reduce the frequency with which legal restructuring of projects is required. A footnote has been added to clarify that the Bank will provide adequate assistance to the Borrower to develop the ESCP (ESS1, footnote 36).</p>
	<ul style="list-style-type: none"> <li>In our country, <b>environmental assessment and social assessment are conducted by different agencies</b>. No agency has the authority to combine two into a single document like the proposed ESCP.</li> <li>It is difficult for our provincial governments and PMOs to prepare the ESCP. It is suggested that consultants of the <b>Bank prepare it</b>. Another suggestion is that the disclosure of the ESCP be done by the Bank only, not the Borrower.</li> </ul>	
	<ul style="list-style-type: none"> <li>The ESCP, however legally-binding, it <b>should be flexible</b> for any required modification, which implementation could entail.</li> </ul>	

Labor and working conditions		
Issues	Key Comments from Stakeholders	Bank Management Responses
<b>15. Definition and necessity of and requirements for managing labor employed by certain third parties (brokers, agents and intermediaries)</b>	<ul style="list-style-type: none"> <li>The provision in ESS2 stipulates: “the Borrower to ascertain that <b>third parties</b> who engage contracted workers are reputable and legitimate entities; and the Borrower to ascertain that third parties follow ESS”. The requirements are <b>vague</b> and the responsibility of the Borrower is <b>too extensive</b> and should be deleted.</li> </ul>	<p>Many borrowing countries highlighted the likely challenges in addressing labor issues associated with brokers, agents, and other intermediaries. It was clarified that the labor management procedures should set out how the Borrower would interact with such parties who will be expected to comply with applicable national law and relevant requirements of ESS2. The Borrower’s role is to require such compliance through the Borrower’s</p>
	<ul style="list-style-type: none"> <li>There needs to be <b>close oversight on contractors</b>, to ensure they are complying with the necessary rules, and maintaining rights of the workers. In the meantime, punitive mechanisms should be applied in case of noncompliance.</li> </ul>	
	<ul style="list-style-type: none"> <li><b>Brokers, agents and intermediaries</b> need to be deleted from the definition of third parties.</li> </ul>	

## Summary of Phase 3 Consultations and Bank Management Responses

Labor and working conditions		
Issues	Key Comments from Stakeholders	Bank Management Responses
	<ul style="list-style-type: none"> <li>On occupational health and safety (OHS), some participants argued that ensuring compliance among <b>contractors</b> is critical since small subcontractors are more likely not to conform to the standard. The OHS record of the Borrower contracting companies should be verified in advance as part of the Bank’s due diligence.</li> </ul>	<p>legal arrangements with its contractors and other third parties. The third draft ESF maintains the provisions of the second draft with regard to third parties, but clarifies that Borrowers are not expected to ascertain the reputation of third party entities, but rather their legitimacy and reliability (see ESS2, para 31).</p>
<p><b>16. Application and implementation impacts of certain labor requirements to contractors, community and voluntary labor and primary suppliers</b></p>	<ul style="list-style-type: none"> <li><b>Community Labor is not defined</b> in the policy. It is understood that they are those laborers who work voluntarily for the project. The provisions of this ESS should not be applicable to them.</li> <li>In community-driven development <b>subprojects</b> where as many as 2.7 million households are involved as <b>community labour</b>, it is impossible to apply labour requirements under ESS2. In such circumstances, it is impossible to assess the project risks.</li> </ul>	<p>Several Borrower countries noted the likely difficulties of applying ESS2 in projects where community labor is employed. The third draft ESS2 has been amended to address this concern by emphasizing that the relevant requirements of ESS2 should be applied in a proportionate manner (ESS2, para 35).</p> <p>For primary suppliers, it has been clarified that the Borrower will require the primary supplier to take precautionary measures regarding child labor or forced labor and serious safety issues. It has also been recognized that the Borrower’s ability to address these risks depends upon the Borrower’s level of control or influence over its primary suppliers; thus where remedy is not possible, the Borrower will, within a</p>
	<ul style="list-style-type: none"> <li>Some participants expressed concern about the use of the term “<b>workfare</b>” to describe some types of Bank <b>community labor</b> projects. This term should not be confused with voluntary community work schemes. Participants questioned the rationale behind making application of the standard for community labor dependent on the type of project as this gives room for interpretation and potentially weakens it.</li> </ul>	
	<ul style="list-style-type: none"> <li>The scope of ESS 2 applies to the labor employed by <b>primary suppliers</b> which are not directly controlled by the borrower. Hence, <b>its compliance is very difficult at the Borrower-level</b>. Primary supplier workers should not be covered under purview of ESS for the project work.</li> </ul>	
	<ul style="list-style-type: none"> <li>Primary supplier: In many projects, <b>primary suppliers are from outside the country</b>. It is not easy to monitor whether such foreign primary suppliers meet the requirements of the ESF. It is suggested that</li> </ul>	

## Summary of Phase 3 Consultations and Bank Management Responses

Labor and working conditions		
Issues	Key Comments from Stakeholders	Bank Management Responses
	<p>the Bank monitor primary suppliers when they are located outside the Borrower country.</p> <ul style="list-style-type: none"> <li>WB should get <b>independent verification</b> of any information the Borrower provides regarding whether primary suppliers meet standard international requirements. The Bank should use a stricter clause here to state that it will not go on with a project where a primary borrower is in <b>non-compliance</b></li> </ul>	<p>reasonable period, shift the project’s primary suppliers to suppliers that can demonstrate that they are meeting the relevant requirements (ESS2, paras 39-42).</p>
<p><b>17. Constraints in making grievance mechanisms available to all project workers</b></p>	<ul style="list-style-type: none"> <li>Approaches to dispute resolution, grievance handling <b>should be designed depending on the nature, scale, and environmental/social complexity</b> of the projects.</li> </ul>	<p>ESS2 states that grievance mechanisms should be provided for all direct and contracted workers (ESS2, para 21). The third draft ESS2 also clarifies that the grievance mechanism will be proportionate to the nature and scale and the potential risks and impacts of the project (ESS2, para 22). Community workers will also be provided with a way to raise grievances, and this will be identified in the labor management procedures (ESS2, para 36).</p>
	<ul style="list-style-type: none"> <li>Establishment of a <b>grievance redress mechanism for contracted workers is important, yet very challenging</b>, since different workers can be recruited on a daily (cash for work / day labor) basis, without insurance.</li> </ul>	
	<ul style="list-style-type: none"> <li>Specifically, in countries with a history of violation of fundamental workers’ rights, the possibility of excluding workers engaged in <b>community labor</b> from access to ESS 2’s grievance mechanism is worrisome. Participants pointed out that the Bank is financing community-driven development projects in some countries that have a long history of use of forced labor in public works projects; it is therefore critical that ESS 2 clearly prohibits this for all projects and provides community members with a confidential grievance mechanism.</li> </ul>	
<p><b>18. Referencing national law in the objective of supporting freedom of association and</b></p>	<ul style="list-style-type: none"> <li>The requirement on <b>freedom of</b> association should be consistent with national law.</li> </ul>	<p>The relevant objective has been rephrased to read “to support the principles of freedom of association and collective bargaining of workers in a manner consistent with national law” (ESS2, 5<sup>th</sup> bullet).</p>
	<ul style="list-style-type: none"> <li>The provision on workers’ organizations is improved and we appreciate the Bank’s attempts to include provisions to allow for formation of workers’ organizations or an alternative version when the country’s national laws restrict such organizations. <b>The reference to national law in regards to supporting freedom of association and collective</b></li> </ul>	

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Labor and working conditions		
Issues	Key Comments from Stakeholders	Bank Management Responses
collective bargaining	<p><b>bargaining needs to not be used by the Borrower to restrict these freedoms.</b></p> <ul style="list-style-type: none"> <li>ESS2 only guarantees workers’ rights to freedom of association and collective bargaining if these rights are already fully protected under national law. Other international financial institutions make these rights a mandatory requirement <b>notwithstanding national laws.</b></li> </ul>	
<b>19. Operationalization of an alternative mechanism relating to freedom of association and collective bargaining where national law does not recognize such rights</b>	<ul style="list-style-type: none"> <li>It should be clarified that an alternative mechanism in para 16 under the second draft ESS2 will be <b>considered only where the national law allows such mechanism.</b></li> <li><b>IFC has special wording for this.</b> A council can be formed. It should be clarified whether the ESF will use IFC’s approach or another flexible mechanism, and how the ESF will define such a mechanism to put it into operation.</li> <li>The word “alternative mechanisms” should be <b>removed.</b></li> <li>It is critical that <b>allowing for alternative</b> mechanisms for the exercise of these rights be retained. Further, paragraph 16 of the second draft ESS2 needs to explicitly say that regardless of the Borrower’s national framework, for purposes of the project, the Borrower must not discriminate or retaliate against workers who seek to collectively organize and bargain.</li> </ul>	The reference to alternative mechanism reflects the Bank’s Standard Bidding Document (procurement for work). Further guidance will be provided in guidance notes.
<b>20. Issues in operationalizing the Occupational Health and Safety (OHS) provisions/standards</b>	<ul style="list-style-type: none"> <li>The implementability of requirements on primary supply workers and workers in community labor is <b>questionable.</b></li> <li>ESS2 should include <b>guidance on monitoring OHS issues.</b> We need technical assistance to ensure there is zero tolerance for safety problems.</li> <li>Participants argued that ensuring compliance among contractors is critical since small subcontractors are more likely not to conform to the standard. <b>The OHS record of the Borrower contracting companies should be verified</b> in advance as part of the Bank’s due diligence.</li> </ul>	The revised ESS2 applies the OHS provisions in relation to community labor in a manner that reflects and is proportionate to the nature and scope of the project, the specific project activities in which the community workers are engaged, and the nature of the potential risks and impacts to the community workers (ESS2, para 35). With regard to primary suppliers, it has been clarified



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Labor and working conditions		
Issues	Key Comments from Stakeholders	Bank Management Responses
		that the Borrower's responsibility is to require primary suppliers to introduce procedures and measures to address safety issues (ESS2, para 41).

Climate change and GHG emissions		
Issues	Key Comments from Stakeholders	Bank Management Responses
<b>21. The relation between provisions on climate change in the ESF and broader climate change commitments, specifically UNFCCC</b>	<ul style="list-style-type: none"> <li>Any monitoring of the emissions as provided in para 16 of the second draft ESS3 should be <b>in accordance with the agreements at UNFCCC</b>.</li> </ul>	Upon release of the second draft ESF, some Borrowers were concerned that the ESF could preempt the outcome of UNFCCC COP 21. This agreement was signed in April 2016. The proposed requirement to estimate GHG emissions is made with the intention of improving energy efficiency, where technically and financially feasible, and will assist Borrowers in addressing climate goals in a manner that is consistent with the Paris Agreement.
	<ul style="list-style-type: none"> <li>The World Bank should <b>not duplicate</b> possible approaches to measuring and monitoring greenhouse gas (GHG) emissions in Bank Projects as separate from the agreements of UNFCCC.</li> </ul>	
	<ul style="list-style-type: none"> <li>ESS3 should <b>explicitly reference</b> the UN Framework Convention on Climate Change (UNFCCC) and its related agreements, including the Paris Agreement.</li> </ul>	
<b>22. Proposed approaches to measuring and monitoring greenhouse gas (GHG) emissions in Bank projects and implications thereof, in line with the proposed standard,</b>	<ul style="list-style-type: none"> <li>The estimation of GHG should be done only in projects where there is such potentials <b>substantial emissions</b> are likely.</li> </ul>	Many Borrower countries raised concerns over the cost and technical challenges of estimating GHG emissions. It has been clarified that estimation for the purposes of the ESF does not require as extensive processes of quantification or accounting as do those required under carbon/climate finance initiatives (such as the many projects most Bank borrowers have had under the Kyoto Protocol Clean Development Mechanism). The estimation
	<ul style="list-style-type: none"> <li>Participants mentioned that the <b>threshold</b> amount of the emissions <b>shouldn't be expressed in absolute numbers</b>, e.g., 12k tons per year.</li> </ul>	
	<ul style="list-style-type: none"> <li>Considering the threshold for estimation of GHG emissions at the project level, the initial proposal presented in the first Draft of the consultations was adequate (<b>25,000 tonnes</b> of CO<sub>2</sub>-equivalent annually), and we suggest that <b>this parameter be defined in the ESS</b>. The use of the proposed threshold would allow for broad coverage of emissions and would prevent the imposition of undue burden in the case of projects without relevant GHG emissions. In addition, it should</li> </ul>	

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Climate change and GHG emissions		
Issues	Key Comments from Stakeholders	Bank Management Responses
<p><b>including determining scope, threshold, duration, frequency and economic and financial feasibility of such estimation and monitoring</b></p>	<p>be stated clearly that Borrowers will <b>not be burdened with the high costs of services for validation and verification</b> of GHG emissions.</p> <ul style="list-style-type: none"> <li>To ensure the quality of GHG emissions estimations, the final sentence of paragraph 16 should be amended to say that “Estimation of GHG emissions will be conducted by the Borrower annually in accordance with internationally recognized methodologies and best practice, and <b>verified by an independent expert.</b>”</li> </ul>	<p>requires the use of simple tools provided by the Bank that are widely available in the public domain. The Bank’s cross-cutting solutions area on Climate Change and IFC affirm from their experience that the cost of estimating GHG emissions is low. The Bank will provide assistance to Borrowers that do not have the capacity to estimate GHG emissions, for example relating to IDA or projects in situations of fragility, conflict, and violence. The Bank may carry out GHG estimation on behalf of the Borrower, at the Bank’s cost, or it may provide technical assistance for using estimation methodologies (ESS3, footnote 14).</p>
<p><b>23. Implications required for the Borrower of estimating and reducing GHG emissions for Bank projects, in line with the proposed standard</b></p>	<ul style="list-style-type: none"> <li>Is the World Bank aware that the requirement for the proposed standards for estimating and reducing GHG emissions for all the Bank project puts <b>additional cost burden on the cost of World Bank projects and borrowing by poor countries?</b></li> <li><b>Additional financing must be ensured</b> for GHG estimation of WB projects. The costs of emission monitoring and estimation should not be borne by the borrowers.</li> </ul>	<p>The purpose of estimating GHG emissions is to inform decisions as to whether GHG emissions, and thus, energy use, can be reduced where technically and financially feasible.</p>



## Summary of Phase 3 Consultations and Bank Management Responses

Land acquisition and involuntary resettlement		
Issues	Key Comments from Stakeholders	Bank Management Responses
<p><b>24. Treatment and rights of informal occupants and approach to forced evictions in situations unrelated to land acquisitions</b></p>	<ul style="list-style-type: none"> <li>• Support to <b>informal occupants</b> is not only inconsistent with national law, but could be misused by opportunistic informal settlers. It will also increase project cost.</li> <li>• Compensating squatters is very difficult, especially with <b>limited resources</b> in our countries.</li> <li>• There are cases where <b>forced eviction</b> might be necessary and permissible under the national/state laws. For example: Houses constructed on illegally occupied land; Compensation for houses/structures already paid to occupiers; Compensation for land paid to Municipal Corporation but land is still not being vacated by occupiers.</li> <li>• Despite pushback by some borrower governments on this longstanding principle, ESS5 <b>must provide an adequate level of protection</b> to those people without formal rights who are economically or physically displaced as a result of a Bank-financed project.</li> </ul>	<p>This issue was widely-discussed in both borrowing and donor countries. The concern in borrowing countries was about the cost of implementing Bank requirements related to informal occupants, as well as inconsistency with national law. In donor countries, shareholders and stakeholders discussed the need to provide robust protections for informal occupants and to prohibit forced evictions. The proposed provisions in ESS5 have been carried forward from OP4.12, Involuntary Resettlement, and such requirements are also reflected in the policies and requirements of other MDBs. During consultations, the difference between forced evictions (not permitted) and the exercise of eminent domain following due legal process (permitted) was clarified (ESS5, para 31).</p>
<p><b>25. Interpretation of the concept of resettlement as a “development opportunity” in different project circumstances</b></p>	<ul style="list-style-type: none"> <li>• Participants underscored that the World Bank would <b>benefit from approaching resettlement efforts as an opportunity for development</b>. They stated that in the case of their country, several projects that involve resettlement increase the resilience of households. They stated that this happened, for example, in cases where building walls around structures increases their resilience to natural, catastrophic events.</li> <li>• We suggest that the Bank retain the language and spirit from OP4.12, that involuntary resettlement should be conceived and executed as “<b>sustainable development programs</b>” with associated budget and World Bank oversight.</li> </ul>	<p>During consultations, the Bank clarified that the intention behind “resettlement as development opportunity” is to encourage an approach that would lead to an improvement in the livelihoods of resettled persons rather than only compensating them at the level of their current livelihood. The relevant objective in the proposed ESS5 has been amended to read: “To conceive and</p>

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Land acquisition and involuntary resettlement		
Issues	Key Comments from Stakeholders	Bank Management Responses
	We think this better ensures protections than the ESS5 reference to a “development opportunity.”	execute resettlement activities as sustainable development programs, providing sufficient investment resources to enable displaced persons to benefit directly from the project, as the nature of the project may warrant” (ESS5, 5 <sup>th</sup> bullet). The provision draws closely from existing language in OP 4.12.

Biodiversity		
Issues	Key Comments from Stakeholders	Bank Management Responses
26. Operationalization of the provisions on primary suppliers and ecosystem services, especially in situation with low capacity	<ul style="list-style-type: none"> <li>• <b>Primary suppliers:</b> As per national requirements, Borrowers do not have control or influence over the primary suppliers. This ESS requirement appears to be difficult to ensure on the part of the Borrower.</li> </ul>	The Bank considered concerns regarding operationalization of provisions on supply chains, expressed by a number of borrowing governments during consultations. Supply chain issues in the ESF have always been limited to primary suppliers. Current wording limits the requirement to suppliers who, on an ongoing basis (i.e., not for one-off construction-related purposes), provide directly to the project goods or materials essential for the core function of the project (ESS6, footnote 20). The requirements on shifting primary suppliers have also been adjusted to address the concerns of implementability (ESS6, para 39).
	<ul style="list-style-type: none"> <li>• <b>Ecosystem services:</b> This was introduced in the second draft ESF. Defining “ecosystem services” as a concept is fine, but introducing requirements is different. <b>It is impossible for Borrowers to assess and implement measures for such a new concept that encompasses provisioning services, regulating services, cultural services and supporting services.</b> The local implementers are very concerned about this. There is no estimation of project cost and time that will be incurred in implementing this concept.</li> </ul>	
	<ul style="list-style-type: none"> <li>• We recommended highlighting the relationship among habitat condition, biodiversity and ecosystem services in the document. The revised ESS 6 is still missing language on essential ecosystem services.</li> </ul>	

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Biodiversity		
Issues	Key Comments from Stakeholders	Bank Management Responses
		Requirements on ecosystem services are set out in ESS1 (ESS1, para 28 (a) (v)) and ESS4 (ESS4, para 14).
<b>27. Role of national law with regard to protecting and conserving natural and critical habitats</b>	<ul style="list-style-type: none"> <li>• This standard <b>should be built on the existing national law</b> for the protection and conservation of natural and critical habitats; and the bio-diversity offsets in design of projects that benefit people located in otherwise bio-diversity sensitive areas.</li> </ul>	Donor governments were interested in biodiversity issues and the role of national law in particular was widely discussed during consultations. The Bank acknowledges that many borrowing countries afford a high level of protection to biodiversity and natural habitats. Consistent with the ESF's approach to borrower frameworks, national regulations can be used if the Bank and the Borrower agree and if the Borrower's framework can manage environmental and social risks of the project in such a way that the outcomes will be materially consistent with the objectives of the ESSs. It should be noted, however, that not all critical or natural habitats or important aspects of biodiversity are recognized or protected under national law, but they are captured under ESS6 (ESS6, para 10).
	<ul style="list-style-type: none"> <li>• ESS6 must clarify that abiding by the IUCN Red List is the baseline, and that <b>national law</b> should be used when it includes <b>other areas and imposes more stringent standards</b> on those species and their habitats.</li> </ul>	
<b>28. Criteria for biodiversity offsets, including consideration of project benefits</b>	<ul style="list-style-type: none"> <li>• Biodiversity offsets should be <b>equally permissible and preferable as per the development context of the country.</b></li> </ul>	The knowledge base and experience regarding biodiversity offsets is limited. Therefore, under the ESF as under the safeguard policies, the Bank is taking a precautionary approach and will allow offsets only as a last resort. The Bank clarified under which circumstances
	<ul style="list-style-type: none"> <li>• As biodiversity offsets are not easy to achieve, <b>a cautious approach should be taken.</b></li> </ul>	
	<ul style="list-style-type: none"> <li>• Biodiversity offsets should only address <b>significant residual adverse impacts.</b></li> </ul>	

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Biodiversity		
Issues	Key Comments from Stakeholders	Bank Management Responses
		offsetting could be considered and recognizes that for some habitats and species, offsetting is not an acceptable option: “Biodiversity offsets are measurable conservation outcomes resulting from actions designed to compensate for significant residual adverse biodiversity impacts arising from project development and persisting after appropriate avoidance, minimization and restoration measures have been taken. Therefore, potential offsets should not be considered in the initial determination of the inherent risks of the project” (ESS6, footnote 6). Third draft ESS6 also clarifies that the use of biodiversity offsets are limited to addressing significant residual impacts (ESS6, footnote 6). Further clarifications will be provided in the Guidance Note to be developed after Board approval of the ESF.
<b>29. Definition and application of net gains for biodiversity</b>	<ul style="list-style-type: none"> <li>• <b>Net gain:</b> We recommend that <b>any proposed use of offsets for critical habitats be removed from the document.</b> Impacts (direct, indirect, cumulative and associated facility) on critical habitats should be avoided or mitigated. Where mitigation is unlikely to protect critical habitat values, the project should be reconsidered or abandoned. Compensation for significant unmitigable impacts in critical habitat, including offsets, is inappropriate.</li> </ul>	During consultations, some stakeholders expressed concerns about the concept of net gains. In response, the revised ESS6 provides further clarity on the definition of net gains: “‘Net gains’ are additional conservation outcomes that can be achieved for the biodiversity values for which the natural or critical habitat was designated. Net gains may be achieved
	<ul style="list-style-type: none"> <li>• How ‘<b>net gains</b>’ are to be determined and delivered needs to be further explained (e.g. in <b>Guidance Notes</b>). The delivery of net gain should also be</li> </ul>	

## Summary of Phase 3 Consultations and Bank Management Responses

<b>Biodiversity</b>		
Issues	Key Comments from Stakeholders	Bank Management Responses
	time-bound rather than open ended, given the risks involved in affecting critical habitat.	through full application of the mitigation hierarchy that may include the development of a biodiversity offset and/or, in instances where the Borrower could meet the requirements of paragraph 24 of this ESS without a biodiversity offset, through the implementation of additional programs in situ to enhance habitat, and protect and conserve biodiversity” (ESS6, footnote 9).

<b>Indigenous Peoples</b>		
Issues	Key Comments from Stakeholders	Bank Management Responses
<b>30. Implementation of the Indigenous Peoples standard in complex political and cultural contexts</b>	<ul style="list-style-type: none"> <li>There is legislation to deal with compensation and evictions and how to carry out the process of resettlement. But there are challenges. In our country the rights of Indigenous Peoples must be seen alongside very complex issues vis-à-vis other communities. The overemphasis on Indigenous Peoples can end up <b>causing conflicts</b> and placing IPs at an advantage over the larger communities. There is a need to find a proper balance between the IPs and other communities which may also be poor and vulnerable.</li> </ul>	A number of concerns were expressed by African shareholders over the concept of indigeneity in African countries. The revised ESS7 includes a new paragraph in the introduction, stating that “This ESS recognizes that the situation of Indigenous Peoples varies from region to region and from country to country. The particular national and regional contexts and the different historical and cultural backgrounds will form part of the environmental and social assessment of the project. In this way, the assessment is intended to support identification of measures to address concerns that project activities may exacerbate tensions
	<ul style="list-style-type: none"> <li>The application of the concept of IP as presently contained in the safeguard is likely to open a new vista of tribal and <b>intra-tribal conflicts</b>; it could be an invitation to bring our country back to a confused era; an attempt to reignite already quenched ember; it may stir up hard earned long-term tranquility, bring about disunity and frustrate existing nationalism and progress of unity in diversity that is presently enjoyed in the country.</li> </ul>	
	<ul style="list-style-type: none"> <li>This standard cannot work in our country, given its history. The real issue is <b>poverty</b>. We would prefer to see equity in the level of interventions that address poverty rather than attempts to distinguish between communities.</li> </ul>	

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Indigenous Peoples		
Issues	Key Comments from Stakeholders	Bank Management Responses
<b>31. Implementation of ESS7 in countries where the constitution does not acknowledge Indigenous Peoples or only recognizes certain groups as indigenous</b>	<ul style="list-style-type: none"> <li>The proposed provisions for indigenous people is adequate, however care should be exercised to avoid use of classifications of certain groups of people in a way that may further marginalize them. Our Constitution recognizes special groups and the state commits not to discriminate against any person in Article 27(4). The borrower’s classification for special groups needs to be recognized by the Bank for consistency.</li> </ul>	between different ethnic or cultural groups.” (ESS7, para 5).
	<ul style="list-style-type: none"> <li><b>Borrower countries framework/national laws</b> should have pre-eminence. ESF should not propose anything that goes against established constitutional provisions of a borrowing country.</li> </ul>	
	<ul style="list-style-type: none"> <li>In our country, the concept of ethnic minority is not so simple. The Bank should assess the <b>country specific context</b>.</li> </ul>	
<b>32. Possible approaches to reflect alternative terminologies used in different countries to describe Indigenous Peoples</b>	<ul style="list-style-type: none"> <li>In Africa, the text is considered discriminatory, sensitive, offensive, and unacceptable. The Constitution of our country advocates for harmony amongst communities and ethnic groups. This needs to be addressed by rewording and offering alternative terminology. <b>The word IP can be very divisive in our country.</b></li> </ul>	In response to the concerns of African shareholders and following a discussion with representatives of some African countries as well as Indigenous Peoples representatives in Addis Ababa in February 2016, Management proposes to change the title and terminology of the third draft ESS7 to “Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities.” This change reflects and builds on the flexibility in terminology that is already afforded by OP4.10, Indigenous Peoples.
	<ul style="list-style-type: none"> <li>While the term Indigenous Peoples is a widely accepted concept in international law, it <b>presents implementation challenges in Africa</b>. The title of ESS 7 does not accurately reflect the realities in Africa, and therefore that <b>additional terminology should be included in the title of the Standard</b>. Possible draft alternative title: <b>Indigenous Peoples and Historically Underserved Traditional Local Communities</b>.</li> </ul>	
	<ul style="list-style-type: none"> <li>While we are open to additional terminology, we are <b>strongly opposed anything that risks putting Indigenous Peoples on the same, lower level as other vulnerable groups</b>, which currently receive fewer protections.</li> </ul>	
<b>33. Circumstances (e.g. criteria and timing) in which a waiver may be considered and the</b>	<ul style="list-style-type: none"> <li>Participants <b>strongly recommended</b> that the World Bank consider waivers for the application of ESS7.</li> </ul>	The flexibilities proposed through the revised title of ESS7 are designed to respond to the concerns of Borrowers with respect to the application of ESS7.
	<ul style="list-style-type: none"> <li>We <b>would not support up front articulation of waivers</b> or exemptions of ESS7. We do not see how that could be anything other than a weakening of the protections afforded Indigenous Peoples by the current policies.</li> </ul>	



## Summary of Phase 3 Consultations and Bank Management Responses

Indigenous Peoples		
Issues	Key Comments from Stakeholders	Bank Management Responses
information to be provided to the Board to inform its decision	<ul style="list-style-type: none"> <li>Participants found it <b>highly worrying</b> that there will be a discussion about under which circumstances a waiver would be considered, and they called for the question of a waiver to be taken off the table.</li> </ul>	
34. Criteria for establishing and implementation of Free, Prior and Informed Consent (FPIC)	<ul style="list-style-type: none"> <li>Participants <b>vehemently opposed the inclusion of FPIC</b> in the proposed ESF and stated that it contradicted national law.</li> <li>In the case of projects, administrative and legislative measures that affect indigenous peoples, the general requirement of ILO-169 (Art. 6), UNDRIP (Art. 19, 32) and the WCIP-OD (§§ 3, 20) is that governments <b>carry out consultations "in order to obtain" their free, prior and informed consent</b>. Such consultations have to be carried out "in good faith", but the achievement of FPIC is only an absolute condition in exceptional cases involving relocation of indigenous peoples (ILO 69 Art. 16; UNDRIP Art. 10) or storage or disposal of hazardous materials in their lands or territories (UNDRIP Art. 29). The proposed ESS should be amended to reflect the true nature of the FPIC process, as defined in the relevant international standards.</li> <li>FPIC under IP policy there is need to <b>emphasis participatory consultation rather than consent</b> as this approach may contribute to lack of development especially in cases where there needs to be forced evictions of IP in who dwell in forests.</li> <li>Free, Prior, and Informed Consent (FPIC) <b>should not be interpreted as a veto</b>, and may be achieved using nationally accepted processes for engagement.</li> <li>The conduct of the FPIC process should be in line with <b>the recognition and respect of the collective rights of Indigenous Peoples to self-determination and to their lands, territories and resources</b>. The current formulation proposed in paragraphs 18-21 (of the second draft ESS7), which focuses on vulnerability rather than rights, fails to achieve this.</li> <li>I welcomes the strengthened wording on Free, Prior and Informed Consent. However, rather than the restricted list of situations in which FPIC is required given in this paragraph, the <b>ESS should state that FPIC is</b></li> </ul>	<p>Responding to concerns from many stakeholders regarding the implementation of FPIC, a new para has been added to clarify what the term "consent" means when used in ESS7 (ESS7, para 26).</p>

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Indigenous Peoples		
Issues	Key Comments from Stakeholders	Bank Management Responses
	<p><b>required when any activity is proposed which may impact significantly on the human rights of an Indigenous People.</b> This may include legislation or policy measures.</p>	
35. Comparison of proposed FPIC with existing requirements on consultation	<ul style="list-style-type: none"> <li>The outcome of the FPIC process needed to be <b>operationally defined consistent with the current approach under OP 4.10</b> where the outcome is broad community support.</li> </ul>	
	<ul style="list-style-type: none"> <li>Broad acceptance that FPIC refers to (i) a collective expression by the affected Indigenous Peoples communities, through [individuals and/or] their recognized representatives, of <b>broad community support</b> for the project activities, and (ii) that such broad community support may exist even if some individuals or groups object to project activities.</li> </ul>	
36. Application of FPIC to impacts on Indigenous Peoples' cultural heritage	<ul style="list-style-type: none"> <li>The scope of application of FPIC to Indigenous People's cultural heritage in the second draft ESS7 is <b>much broader than that in IFC's PS7</b>. The Bank should revisit this.</li> </ul>	The revised third draft ESS7 clarifies that the proposed scope of application of FPIC relates to a project that has significant impacts on Indigenous Peoples' cultural heritage that is material to the identity and/or cultural, ceremonial, or spiritual aspects of the affected IPs' lives (ESS7, para 24 (c)). Sacred sites are discussed in the revised draft ESS7, footnote 22.
	<ul style="list-style-type: none"> <li>Existing policy treats <b>sacred sites</b> as a critical habitat in OP 4.04. It affords protections both to critical habitat specifically and natural habitat generally. These should not be weakened, even if the issue is recognized as a cultural issue. The provisions on sacred sites should be considered in conjunction with impacts on habitat and livelihoods and, where relevant, Indigenous Peoples.</li> </ul>	
	<ul style="list-style-type: none"> <li>We recommend the removal of the word '<b>significant</b>', with regard to the application of FPIC to cultural heritage in ESS7.</li> </ul>	

Cultural Heritage		
Issues	Key Comments from Stakeholders	Bank Management Responses
37. Treatment of intangible cultural heritage	<ul style="list-style-type: none"> <li>The ESF has added "intangible cultural heritage". The proposed definition is problematic. While the need for protection of such heritage is understandable, it is impossible to operationalize the definition such as</li> </ul>	Borrowers expressed concerns about the practicality of the proposed requirements regarding intangible cultural heritage.



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Cultural Heritage		
Issues	Key Comments from Stakeholders	Bank Management Responses
	<p>“expressions” or “ideas.” It will result in much misunderstanding. <b>It is recommended to use the definition established in UNESCO.</b></p> <ul style="list-style-type: none"> <li>• Protection of cultural heritage should <b>focus on tangible cultural heritage</b>. There will be practical difficulties in including <b>intangible</b> heritage.</li> <li>• The conceptualization of cultural heritage as encompassing both tangible and <b>intangible</b> aspects has been <b>almost universally accepted</b> and reflected in national legislation and international instruments.</li> </ul>	<p>The revised ESS8 reflects the 2003 UNESCO convention’s definition of intangible cultural heritage, which has been ratified by about 170 countries (ESS8, para 4).</p>
<p><b>38. Application of intangible cultural heritage when the project intends to commercialize such heritage</b></p>	<ul style="list-style-type: none"> <li>• Treatment of intangible cultural heritage and <b>inclusion of intangibles in this standard should only be if the project intends to commercialize such heritage.</b></li> <li>• Limiting ESS8’s applicability to” only in so far as it relates to a physical component of a project” could be <b>interpreted as voiding protection of intangible cultural heritage</b>, as these could clearly be impacted by non-physical components of a project, such as support for government institutions or staff that ignore or oppose these elements. We strongly recommend deleting this para/text.</li> </ul>	<p>The revised ESS8 clarifies that requirements apply to intangible cultural heritage only if a physical component of the project will have a material impact on intangible cultural heritage or if a project intends to use such cultural heritage for commercial purposes (ESS8, para 7).</p>
<p><b>39. Application of cultural heritage requirements when cultural heritage has not been legally protected or previously identified or disturbed</b></p>	<ul style="list-style-type: none"> <li>• The retention of the following language or concepts in the Environmental and Social Framework is recommended: The requirements of ESS8 apply to cultural heritage <b>regardless of whether or not it has been legally protected or previously identified or disturbed</b>. Agricultural, extractive, and infrastructure projects pose the greatest threats to cultural heritage, especially to previously unknown archaeological sites underground and underwater that have not been properly surveyed, recorded, and excavated prior to project implementation.</li> </ul>	<p>This issue was not frequently discussed in consultations meetings. ESS8 is independent of borrowers’ designation or protection of cultural heritage. Therefore, the standard applies regardless of national protections or identification (ESS8, para 6).</p>

## Summary of Phase 3 Consultations and Bank Management Responses

Financial Intermediaries		
Issues	Key Comments from Stakeholders	Bank Management Responses
<p><b>40. Application of standard to FI subprojects and resource implications depending on risk</b></p>	<ul style="list-style-type: none"> <li>• For FI projects, <b>there should be a cut-off value</b> (cost of the project) to determine if a project would be subjected to risk assessment (environment and social). Only projects greater than or equal to the cut off value should be assessed and put in different categories.</li> <li>• Participants highlighted that <b>due diligence for smaller operations is a big challenge due to lack of internal capacity</b>; this is being addressed by establishing E&amp;S risk management function within the banks as an internal training and awareness raising function for credit and lending staff.</li> </ul>	<p>Third draft ESS9 requires that “FIs will put in place and maintain an Environmental and Social Management System (ESMS) to identify, assess, manage, and monitor the environmental and social risks and impacts of FI subprojects on an ongoing basis. The ESMS will be commensurate with the nature and magnitude of environmental and social risks and impacts of FI subprojects, the types of financing, and the overall risk aggregated at the portfolio level” (ESS9, para 7).</p> <p>It clarifies that only the relevant aspects the ESSs apply to FI subprojects in a manner proportionate to the risks and impacts of such subproject (ESS9, para 14). Third draft ESS9 also clarifies that “where FI subprojects are likely to have minimal or no adverse environmental or social risks or impacts, the FI will apply national law” (such as consumer loans or credit cards) (ESS9, para 9 and footnote 6).</p>
<p><b>41. Harmonization of approach with IFC and Equator Banks</b></p>	<ul style="list-style-type: none"> <li>• <b>Concerns about differences</b> between the proposed ESF and IFC Performance Standards (beyond ESS9); these will have an impact on the application of Equator Principles, which cover most of the project finance globally today, and may generate conflicts in negotiation of environmental requirements.</li> </ul>	<p>The purpose of the review and update of the World Bank’s safeguards is, among other things, to increase harmonization with other MDBs. The proposed ESS9 is informed by IFC’s Performance</p>

## Summary of Phase 3 Consultations and Bank Management Responses

<b>Financial Intermediaries</b>		
Issues	Key Comments from Stakeholders	Bank Management Responses
	<ul style="list-style-type: none"> <li>Many banks would be interested to maintain the same type as IFC’s <b>categorization</b> they are used to (A, B, C), which is also the risk categorization system used under the Equator Principles.</li> </ul>	<p>Standards but has also been adjusted to reflect the nature of public sector lending. Also, the revised draft ESS9 clarifies that “where the Bank is providing support to a project involving Financial Intermediaries (FIs), and other multilateral or bilateral funding agencies, including IFC and MIGA, will or have already provided financing to the same FIs, the Bank may agree to rely on the requirements of such other agencies for the assessment and management of environmental and social risks and impacts of the project, provided that such requirements will enable the project to achieve objectives materially consistent with this ESS and other ESSs, as applicable” (ESS9, footnote 5).</p>

<b>Stakeholder Engagement</b>		
Issues	Key Comments from Stakeholders	Bank Management Responses
<b>42. Definition and identification of project stakeholders and nature of engagement</b>	<ul style="list-style-type: none"> <li>“<b>Stakeholder</b>” should be explicitly defined as people/institutions being directly affected by the project.</li> <li><b>Specific guidelines for identification process of stakeholders</b> should also be outlined in the ESS to avoid misinterpretation.</li> </ul>	<p>The proposed definition of stakeholders as project-affected parties and other interested parties reflects common practice in stakeholder engagement. This definition supports the principle of meaningful consultation. Approaches to identifying stakeholders will be provided in Guidance to be developed after Board approval of the ESF. The nature of the</p>
	<ul style="list-style-type: none"> <li><b>Children</b> must 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</li> </ul>	

## Summary of Phase 3 Consultations and Bank Management Responses

Stakeholder Engagement		
Issues	Key Comments from Stakeholders	Bank Management Responses
	traditionally associated with “children’s issues” such as education and health.	engagement is described in the proposed Standard and will be further described in Guidance.
<b>43. Role of borrowing countries or implementing agencies in identifying project stakeholders</b>	<ul style="list-style-type: none"> <li>There is a Bank-funded project in which 27 million poor households are involved through <b>social mobilization subprojects</b>. In such a project, it is impossible to develop capacity of community institutions to undertake the ESF, including stakeholder engagement. Applying the ESF to such subprojects would cause serious project delay and cost increase, which would make the project unviable subject to agreement between Bank &amp; Borrower. The ESF may set a threshold for its application to subprojects.</li> </ul>	<p>A key imperative of the Bank is to ensure that the feedback received from stakeholders in project consultations is representative of the full range of stakeholders affected by or interested in a project. This is codified in the current safeguard policies, and made more systematic in the proposed ESS10.</p> <p>For multiple small subprojects and FI subprojects, the stakeholder engagement will be conducted proportionate to the nature of the risks and impacts of such subprojects (ESS1 and ESS9).</p>
	<ul style="list-style-type: none"> <li>If <b>new risks are identified during project implementation</b>, the SEP should be revised to reflect the new risks, and the stakeholder identification process should be revisited to ensure that any additional stakeholders or project affected persons are incorporated into the revised SEP. This revised SEP should be disclosed in addition to the updated ESCP.</li> </ul>	

## Summary of Phase 3 Consultations and Bank Management Responses

<b>EHSG and GIIP</b>		
<b>Issues</b>	<b>Key Comments from Stakeholders</b>	<b>Bank Management Responses</b>
<p><b>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</b></p>	<ul style="list-style-type: none"> <li>As currently phrased, ESS3 suggests that EHSGs may be viewed as one option among others. <b>Proposed solution:</b> Where the EHSGs are available, they should operate as the default standard.</li> </ul>	<p>The proposed ESF includes a requirement to apply the relevant requirements of the EHSGs. It clarifies that, when host country requirements differ from the levels and measures presented in the EHSGs, the Bank will require the Borrower to achieve or implement whichever is more stringent. If less stringent levels or measures than those provided in the EHSGs are appropriate in view of the Borrower's limited technical or financial constraints or other specific project circumstances, the Bank will require the Borrower to provide full and detailed justification for any proposed alternatives through the environmental and social assessment. This justification must demonstrate, to the satisfaction of the Bank that the choice of any alternative performance level is consistent with the objectives of the ESSs and the applicable EHSGs, and is unlikely to result in any significant environmental or social harm. (ESS1, para 18)</p>

<b>Feasibility and Resources for Implementation</b>		
<b>Issues</b>	<b>Key Comments from Stakeholders</b>	<b>Bank Management Responses</b>
<p><b>45. Implementation and resource implications for</b></p>	<ul style="list-style-type: none"> <li>While the Bank's safeguard policies are forward-looking, they are very difficult to implement. The capacity of local people is poor, and a lot of developing countries are frustrated by the work involved in fulfilling such</li> </ul>	<p>Implementation and resource implications for Borrowers were at the core of the consultation discussions. To</p>

## Summary of Phase 3 Consultations and Bank Management Responses

Feasibility and Resources for Implementation		
Issues	Key Comments from Stakeholders	Bank Management Responses
<p><b>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</b></p>	<p>requirements. <b>The Bank should be more flexible and take a step-by-step approach.</b></p> <ul style="list-style-type: none"> <li>• There is a trade-off between the burden of the local implementers and the quality of the project. If very high standards are in place, it is difficult for people to implement them, and high standards are meaningless if they are not implemented. So it is important to <b>allow flexibility</b> in implementation. Such flexibility could be allowed based on the project nature or its location.</li> <li>• The proposed second draft of ESF is also quite exhaustive, especially for linear infrastructure projects (such as highway development). This will likely result in <b>additional cost and time implications, apart from enormous documentation.</b></li> <li>• The ESF will <b>delay formulation</b> of a new project, as well as its <b>implementation.</b></li> <li>• In addition to huge cost burden, it hinders the capacity of the Borrow and Bank TTL to focus on the <b>core objectives of the project</b>, and reach the negotiation stage.</li> </ul> <ul style="list-style-type: none"> <li>• Participants wished to know if the Bank had statistics on safeguard implementation as a percentage of total project costs. The Bank should also <b>estimate the resource implications</b> of introducing the ESF.</li> </ul>	<p>better understand the incremental effort required of the Bank and Borrowers, Bank staff discussed 42 case studies with Borrowers during consultations, comparing the effort needed to implement the requirements of the second draft ESF with the effort needed to implement the current safeguard policies appropriately. Results suggest that the overall additional effort for the average project would not entail overly burdensome requirements and that there are opportunities to achieve operational efficiencies. Incremental effort would be higher for implementing ESS1, ESS2, and ESS10. The road-testing highlights the fact that current practice already accounts for many of the proposed requirements: projects with good environmental and social planning already take into account, for example, inclusion, stakeholder engagement, or labor risk, among other things. Thus, the proposed ESF, first and foremost, aims to standardize environmental and social risk management performance, make it more consistent across projects, and achieve a common level of high quality in implementation.</p>

## Summary of Phase 3 Consultations and Bank Management Responses

Feasibility and Resources for Implementation		
Issues	Key Comments from Stakeholders	Bank Management Responses
<p><b>46. Mitigation of additional burden and cost and options for improving implementation efficiency while maintaining effectiveness</b></p>	<ul style="list-style-type: none"> <li>• Outstanding issues in the proposed ESF can be categorized into <b>three groups</b>:               <ul style="list-style-type: none"> <li>(i) Standards that are simply <b>not doable</b> or desirable or create more problems than solving them. These will include Indigenous Peoples issues in Africa, and informal and voluntary/community labor issues in South Asia; these should be deleted or appropriately modified.</li> <li>(ii) Standards that will impose disproportionate costs <b>and time delay</b>, such as assessment of historical pollution, intangible cultural heritage or cumulative impacts. These should be examined or made reasonable.</li> <li>(iii) Issues for which we <b>can find a more reasonable way</b> to achieve the same objective, if better structured. One way for this would be clarification or explanation through guidance materials.</li> </ul> </li> <li>• In phase 3 consultations, the Bank team should listen to the borrowers against these criteria, and revise the proposed ESF accordingly.</li> </ul>	<p>Insight from the phase 3 consultations including road-testing on implementation challenges was used to develop the third draft ESF. Where the feedback from stakeholders and road-testing showed lack of clarity in proposed requirements, the draft was revised to be clearer. Where the second draft ESF introduced requirements that were considered not feasible when reviewing the case studies, Management made adjustments.</p> <p>The implications of additional costs for the Borrower will be discussed with shareholders after Board approval of the proposed ESF. The proposed Standards identify specific areas in which the Bank will assist Borrowers in fulfilling their requirements—for instance, with regard to the ESCP (ESS1), GHG emission estimation (ESS3), and the SEP (ESS10). The Bank will work closely with Borrowers to ensure the efficient and effective implementation of the proposed ESF requirements.</p>



## Summary of Phase 3 Consultations and Bank Management Responses

Client Capacity Building and Implementation Support		
Issues	Key Comments from Stakeholders	Bank Management Responses
47. Funding for client capacity building	<p><b>Summary of feedback on client capacity building and implementation support:</b></p> <ul style="list-style-type: none"> <li>• <b>Funding:</b> The Bank should set aside substantial fund/grant for borrower capacity building.</li> <li>• <b>Materials and tools to be prepared:</b> clear procedures, guidance notes, country case studies, comparison table between ESF/national system and ESF/OPs, translation into national language</li> <li>• <b>Audience:</b> For all levels, including policy makers, national and local officials, consultants, PIUs, local implementers and community people</li> <li>• <b>Suggested ideas to support capacity building of the borrowers</b> <ol style="list-style-type: none"> <li>a) The Bank and borrower must agree on a capacity building program;</li> <li>b) The Bank should collaborate with country institutions for capacity building;</li> <li>c) Prior sensitization, general awareness raising and training in specific areas of the ESF;</li> <li>d) Assessment of Borrower’s ES Framework and gap analysis;</li> <li>e) Strengthening of Borrower’s monitoring capacity;</li> <li>f) Mapping of national institutions regarding ES assessment and management competencies; building functioning national systems; and helping Borrowers update their ES laws and regulations;</li> <li>g) Establishing baseline data; and</li> <li>h) Online forum for practitioners where other relevant specialists like procurement can join.</li> </ol> </li> <li>• The Bank should have a particular focus on <b>countries with capacity constraints, such as FCS, small states and emergency situations.</b></li> </ul>	<p>Consultation participants widely agreed on the importance of client capacity building as a central element in the Bank’s effort to modernize its approach to environmental and social risk management. The extension of the scope of risk assessment and management and its proposed shift to an outcome-based, adaptive risk management approach will need to be accompanied by increased efforts to strengthen institutions in borrowing countries, especially in the agencies that implement Bank-funded projects and among the professions that assess environmental and social risk. The ESF is designed to strengthen the partnerships between the Bank and its Borrowers, with the specific aim of building capacity in borrowing countries and in other relevant groups. Activities to strengthen borrower capacity will be identified in countries based on evident capacity gaps, the track record of existing programs, current and projected lending volumes, and the need for additional resources. This work would be funded from a variety of sources: borrowing, reimbursable advisory services, donor funding, the Bank’s budget and, in some cases, the country’s own resources. In addition, Management will seek to</p>
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		



## Summary of Phase 3 Consultations and Bank Management Responses

<b>Client Capacity Building and Implementation Support</b>		
Issues	Key Comments from Stakeholders	Bank Management Responses
		<p>establish a multidonor trust fund (MDTF) for situations of FCV and for Borrowers with low capacity. In some cases where the Bank and Borrowers have agreed to use the Borrower’s frameworks, capacity building approaches for countries and agencies will be developed on the basis of an assessment of Borrowers’ environmental and social frameworks. The assessment will determine the acceptability of part or all of a borrower’s frameworks for individual projects and will be used to identify measures to strengthen the relevant frameworks. The approach to capacity building would be based on a needs assessment conducted in collaboration with the Borrower. Capacity building measures would include short-term awareness raising and training on particular aspects of the ESF, especially with regard to the ESSs that Borrowers are required to implement. This training would be delivered in selected countries over a period of 6 months after Board approval of the proposed ESF. Beyond this short-term effort, the Bank would engage in long-term, systematic institution building. This effort would be based on dialogue with governments, linked to the Borrower Framework Assessment process and</p>

## Summary of Phase 3 Consultations and Bank Management Responses

Client Capacity Building and Implementation Support		
Issues	Key Comments from Stakeholders	Bank Management Responses
		reflected in the Country Partnership Framework (CPF), as appropriate.

Disclosure		
Issues	Key Comments from Stakeholders	Bank Management Responses
<p><b>50. Timing of the preparation and disclosure of specific environmental and social impact assessment documents (related to ESS1 and ESS10)</b></p>	<ul style="list-style-type: none"> <li><b>The timely disclosure of assessment and mitigation documents, coupled with rigorous monitoring of projects</b> – is one that puzzles me. The draft ESF looks to be a step backwards on timing and disclosure of key risk assessment and mitigation documents. The ESF should say clearly and unambiguously that the ESIA, resettlement plans, and Indigenous Peoples plans, should be publicly available well before the project goes to Board. The same standard of disclosure should also apply to the environmental and social commitment plan. Failure by the World Bank to be clear on this basic issue raises the possibility that timely disclosure will not occur. We hope for more clarity in the final ESF so that public disclosure is not a “tick the box” exercise, but rather allows the public and project-affected people to provide meaningful input to these key documents.</li> </ul>	<p>Disclosure was discussed by government representatives and CSOs in Part I countries. Responding to this feedback, the Bank clarified disclosure provisions in the proposed Procedure, Policy, ESS1, and ESS10. It was specified that Borrowers would be required to disclose sufficient information about the project’s potential risks and impacts to its stakeholders in a timely manner and that the Bank will disclose draft documentation relating to projects of High and Substantial Risk before appraisal. The proposed ESF describes the nature of the documents to be disclosed before Board approval (ESP, para 51; and ESS1, para 52). These paragraphs will need to be read in conjunction with the Environmental and Social Procedure section on disclosure. In addition, ESS10 (para 6) also clarifies that Borrowers will engage with stakeholders in a timeframe that enables meaningful consultations with stakeholders on project design.</p>

## Summary of Phase 3 Consultations and Bank Management Responses

Implementation of the ESF		
Issues	Key Comments from Stakeholders	Bank Management Responses
<b>51. Bank internal capacity building, resourcing, and behavioral change in order to successfully implement the ESF</b>	<ul style="list-style-type: none"> <li>The <b>Bank internal capacity building and resourcing plan</b> needs to be developed and discussed with the shareholders in order to successfully implement the ESF.</li> </ul>	The Bank's capacity to implement the ESF was an important topic for donor shareholders during consultations. The Bank will prepare an implementation approach that will outline the planned approach to internal capacity building, resourcing, and behavior change.
	<ul style="list-style-type: none"> <li>The Bank should also assess the implication caused by the ESF on the <b>reaction time of the Bank staff to the Borrower</b>.</li> </ul>	
<b>52. Ways of reaching mutual understanding between Borrower and Bank on issues of difficult interpretation</b>	<ul style="list-style-type: none"> <li>In case of different interpretation of the ESF, the Bank and the Borrower should engage in dialogue to <b>reach a mutual understanding</b>.</li> </ul>	The Bank is committed to working closely with Borrowers on addressing implementation issues and enhance Borrower's capacity in implementing the ESF for projects.

# **Summary of Phase 3 Consultations and Bank Management Responses**

## **II. Other Key Issues Raised During Phase 3 Consultations**

## Summary of Phase 3 Consultations and Bank Management Responses

Cross-Cutting Issues		
Issues	Key Comments from Stakeholders	Bank Management Responses
<b>53. Objectives of each ESS</b>	<ul style="list-style-type: none"> <li>• <b>The objectives in each ESS</b> are very weak and inconsistent with its requirements. They need to be redrafted.</li> </ul>	<ul style="list-style-type: none"> <li>• The section of “objectives” of each ESS have been revised to better reflect the content of the standards.</li> </ul>
<b>54. Disability</b>	<ul style="list-style-type: none"> <li>• ESS10 mentions the issue of <b>accessibility</b> but there is no definition. It was recommended that a glossary be provided with the definition of accessibility.</li> <li>• There is a perception that hiring persons with disabilities is costly. Some initial investment may be necessary to hire a person with disabilities. But <b>the same investment can work for hiring more persons with disabilities, and such investment will be marginal.</b></li> <li>• “Universal design” refers to the usability of buildings and structures by all people, the greatest extent possible, without the need for adaptation or specialized design. “Accessibility” refers to the identification and elimination of obstacles and barriers to <b>ensure access to the physical environment, to transportation, to information and communications, and to other facilities and services.</b></li> </ul>	<ul style="list-style-type: none"> <li>• “Accessibility” has been added to the glossary.</li> <li>• A new footnote has been added in ESS2 to clarify that reasonable measures will be considered to adapt the workplace in relation to project workers with disabilities (ESS2, footnote 11).</li> <li>• The third draft ESS4 has been revised to clarify that the Borrower will also apply the concept of universal access in provision of services, where technically and financially feasible (ESS4, para. 9).</li> </ul>

ESS1		
Issues	Key Comments from Stakeholders	Bank Management Responses
<b>55. Livelihood restoration</b>	<ul style="list-style-type: none"> <li>• The ESF should be revised to state that people who suffer project-related <b>livelihood impacts that are not directly related to land acquisition</b> are required to get compensation and/or livelihood restoration assistance.</li> </ul>	<ul style="list-style-type: none"> <li>• A new footnote has been added to clarify that the requirement to mitigate impacts may include measures to assist affected parties to improve or at least restore their livelihoods as relevant in a particular setting (ESS1, footnote 25).</li> </ul>

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### ESS1

Issues	Key Comments from Stakeholders	Bank Management Responses
<b>56. “Technically and financially feasible”</b>	<ul style="list-style-type: none"> <li>• More clarification must be provided to the meaning of “technically and financially feasible.”</li> </ul>	<ul style="list-style-type: none"> <li>• The term “technically and financially feasible” is defined in the ESF (ESS1, footnotes 2 and 3). Further guidance on what considerations need to be taken into account will be provided in guidance notes.</li> </ul>

### ESS2

Issues	Key Comments from Stakeholders	Bank Management Responses
<b>57. No retaliation relating to worker’s organization</b>	<ul style="list-style-type: none"> <li>• The Bank needs to <b>prohibit acts of discrimination and retaliation</b> against workers who seek to freely associate and bargain collectively in Bank financed projects.</li> </ul>	<ul style="list-style-type: none"> <li>• A new sentence has been added, requiring that the Borrower will not discriminate or retaliate against project workers who participate, or seek to participate, in workers’ organizations and collective bargaining (ESS2, para. 16).</li> </ul>
<b>58. Light works done by children for their family activities</b>	<ul style="list-style-type: none"> <li>• Children should not be exploited, but they should be able to work on <b>family farms</b>.</li> </ul>	<ul style="list-style-type: none"> <li>• A number of borrowers are concerned that ESS2 should not prevent light work done by children for family activities. A guidance note will address this concern to clarify the circumstances where a child may be involved in such light work.</li> </ul>

## Summary of Phase 3 Consultations and Bank Management Responses

### ESS3

Issues	Key Comments from Stakeholders	Bank Management Responses
<b>59. Air pollution and mitigation options</b>	<ul style="list-style-type: none"> <li>The Bank should <b>define “air pollution,”</b> which appears to be undefined.</li> </ul>	<ul style="list-style-type: none"> <li>A new footnote has been added, to define “air pollution refers to the release of air pollutants (often associated with the combustion of fossil fuels), such as nitrogen oxides (NOx), sulfur dioxide (SO2), carbon monoxide(CO), particulate matter (PM), as well as other contaminants including GHGs (ESS3, footnote 10).</li> <li>The footnote on the mitigation options for air pollution has been expanded to provide mitigation options for air pollution other than GHG emissions (ESS3, footnote 12).</li> </ul>
	<ul style="list-style-type: none"> <li>The <b>mitigation options for air pollution other than GHG emissions</b> should be provided.</li> </ul>	

### ESS4

Issues	Key Comments from Stakeholders	Bank Management Responses
<b>60. Community health and safety and the vulnerable</b>	<ul style="list-style-type: none"> <li>ESS4 needs to be modified to explicitly acknowledge that there are <b>gender-distinct situations relating to health and safety.</b></li> </ul>	<ul style="list-style-type: none"> <li>A clarification has been added, requiring that the Borrower will evaluate risks and impacts of the project on the health and safety of the affected communities, including those who, because of their particular circumstances, may be vulnerable (ESS4, para. 5).</li> </ul>

## Summary of Phase 3 Consultations and Bank Management Responses

### ESS5

Issues	Key Comments from Stakeholders	Bank Management Responses
<b>61. “De facto” land taking</b>	<ul style="list-style-type: none"> <li>Some impacts – such as rendering riverbank gardens unusable through river level fluctuations -- constitute <b>de facto land takes</b>, essentially rendering land unusable by the affected population. Other impacts, such as reducing water availability or physical barriers, directly impact access to natural resources (e.g., reduce aquatic species). These circumstances should clearly be covered by ESS5.</li> </ul>	<ul style="list-style-type: none"> <li>The definition of “land acquisition” has been expanded to cover situations in which project impacts result in land being rendered physically unusable or inaccessible, even where the legal acquisition of land is not involved (ESS5, para. 4 (e) and footnote 1).</li> </ul>
<b>62. Escrow arrangements</b>	<ul style="list-style-type: none"> <li>The paragraph on the use of <b>escrow account</b> to allow the Borrower to proceed with the project activities needs to be tightened to avoid potential misuse.</li> </ul>	<ul style="list-style-type: none"> <li>The criteria governing the use of escrows applies on an exceptional basis. The requirement has been clarified (ESS5, para 16).</li> </ul>

### ESS6

Issues	Key Comments from Stakeholders	Bank Management Responses
<b>63. Animal welfare</b>	<ul style="list-style-type: none"> <li>ESS6 should address <b>animal welfare</b> more explicitly, requiring that Borrowers involved in large-scale commercial farming, including breeding, rearing, housing, transport, and slaughter of animals for meat or other animal products (such as milk, eggs, wool) will employ the Good Practice Note on Improving Animal Welfare in Livestock Operations and other GIIP, whichever is most stringent, in animal husbandry techniques, with due consideration for religious and cultural principles.</li> </ul>	<ul style="list-style-type: none"> <li>A reference to IFC’s Good Practice Note on “Improving Animal Welfare in Livestock Operations” and clarifications on animal welfare have been added (ESS6, para 37 and footnote 19).</li> </ul>

### ESS7

Issues	Key Comments from Stakeholders	Bank Management Responses
<b>64. Identification of IPs</b>	<ul style="list-style-type: none"> <li>The <b>definition of Indigenous Peoples</b> is too generic and unclear. The definition of IP <b>should be consistent with the country framework.</b></li> </ul>	<ul style="list-style-type: none"> <li>A clarification has been added that the Bank may follow national processes during project screening for the</li> </ul>



## Summary of Phase 3 Consultations and Bank Management Responses

### ESS7

Issues	Key Comments from Stakeholders	Bank Management Responses
	<ul style="list-style-type: none"> <li>Definition on IPs under ESS7 is very wide. <b>Identification of IPs should be done in consultation with the Borrower.</b></li> <li>Regarding identification of Indigenous Peoples under ESS7, <b>Indigenous Peoples should also be involved</b> in the decision.</li> </ul>	<p>identification of Indigenous Peoples, where these processes meet the requirements of ESS7, including the criteria for identification (ESS7, para 10). This is consistent with the current safeguard policy OP4.10.</p> <ul style="list-style-type: none"> <li>A footnote has been added to clarify that the Bank will also consult the IPs concerned and the Borrower in the identification of the IPs (ESS7, footnote 8).</li> </ul>
<b>65. Conversion of customary land usage right</b>	<ul style="list-style-type: none"> <li>Providing for the <b>conversion of land to individual ownership rights</b> is contrary to the collective nature through which Indigenous Peoples may assert their land rights and should thus be removed.</li> </ul>	<ul style="list-style-type: none"> <li>A clarification has been added that conversion of IPs' customary usage rights to communal and/or individual ownership rights will only be an objective following consultation with the IPs concerned (ESS7, footnote 17).</li> </ul>

### ESS8

Issues	Key Comments from Stakeholders	Bank Management Responses
<b>66. Transfer of natural features with cultural significance</b>	<ul style="list-style-type: none"> <li>The adoption of language that allows for <b>permanent removal or transfer of cultural heritage is strongly opposed</b>. It is in the best interests of the Bank to avoid any development projects that allow for the deliberate and permanent removal or transfer of cultural heritage since such activities are not only inherently negative, but are also looked unfavorably upon by local, national, and international communities, and are in violation of the laws of many countries.</li> </ul>	<ul style="list-style-type: none"> <li>A clarification has been added that the transfer of "natural features with cultural significance" needs to be cautiously conducted in consultation with stakeholders and in accordance with Good International Industrial Practice (GIIP). (ESS8, para 26)</li> </ul>

## Summary of Phase 3 Consultations and Bank Management Responses

ESS9		
Issues	Key Comments from Stakeholders	Bank Management Responses
<p><b>67. Stakeholder engagement and information disclosure by FI</b></p>	<ul style="list-style-type: none"> <li>• Participants expressed concerns regarding ESS9 requirements for <b>stakeholder engagement conducted by financial intermediaries</b> and inquired if these requirements could be revisited.</li> <li>• Participants highlighted that while banks in the country increasingly look into supporting greater transparency in their operations, there are <b>confidentiality laws</b> in the country that limit banks' ability for disclosure. Bank can only speak publicly about projects they finance if explicitly permitted to do so by their clients.</li> </ul>	<ul style="list-style-type: none"> <li>• The draft has been amended, so that FIs will require that their subprojects conduct stakeholder engagement as set out in ESS10, in a manner proportionate to the risks and impacts of the subprojects. In certain circumstances, however, depending on the risks and impacts of the project and the type of FI subprojects it will finance, the Bank may require the FI to be engaged in stakeholder engagement (ESS9, para 24). This is in contrast to the second draft that placed the requirement on the FI.</li> <li>• The requirements for disclosure by FIs have been adjusted to address concerns about compliance with confidentiality under national laws. FIs will be required to disclose a summary of the elements of the FI's Environmental and Social Management System (ESS9, para 26). Sub-borrowers are required to disclose any project-related documents and environmental and social monitoring reports required by the ESSs and for any FI subprojects categorized as high risk in accordance with the FI's own categorization system (ESS9, para 27).</li> </ul>