

U.S. Position on the Review and Update of the World Bank's Safeguard Policies
August 4, 2016

The United States welcomes the Environmental and Social Framework (ESF) presented for consideration today. The four-year process leading to this proposal has frequently been challenging and the United States appreciates the hard work of World Bank staff. The United States also welcomes the extensive consultations that the World Bank has conducted with a wide range of external stakeholders during the review process.

This review matters, because the ESF will govern World Bank investment lending for years to come and, given the World Bank's leadership role, it is certain to affect the policies of other multilateral development banks, bilateral development agencies and private sector investors. The review also matters because the ESF makes a real difference in whether the World Bank contributes to countries' development in a sustainable manner, sustainability being the linchpin of the U.N. Sustainable Development Goals endorsed last year.

The United States supported the launch of this review, believing it was important both to strengthen the effectiveness of the World Bank's safeguards regime, and to better address the challenges of a changing world. The United States believes that the ESF does both.

While the ESF does not live up to all U.S. expectations, it lives up to many of them and represents notable progress from the current policy. It lays out a new vision for the World Bank, which recognizes the importance and relevance of human rights to development and acknowledges the Bank's responsibility to avoid adverse human rights impacts. It provides an enhanced scope of coverage, strengthened implementation and accountability, increased borrower ownership, and the potential for broader positive development impact.

The proposed ESF, as a whole package, has the potential to strengthen protections overall and improve development outcomes. It supports the World Bank's twin goals of ending extreme poverty and promoting shared prosperity in a sustainable manner. For these reasons, and despite some areas of concern, the United States supports approval of the proposed ESF, as recommended by Management.

The ESF preserves the core principles of good environmental and social risk management that underpin the existing safeguards. These include conducting and disclosing assessments of potential impacts of World Bank projects on people and the environment, undertaking meaningful consultations with project-affected communities about project impacts, developing measures to address these impacts, and monitoring impacts during project implementation.

The ESF also builds upon and improves the existing safeguards in several ways. The United States has strongly advocated for many of these changes during the review process. They include:

- *Non-discrimination and human rights.* The ESF requires the World Bank and its borrowers to abide by the essential principles of non-discrimination and inclusive development. While the ESF should have been bolder in laying out how those principles will be achieved, the United

States sees the Presidential Directive on Disadvantaged or Vulnerable Individuals or Groups and the human rights language in the Vision Statement as important steps forward. The United States believes that the emphasis throughout the ESF on ensuring that impacts do not fall disproportionately on the most vulnerable, including persons with disabilities, children, and lesbian, gay, bisexual, and transgender (LGBT) communities, is one of the most powerful elements of the ESF and is fully in line with the World Bank's twin goals. The United States also appreciates that the ESF's Vision for Sustainable Development, for the first time in a World Bank safeguards document, recognizes the intersection between human rights and World Bank projects and acknowledges that the World Bank's member countries' human rights commitments are relevant to the safeguards.

- *Enhanced scope.* The ESF broadens the treatment of social impacts of World Bank-financed projects and adds protections in critical areas such as labor rights, climate change, and non-discrimination against disadvantaged or vulnerable groups or individuals. The ESF also grants new protections to Indigenous Peoples and includes the concepts of both tangible and intangible heritage.
- *Improved accountability.* The ESF strengthens requirements for consulting with project-affected communities, as well as for monitoring and reporting on the environmental and social performance of projects. The ESF adds new instruments (a Stakeholder Engagement Plan and an Environmental and Social Commitment Plan) that will bolster accountability. The ESF also broadens requirements for project-level grievance mechanisms, requiring all World Bank investment projects to incorporate grievance mechanisms to respond to complaints from project-affected peoples.
- *Strengthened implementation throughout the project cycle.* The ESF improves implementation support for borrowers and establishes a risk-based supervision system that will enable the World Bank to focus supervision and implementation support where risks are high. To support implementation of the ESF throughout the project cycle, World Bank management is substantially increasing the budget for safeguards implementation, including through temporary "surge" funding to train staff and borrowers during the rollout of the new ESF. World Bank management has also made some important changes to the Bank's internal organization to support ESF implementation and provide environmental and social staff with greater autonomy.

While the United States appreciates the ESF's strengths, there are also areas where the United States disagrees with the proposed approach or would have preferred to see greater clarity and strengthening, and will therefore monitor closely going forward. Some of these areas are systemic in nature. For instance, the ESF increases the opportunities for borrowing countries to use their own environmental and social risk management frameworks ("use of borrower frameworks") for specific World Bank-financed projects, consistent with the United State's long-term development objective of stronger environmental and social management systems in borrowing countries. However, these opportunities also come with risks and, accordingly, the United States has been clear that they must be balanced by a careful review process. To this end, the World Bank has outlined a three-tier methodology for assessing borrower frameworks, including review of the borrowing country's laws and procedures, the capacity of the

implementing agency to implement adequate safeguards, and the implementing agency's track record on environmental and social risk management. Given the risks, the United States reiterates that the World Bank should be conservative in its use of borrower frameworks, applying its methodology carefully, focusing on selected high capacity borrowers, and devoting resources to building up the capacity of borrowing countries.

The ESF should more clearly define the circumstances under which the World Bank would agree to a "common approach" on safeguards with other multilateral or bilateral funding agencies, in line with the approach outlined for use of borrower frameworks. The ESF would benefit from greater clarity around disclosure of specific risk mitigation documents, particularly resettlement and Indigenous Peoples plans, framework plans, and monitoring reports. The United States strongly encourages Management to continue to disclose these plans prior to project appraisal, consistent with the existing safeguards.

The United States believes that without a broader definition of associated facilities and the inclusion of induced impacts, the scope of environmental and social assessment could be restricted compared to international standards. As an example, excluding induced impacts from an assessment could have the unintended effect of preventing assessment of any unplanned developments induced by the project, such as spontaneous settlements, logging, and deforestation along new or improved roads. It is good international practice to assess induced impacts, and not doing so risks ignoring the lessons that the World Bank has learned about the importance of assessing all relevant impacts of a project. In a similar vein, the requirement to address residual impacts "where technically and financially feasible" needs to be carefully applied, with appropriate consideration of environmental and social factors, so it does not leave significant residual impacts unmitigated.

Other areas where the United States would have liked to go further are more thematic, specific to individual ESSs. For example, the United States welcomes the new Environmental and Social Standard (ESS2) on labor, but, at the same time, is disappointed that support for the principles of freedom of association and collective bargaining is, unlike the rest of the ESF, conceived to be "in a manner consistent with national law." The United States also notes that the "workers' organizations" section in ESS2 is weaker than its parallel in the IFC's Performance Standard 2, which grants more explicit protections in the area of freedom of association and collective bargaining. Additionally, the United States is concerned that ESS2 appears to allow primary suppliers to self-identify child labor and forced labor risks to their own workers, and urges the World Bank to hold borrowers accountable for monitoring and remedying these risks in their primary suppliers.

Involuntary resettlement, and its life-changing impacts on affected people, is of central concern to this chair and the World Bank must improve its performance given its mixed track record. In that context, the United States welcomes the consideration of both physical and economic displacement in the new standard on involuntary resettlement, ESS5, but believes that ESS5 should have maintained the existing definition of "involuntary." In all cases covered by ESS5, the United States urges the World Bank and its clients to improve, not merely restore, livelihoods. More broadly, the United States urges that livelihood protection be a clear goal when livelihoods and living standards are impacted, regardless of whether those impacts are

addressed in ESS1, which focuses on the assessment and management of environmental and social risks and impacts, or ESS5. The United States strongly encourages the use of more robust socio-economic analysis to inform design of projects that involve involuntary resettlement and their resettlement action plans.

In ESS6, habitat, biodiversity and sustainable management of living natural resources are addressed in a more integrated manner than previously, but the United States remains concerned about the use of biodiversity offsets. Critical habitats occur over a small portion of the planet, but their global benefits far outweigh their size. Many critical habitats are complex ecosystems that are not fully understood from an ecological perspective, and the science behind offsets is still evolving. Biodiversity offsets are challenging to design, implement, monitor, and sustain over the long-term, even under the best of circumstances. For all these reasons, biodiversity offsets should be used to compensate for adverse impacts on critical habitats in rare cases and *only* as a last resort when: (i) all other technically feasible avoidance, minimization and restoration measures have been considered; (ii) they are supported by rigorous, sound science; and (iii) long-term management and funding is secure.

The United States is pleased with much in the new standard on Indigenous Peoples, ESS7, which now explicitly covers pastoralists and peoples in voluntary isolation. In light of the distinct circumstances that Indigenous Peoples face, the United States believes that ESS7 should be clearer about the protections provided to Indigenous Peoples in community development plans. When projects require establishing legally recognized land rights, the United States underscores the importance of converting Indigenous Peoples' customary usage rights to communal ownership rights (not individual rights).

In closing, the United States recognizes that the hard work of implementing the new ESF is just beginning. Only through careful implementation can the new ESF's promise be fulfilled. The United States will continue to engage on this process as it moves forward. The United States urges Management to move forward purposefully with preparations for the roll-out of the new ESF, including developing supplementary materials, training staff, and building borrower capacity. The United States supports a joint Committee on Development Effectiveness/Budget *ad hoc* subcommittee, which is needed to support and assess ESF implementation and resourcing. The United States looks forward to the development of a robust Monitoring and Evaluation framework to provide Management, the Board, and the public a better understanding of the effectiveness of the new ESF. The United States also strongly encourages Management to further develop and appropriately resource the capacity-building program and tailor it to individual country circumstances, with a focus on low-income and low capacity countries and ensuring sustainability of that effort. Finally, in looking beyond this review, the United States encourages Management to move forward with a broader discussion on the coherence of the World Bank's approaches to environmental and social risk across its lending instruments.