



Netherlands Commission for
Environmental Assessment
Dutch Sustainability Unit

Analysis of Proposed Changes to the World Bank's Safeguard Policies

Briefing Paper

THE NETHERLANDS



7 January 2015



Advisory Report by the Dutch Sustainability Unit

Subject: Analysis of Proposed Changes to the World Bank's
Safeguard Policies: Briefing Paper

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GLOSSARY AND ACRONYMS

ADB	Asian Development Bank
CSO	Civil Society Organization
CSS	Country Safeguard System
DPL	Development Policy Lending
ESCP	Environmental and Social Commitment Plan
EIA	Environmental Impact Assessment
EMP	Environmental Management Plan
ESF	Environmental and Social Framework
ESIA	Environmental and Social Impact Assessment
ESP	Environmental and Social Policy
ESS	Environmental and Social Standard
FPIC	Free, Prior and Informed Consent
IEG	Independent Evaluation Group
LGBT	Lesbian, Bisexual, Gay, Transgendered
MDB	Multi-lateral Development Bank
NGO	Non-Governmental Organization
P4R	Program for Results
SEA	Strategic Environmental Assessment
SEP	Stakeholder Engagement Plan
SIA	Social Impact Assessment
SPS	Safeguard Policy Statement
TA	Technical Assistance
WB	World Bank

SUMMARY

This Briefing Paper consists of an analysis of the World Bank's proposed new Environmental and Social Framework (ESF). The analysis is based on the criteria provided in a Terms of Reference by DGIS that requests a comparison of the new draft ESF against the Bank's stated criteria at the start of the review process, the Bank's existing safeguard policies, the safeguard policies of the Asian Development bank, and a general direction that DGIS has indicated as desirable. These comparisons are summarized in section 5.1 of this briefing paper. On request of DGIS this briefing paper, in section 5.2, also looks more closely at the many critiques on the ESF that have been voiced by civil society organizations. Section 5.3 presents the recommendations that follow from the analysis.

This summary presents, in the tables on the next pages, a concise overview of resulting suggestions for improvement of the proposed ESF. The ESF consists of a vision, a policy and ten social and environmental standards. More detailed procedures, guidance and information tools are still to follow. The discussion around the ESF has mainly centered either on the general approach to the management of environmental and social risk management that the Bank is proposing, or on the substance of particular standards contained within the ESF. Each is addressed separately below.

ESF approach

In terms of the general approach, the ESF is a quite radical proposal. It goes beyond the recent safeguard reforms made by other multilateral agencies and regional development banks such as the Asian Development Bank. The Bank proposed changes in the application of safeguards, specifically concerning timing and responsibilities. In essence, the ESF flags three new directions for the World Bank's approach to safeguards:

- a shift from a predominant focus on pre-approval ex ante assessment, to a greater concentration of effort in project implementation, monitoring, and compliance;
- a greater reliance, *where possible*, on borrowing country "ownership" of environmental and social safeguard procedures; and,
- a new stress on "flexibility", which would enable changes to be made to safeguard application as projects develop over time.

The Bank's stated belief is that the new approach in this ESF will lead to better environmental and social outcomes. This briefing paper does not present a definitive conclusion on the expected effectiveness of the approach in achieving such outcomes. Assessing the validity of the Bank's claim requires making value judgments about what determines aid effectiveness, and about the Bank's credibility in implementing what amounts to a significant reform with consequent capacity demands.

This paper does note that the proposed approach is consistent with the general direction that the DGIS has indicated desirable in its own position paper on this topic, and also with the commitments made in the Paris Declaration on Aid Effectiveness and the Accra Agenda for Action. In comparison to the ADB approach, the ESF matches it in some regards, but goes further in others, with innovations such as the Environmental and Social Commitment plan, and the Stakeholder Engagement Plan.

However, the ESF approach is not yet fully fleshed out. See the first 3 sets of recommendations in the table below. The requirements and conditions for operationalization of the ESF need to be further strengthened, for example by clarifying how corrective actions will be implemented if a borrower falls short of application of standards. In addition, the ESF may require significant investment in capacity to be successful, both within the Bank and within borrower countries. In terms of the scope of application, the ESF now does not apply to Development Policy Loans, while the DGIS position paper specifically indicates that it should.

Social and environmental standards

The substance of the ten social and environmental standards of the ESF has also raised considerable debate, including within DGIS. See the 4th set of recommendations below. Some of the priority topics indicated by DGIS or by the Bank itself have been extensively addressed in the standards, while the treatment of other topics, such as climate and gender is light. In addition, CSO critique has identified problems with certain requirements, such as those on biodiversity conservation and indigenous peoples. It is recommended to further complete and improve the set of standards before moving forward with the ESF.

Overview of Recommendations for the ESF

1. Strengthen operationalization of the new ESF

Issue	Concerns
Coherence and expected ease of application of the new integrated framework (principles – policies – procedures).	Procedures (Annexes and Information Notes) still need to be produced under ESSs 2–10; implementation details are now not sufficiently clear.
Link between appraisal, decision-making on the Bank Loan, and supervision of application of standards after the loan decision.	Unclear how standards will be enforced if Bank influence is open-ended, open to negotiation, and without specified corrective actions.
Using borrower country systems.	Unclear how standards will be enforced where a borrower country system is inadequate – or becomes inadequate during project implementation.
Information disclosure of the ESCP.	The proposed ESCP lacks an explicit disclosure plan.
Remit of the Bank’s Inspection Panel.	Unclear if Inspection Panel redress applies if borrowers violate national laws.

Possible recommendations:

- Accelerate production of ESS annexes and Information Notes, with initial focus on ESS5 (Land Acquisition, Restrictions on Land Use and Involuntary Resettlement), ESS 7 (Indigenous Peoples) and Information Disclosure (ESP F). It would be best if these procedural guides were to be finalized prior to Bank Board approval of the ESF.
- Further specify conditionality requirements, for example through inclusion of requirements within Section C of the ESP.
- Refrain from using borrower systems before it has been independently verified that these systems are equivalent to the Bank’s safeguards. If they are considered to be equivalent, performance of borrower systems should be monitored during loan implementation, and corrective action should be taken where necessary to ensure standards are met.

- Further specify requirements for disclosure either within ESS1 Annex 2, or in a separate Information Note.
- Make it specifically clear that Inspection Panel redress applies if borrowers violate national laws. This could be achieved through amending paragraph 51 of Bank Requirement I, or through an amendment to each ESS.

2. Develop capacity for implementation

Issue	Concerns
Bank investment in its internal capacity for application of ESF.	ESF implementation will require considerable increase in capacity within the Bank.
Bank investment in strengthening of borrower systems.	Reliance on borrower safeguards is only possible where country systems are equivalent to the Bank's safeguards, and few are at present.

Possible recommendations:

- Accelerate the Bank's plan for implementation of the new ESF into its own practices, including specification of the resource commitments entailed.
- Accelerate the plans for addressing – where possible with others – the issue of national system strengthening, including specification of the resource commitments that will be reserved.

3. Broaden the scope of the ESF

Issue	Concern
Integration of safeguards into investment loans and Development Policy Loans (DPLs) and Program-for-results (P4R).	ESF will not apply to DPLs or P4R. Yet, current approaches to safeguards (as presented in OP8.60) are considered insufficient.

Possible recommendation:

- Institute a mandatory requirement for environmental and social assessment of DPLs and P4R, and include these modalities within the purview of the ESF. This should entail more detailed treatment of the instrument of Strategic Environmental and Social Assessment (SESA) in ESS1.

4. Complete and improve standards

Issue	Concerns
Addressing emerging issues (as identified by DGIS).	Climate change, gender, disability, disadvantaged groups, and human rights only lightly dealt with.
Resettlement (ESS 5).	ESF potentially weakens current Bank appraisal and supervision responsibilities for resettlement planning and execution.
Biodiversity conservation et cetera (ESS 6).	ESF potentially weakens current safeguards on biodiversity, due to the treatment of critical habitats and possibility of "offsets".
Indigenous people's rights (ESS 7).	The alternative approach (also known by CSOs as the "opt out" clause) may weaken the position of indigenous people.

Labor and working conditions (ESS2).	Freedom of association and right to collective bargaining not ensured (as in IFC and AfDB).
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Possible **recommendations**:

- Establish one or more specialist “expert groups” to enable considered revision of the ESF with respect to emerging issues, resettlement and biodiversity. Rectify many of the uncertainties around ESS 5 and ESS6 by rapidly developing Annexes or Information Notes for these ESS.
- Consider removing the opt-out clause from ESS 7; from ESS 1 (para 28); and, from the ESP (Section D: Special Considerations).
- Consider inserting specific reference to freedom of association and right to collective bargaining into ESS 2.

1. Introduction

In July 2014 the World Bank (“the Bank”) released a draft of its new Environmental and Social Framework (ESF) for consultation. This Briefing Paper sets out to analyze the ESF, to compare the requirements therein with the currently existing Bank safeguard policies and with those of the Asian Development Bank (ADB), and to review key ESF criticisms that have been expressed by Civil Society Organizations (CSOs). This paper is intended to inform the discussion that DGIS will have with the Bank on the proposed ESF. DGIS has provided a Terms of Reference for the Paper, which proposes the following tasks:

- an analysis of whether the new draft ESF meets the World Bank’s own criteria, as defined at the start of its review process;
- a comparison of the relative strengths and weaknesses between the ESF July 30th draft version, the existing World Bank safeguard policies, and the current safeguards policies of the Asian Development Bank;
- an analysis of whether the ESF July 30th draft version meets the criteria and principles that the Netherlands Ministry of Foreign Affairs articulated in a position paper developed for this review; and,
- an analysis of proposed changes in the safeguard policies and an appreciation of whether the new draft ESF is likely to strengthen or dilute the safeguards policies and thereby enhance or reduce development effectiveness of World Bank-supported projects and programs. The focus will be on the ESF components setting out mandatory requirements for the Bank and its borrowers.

The main catalyst for this Briefing Paper is the raft of trenchant criticism that has been leveled at the Bank by civil society organizations (CSOs), especially since the release of the draft ESF on July 30, 2014¹. The Paper attempts to address the ToR by asking the following questions:

- Why is the World Bank reviewing its safeguard policies?
- What does the World Bank say it wants, and how does it propose to get what it wants?
- How does the new Environmental and Social Framework compare to the existing Safeguard Policies, and those of the 2009 ADB Safeguard Policy Statement?
- What is the substance of the CSO critique, and in particular, what is its factual basis?

Following this introduction, the paper first discusses the background to the ESF, outlines some of the external developments that have led to the review, and describes the objectives for the ESF, including those set out in the Dutch Position Paper. The structure of the new ESF is also outlined. Then, in section 3 we compare the ESF to the existing Bank safeguard policies, and to those of the Asian Development Bank. We also assess the ESF against the Dutch Position Paper criteria. The following section (4) focuses on the CSO critique, and examines the factual basis of the different concerns. The concluding section summarizes the analysis and comparison, and provides recommendations that DGIS may use in its future exchanges with the Bank on the ESF. Annex 1 lists the most relevant CSO critiques.

¹ An indicative list of the CSO position papers, media releases, and other comments is attached as Annex 1.

2. Introducing the World Bank’s Review of its safeguard policies

2.1. Background to the ESF Review

The Bank’s eight environmental and social safeguard policies have been developed over the last 30 years, with very little in the way of review or reform. Pressures for review of the safeguard policies have come from both internal and external sources. A significant internal catalyst for review was the Independent Evaluation Group’s (IEG) detailed 2010 report titled, “Safeguard and Sustainability Policies in a Changing World”. It concluded that the existing Bank safeguard system is only partially effective, as it focuses too much attention on ex-ante “front-end” assessments, and neglects supervision of environmental and social risks in the implementation, or “back-end” phase. The IEG study also pointed to the lack of a coherent overall organizing structure, which makes them difficult to work with, and to explain to borrowing country clients.

Another influential internal evaluation was published by the Internal Audit Department (IAD) in June 2014. Based, in part, on interviews with safeguard specialists, it showed that 58% of those interviewed believe that environmental and social risk management is not adequately documented in project supervision reports, and that over half of active projects do not have assigned safeguard specialists².

Additional pressures have emanated from outside the Bank. CSOs have regularly commented on the fact that the safeguard policies do not deal with important contemporary issues such as climate change, human rights, and labour conditions.

In addition, most regional development banks – which are sometimes seen as being competitors – have reformed their safeguard policies over the course of the last 8 years³. The leader in reform has been the International Finance Corporation, who’s 2006/2012 Policy on Environmental and Social Sustainability (and accompanying Performance Standards) established an integrated safeguard system which was intended to be more encompassing, more flexible and outcome oriented, and more conducive to client-capacity building. To a considerable extent, the new IFC approach has influenced the development of new safeguard procedures in the Asian Development Bank (the Safeguard Policy Statement 2009), the European Bank for Reconstruction and Development (currently reviewing its Environmental and Social Policy 2005), the African Development Bank (Integrated Safeguard System 2013), and UN agencies such as UNDP and UNIDO. The reforms undertaken by these multi-lateral agencies have been influenced by a new emphasis in international aid on effectiveness and results. The Paris Declaration (2005) and the Accra Agenda for Action (2008) both call for the “harmonization” of donor approaches to safeguards.

² World Bank Internal Audit Department (2014), *Advisory Review of the Bank’s Safeguard Risk Management*. June 16.

³ See, for example, the African Development Bank’s Integrated Safeguard System (2014), and the European Bank for Reconstruction and Development’s Environmental and Social Policy (2008, and currently subject to a five-year review).

Finally, pressures to reform are also a result of changes in the economic circumstances of borrowing countries. A number of previously low-income countries have moved into middle income status. Their safeguard systems have matured in parallel. As a consequence, the pool of borrowers has diversified and this requires the development of a flexible approach on the part of the World Bank.

2.2. Objectives of the ESF Review

The Bank has flagged its expectations for a reformed environmental and social safeguards system in numerous statements and publications. The reasoning behind these aims is often tied to the pressures outlined in Section 2.1. The draft ESF does not elaborate on these expectations in any detail. However, the ToR for this DSU study states the following:

“Bank management anticipates that the review process will lead to an integrated safeguards framework that will distinguish principles from policies from procedures; enhance policy clarity and coherence; clarify objectives and desired outcomes; improve synergy across policies; consolidate fragmented or duplicative policies; streamline guidance; and better delineate roles and responsibilities of the Bank and the borrower. The Bank also wishes to consider if and how it could address a number of emerging areas that are not covered by the current safeguard policies. These include climate change; disability; free, prior and informed consent of Indigenous People; gender; human rights; labor and working conditions; community health and safety; and land tenure and natural resources”.

These hoped-for outcomes can be thought of as one set of criteria for evaluating whether the proposed reforms have met the objectives of the review. In addition, the Netherlands Position Paper on the World Bank Safeguards Review (“the Position Paper”) lists a separate set of objectives, as follows:

- better coherence, easier application, aligned with highest international standards;
- address emerging issues and strive to fully integrate safeguard policies in both Investment Loans and Development Policy Loans;
- the Bank should make investments in its internal risk management capacity in order to balance meaningful ex ante assessments of environmental and social standards and impacts with appropriate supervision, monitoring and mitigation;
- safeguard policies should refer to human rights explicitly, such as enshrined in the United Nations Charter. This important symbolic reference should translate into concrete actions to assess and address (due diligence) adverse impacts on vulnerable groups, specifically LGBT, religious, racial or other minorities, gender, elderly, children, disabled and infirm;
- the Bank should move from an approach of prescriptive safeguards policies to a focus on capacity building of borrowers. This allows beneficiary countries to better integrate safeguard policies into their own systems and allows citizens to hold their governments accountable. Such a shift requires that the Bank is capable of effectively monitoring the performance and reliability of country systems. Increased outcome tracking, use of third-party monitoring and improved grievance mechanisms are promising avenues to be further explored and strengthened.

2.3. The Structure of the proposed ESF

To date, the World Bank has produced the following formal documents as part of the Review and Update of the World Bank Safeguard Policies:

- Environmental and Social Framework: First Draft for Consultation (July 30, 2014);
- Proposed ESS1 – Annex 1: Environmental and Social Assessment (October 7, 2014);
- Proposed ESS1 – Annex 2: Environmental and Social Commitment Plan (October 7, 2014);
- Information Note 1: Environmental and Social Risk Classification (October 7, 2014);
- Information Note 2: Use and Strengthening of Borrower’s Environmental and Social Framework (October 7, 2014).

The most detailed and significant document is the Environmental and Social Framework. The ESF is made up of the following components:

- A Vision for Sustainable Development, which sets out the Bank’s aspirations regarding environmental and social sustainability.
- The World Bank Environmental and Social Policy, which sets out the mandatory requirements that apply to the Bank.
- The Environmental and Social Standards, together with their Annexes, which set out the mandatory requirements that apply to the Borrower and projects.
- The Environmental and Social Procedures, which set out requirements mandatory for both the Bank and the Borrower on how to implement the Policy and the Standards⁴.
- Non-mandatory guidance and information tools, to support Bank and Borrower implementation of the Policy and the Standards.

The Vision for Sustainable Development is an overall aspirational statement, that commits the Bank to the following:

- avoiding or mitigating adverse impacts to people and the environment;
- conserving or rehabilitating biodiversity and natural habitats;
- promoting worker and community health and safety;
- giving due consideration to Indigenous Peoples, minority groups, and those disadvantaged because of age, disability, gender or sexual orientation, especially where adverse impacts may arise or development benefits are to be shared;
- ensuring that there is no prejudice or discrimination toward project-affected individuals or communities, particularly in the case of disadvantaged or vulnerable groups, in providing access to development resources and project benefits; and
- addressing project-level impacts on climate change.

⁴ According to the July 30 ESF, the Environmental and Social Procedures and the non-mandatory guidance and information tools have yet to be produced.

The Environmental and Social Policy sets out the mandatory requirements that apply to the Bank. The relevant sections in the ESP are:

- Classification;
- Use and strengthening of borrower's ES framework;
- Environmental and social due diligence;
- Special considerations;
- Environmental and social commitment plan;
- Information disclosure;
- Consultation and participation;
- Monitoring and implementation support; and,
- Grievance redress and accountability.

Environmental and Social Standards (ESSs) set out the mandatory requirements that apply to the Borrower and projects. Ten standards are outlined in the ESF. They are as follows:

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

3. How does the new ESF compare?

3.1. Approach to the comparison

The comparison between the existing Bank safeguard policies, the proposed ESF, the ADB's SPS and The Netherlands Position Paper is undertaken here in three parts. First, the proposed ESF is compared to the existing safeguards policies and the ADB SPS. Second, the proposed ESF is compared against the objectives that the Bank set itself, and which are presented earlier in Section 2.2, 1st paragraph. Finally, the proposed ESF is compared against the criteria presented in the Netherlands Position Paper, and which were listed in Section 2.2, 2nd paragraph.

3.2. Comparison of the new ESF with existing safeguard policies and the ADB safeguard policy statement

In the proposed ESF, mandatory requirements for the Bank are laid out in the Environmental and Social Policy. As indicated in Section 2.3, 4th paragraph above, there are nine mandatory requirements. In Table 1, these are analyzed and compared against the existing Bank safeguard policies, and against those of the ADB. Table 1 also analyzes the nature of the ESP's scope.

A key change that the Bank wishes to introduce concerns the **process of the application** of the safeguard standards, and specifically the timing and responsibility for their application. Currently, safeguard compliance is required before a decision on a loan is made by the Bank. The ESF introduces a more flexible approach, whereby the requirements of the standards shall be met in a "manner and timeframe acceptable to the Bank". Both the manner and the timeframe are to be agreed between the Borrower and the Bank, and set down in a new mechanism known as the Environmental and Social Commitment Plan, which the Borrower must implement.

With regard to **scope of application**, there is no effective difference between the proposed ESF and the existing Bank safeguard policies. Neither system includes Development Policy Lending (DPL) or Program-for-Results (P4R) within their ambit. The CSOs consider this to be a significant fault, and some criticism could have been neutralized if a review of environmental and social safeguard procedures for DPLs and P4R had been included in this current review.

With regard to **project classification/screening**, the Bank proposes to change its categorization system to one that focuses more tightly on project risk. The ESF proposes a more comprehensive classification (High, Substantial, Moderate and Low), which would consider type, location and scale of the project; the nature and magnitude of the potential risks and impacts; and the capacity and commitment of the Borrower to manage such risks and impacts. The Bank suggests that this approach will encourage Borrowers to focus on the

actual risks and impacts of the project, and would enable the Bank to allocate resources to projects that most need them. In addition, the Bank argues that the current “ABC” risk rating is determined when the project is prepared and can only change if the project is restructured. Without restructuring, the risk rating cannot change through the project cycle, even if the project conditions change. Under the new ESF the Bank intends to regularly evaluate the risk rating of a project, including during project implementation, and change this rating if needed. This is commensurate with the move to a more “flexible” and evolving approach to safeguards application that is one of the main features of the ESF.

With regard to the use and strengthening of **the borrower’s E&S framework**, the ESF marks a significant shift in the Bank’s approach to use of country systems. In line with its intention to apply more effort to project implementation and supervision, the Bank proposes to rely more strongly on the safeguard systems of borrowing countries. As is indicated in Section 4, this is a major concern of the CSO’s, and one of the main reasons that they perceive the ESF as diluting the existing safeguard system.

The next mandatory Bank requirement dealt with in the proposed ESF is **environmental and social due diligence**. Because of its intended shift towards greater borrowing country ownership, specification of the Bank’s position on due diligence is especially important, hence the inclusion of Section C in the Environmental and Social Policy. The Bank’s approach to due diligence appears to be comparable to the ADB’s, but may need further strengthening, as will be discussed later.

The special considerations section of the ESP consists of approaches that would be taken to screen projects that may involve indigenous people, and those loans that include high risk sub-projects. It is a considerable expansion over the special considerations section contained in OP10.00, and is roughly equivalent to the ADB’s approach to similar situations.

The requirement for an **Environmental and Social Commitment Plan** is entirely new. No equivalent exists in the existing Bank policies, or in the ADB system. The ESCP appears to be an important component of the Bank’s intention to encourage country ownership of safeguards, and of environmental outcomes. As will be seen in Section 4, some CSOs see the ESCP as an attempt to “pass off” or dilute the existing Bank safeguards system.

Table 1: Comparison of the Bank Requirements of the Proposed ESF Environmental and Social Policy against the Safeguard Polices of the World Bank and the Asian Development Bank Safeguard Policy Statement

Mandatory Requirement	Proposed ESF	Old Bank Safeguard Policies	Asian Development Bank
Scope	Only applies to projects supported by Investment Project Lending, where OP/BP 10.00 (Investment Project Financing) applies. Does not apply to Development Policy Lending (DPL), or to Program-for-Results (P4R).	Same as for the proposed ESF.	SPS applies to investment project lending, and also to other investment instruments, including program loans, sector finance, multitranches financing facilities (MFFs), emergency assistance loans, and corporate finance. To this extent, the ADB applies its SPS to a wider set of modalities than is the case for the WB. However, the ADB tends not to use DPL in the same sense as WB.
Classification	<p>A risk classification system (High, Substantial, Moderate and Low), which would consider type, location and scale of the project; the nature and magnitude of the potential risks and impacts; and the capacity and commitment of the Borrower to manage such risks and impacts.</p> <p>More details is provided in Information Note 1: Environmental and Social Risk Classification (released on October 7, 2014).</p>	At the beginning of the World Bank’s project cycle, each project is categorized into one of four different risk categories according to the “type, location, sensitivity, and scale of the project and the nature and magnitude of its potential environmental impacts” (OP 4.01). ‘A’ is the highest (“likely to have significant adverse environmental impacts that are sensitive, diverse, or unprecedented”) and ‘C’ the lowest (“minimal or no adverse environmental impacts”) risk category, with ‘B’ in between. The fourth category ‘FI’ applies only to “investment	ADB’s SPS uses the same categorization system as the old World Bank safeguard policy 4.01.

		of Bank funds through a financial intermediary”.	
Use and strengthening of borrower’s ES framework	<p>A greater focus on use of the borrower’s ES framework than in the old policies.</p> <p>Para 23 states: “the Bank supports the use of the Borrower’s existing environmental and social framework in the assessment, development and implementation of projects supported through Investment Project Financing, provided this is likely to be able to address the risks and impacts of the project, and enable the project to achieve objectives materially consistent with the ESSs”.</p> <p>More detail is supplied in Information Note 2: Use and Strengthening of Borrower’s Environmental and Social Framework (released on October 7, 2014).</p>	The Bank’s OP/BP 4.00 on the use of country systems, introduced in 2005, allows the Bank to use a country’s system in case that equivalence between the standards of the Bank and the country is assured, and that the acceptability of the borrower’s implementation practices, track record and capacity is satisfactory.	Under Section IV of the SPS (“Key Policy Issues and Considerations”), there is a sub-section on Responding to Changing Client Requirements and Long-Term Sustainability of Safeguard Systems. Paragraph 37 argues for a much stronger reliance on country systems. This is backed up with a separate Appendix (6) that outlines the approach to be taken when using country systems. As is the case with the World Bank’s old safeguard policies, use of country systems is predicated on “equivalence and acceptability” assessment. Distinct from the World Bank’s old approach to use of country systems, ADB has expended considerable resources on strengthening national systems before using them (through the many sub-projects of TA 7566: Use and Strengthening of Country Safeguard Systems ⁵).
Environmental and social due diligence	Due diligence is still retained in the Bank’s hands. However, it is more clearly defined, as follows (in ESF para 28):	Takes place in the appraisal stage of the project cycle. Heavily weighted towards the front end, and is the Bank’s	Like IFC, ADB retains the responsibility to ensure that borrowers/clients comply with its Safeguard Requirements “through their due diligence, review, and supervision”.

⁵ <http://www.adb.org/site/safeguards/country-safeguard-systems>

	<p>"The Bank's environmental and social due diligence will be appropriate to the nature and scale of the project, and commensurate with the level of environmental and social risks and impacts, with due regard to the mitigation hierarchy. The due diligence will assess whether the project is capable of being developed and implemented in accordance with the ESSs. The environmental and social due diligence will be integrated into the Bank's overall project appraisal".</p>	<p>responsibility. General rules for due diligence are laid out in OP/BP 10.00.</p>	
Special considerations	<p>The "special considerations (SC)" section of the ESF is a Bank Requirement. It considerably expands the SC section in the old policies. It proposes a special screening for projects where indigenous people may be present, and a subsequent decision as to whether ESS7 or another ESS should be applied. For projects that include sub-projects, where the Bank is not satisfied that adequate capacity exists on the Borrower's part, all High Risk subprojects, including the environmental and social assessment, will be subject to prior review and approval by the Bank.</p>	<p>OP 10.00 outlines procedures for "special consideration" projects. These are defined as including: projects in situations of urgent need of assistance or capacity constraints; series of sequential projects; and projects implemented through financial intermediaries.</p>	<p>The term "special considerations" is used in the SPS exclusively with regard to the needs of indigenous people. Section 10, under the "Requirements" component of Appendix 2 (Involuntary Resettlement), states that "The borrower/client will explore to the maximum extent possible alternative project designs to avoid physical relocation of Indigenous Peoples that will result in adverse impacts on their identity, culture, and customary livelihoods". Appendix 4 also outlines special requirements for different finance modalities.</p>

<p>Environmental and social commitment plan</p>	<p>The ESCP is entirely new. It is mandatory Bank requirement E in the ESP. The key components are:</p> <p>“The Bank will assist the Borrower in developing an ESCP. The ESCP will set out the material measures and actions required for the project to achieve compliance with 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. 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”.</p> <p>More details is contained in Proposed ESS1 – Annex 2: Environmental and Social Commitment Plan (released on October 7, 2014)</p>	<p>There is no equivalent of the ESCP in the old safeguard policies.</p>	<p>There is no direct equivalent of the ESCP in the SPS. However, the Safeguards Requirement 1: Environment (Appendix 1) requires that the borrower/client prepare and Environmental Management Plan (EMP) that goes part of the way towards an ESCP.</p>
<p>Information disclosure</p>	<p>The Bank’s mandatory requirement F is a brief, two paragraph statement that requires the borrower to commit to ESS10 (Information Disclosure and Stakeholder Engagement), and commits the Bank to apply its Policy on Access to Information with regard to all documents provided to it by the borrower.</p>	<p>Disclosure, in general, is governed by the World Bank Policy on Access to Information (July 1, 2010). In addition, paragraphs 15–18 of OP4.01 (Environmental Assessment) lay out the consultation and disclosure requirements for Category A and Category B projects). These are extended</p>	<p>In Section B of the SPS (the “Policy Delivery Process”), the ADB lays out the information disclosure requirements for the different types of categorized projects. It also states that: “In line with ADB’s Public Communications Policy, ADB is committed to working with the borrower/client to ensure that relevant</p>

	<p>ESS10 makes extensive requirements for information disclosure and adds the following: "This ESS will 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 ESS4. In the case of projects involving involuntary resettlement and/or economic displacement, affecting Indigenous Peoples or having an adverse impact on cultural heritage, the Borrower will also apply the special disclosure and consultation requirements set out in ESS5, ESS7 and ESS8".</p>	<p>by paragraphs 11 – 14 (Review and Disclosure) of BP4.01 . OP/BP4.10 prescribe the special consultation provisions required when dealing with projects that affect indigenous peoples. These provisions relate to Indigenous People’s Plans and Indigenous People’s Planning Frameworks. OP/BP 4.12 prescribes the disclosure requirements for projects involving involuntary resettlement.</p>	<p>information (whether positive or negative) about social and environmental safeguard issues is made available in a timely manner".</p>
<p>Consultation and participation</p>	<p>In addition to the consultation requirements discussed above in relation to information disclosure, a separate component of ESS10 deals with stakeholder engagement. Section B of ESS10 deals with stakeholder engagement during project preparation. It includes the requirement for a borrower to develop a Stakeholder Engagement Plan (SEP). The following quote describes the purpose of the SEP: "The SEP will describe the timing and methods of engagement with the project-affected communities and other stakeholders throughout the life-cycle of the project. The SEP will also describe the range of information to be communicated to stakeholders, as well as</p>	<p>OP4.01 outlines the borrower’s responsibilities in undertaking consultation on Category A and B projects (para 14). Additional information is presented in the "Review and Disclosure" section of BP4.01 (paras 11–14). There is no equivalent on the old safeguard policies of the Stakeholder Engagement Plan, and nor is there a clear direction on stakeholder engagement during project implementation.</p>	<p>There is no equivalent of the ESF’s SEP. The ADB uses the term "meaningful consultation" throughout the SPS. In Section B (Policy Delivery Process) it discusses these requirements in Section 54 and 55. The key statement is: " ... meaningful consultation (i) begins early in the project preparation stage and is carried out on an ongoing basis throughout the project cycle; (ii) provides timely disclosure of relevant and adequate information that is understandable and readily accessible to affected people; (iii) is undertaken in an atmosphere free of intimidation or coercion; (iv) is gender</p>

	<p>information to be sought from them" (ESS10, paragraph 14).</p> <p>Special consultation requirements for indigenous peoples and vulnerable groups are presented in ESS5, ESS7, and ESS8.</p> <p>Section C of ESS10 deals with stakeholder engagement during project implementation and external reporting.</p>		<p>inclusive and responsive, and tailored to the needs of disadvantaged and vulnerable groups; and (v) enables the incorporation of all relevant views of affected people and other stakeholders into decision making, such as project design, mitigation measures, the sharing of development benefits and opportunities, and implementation issues. ADB will require borrowers/clients to engage with communities, groups, or people affected by proposed projects, and with civil society through information disclosure, consultation, and informed participation in a manner commensurate with the risks to and impacts on affected communities.</p>
Monitoring and implementation support	<p>Monitoring and implementation support is Bank mandatory requirement H under the ESP. The requirement states that the Bank will monitor the E&S performance of projects in accordance with the requirements of the legal agreement, which will include the ESCP. Requirement H also commits the Bank to monitor projects on an ongoing basis as required by OP10.00. A project will not be considered complete until the measures and actions set out in the legal</p>	<p>OP4.01 and BP4.01 deal with the institutional capacity of borrowers to monitor and supervise. OP4.01 (Institutional Capacity) states that when a borrower has inadequate legal or technical capacity to carry out key EA-related functions (such monitoring and inspections) for a proposed project, the project includes components to strengthen that capacity. OP4.01</p>	<p>Safeguards Requirement 1: Environment (Appendix 1) includes a Monitoring and Reporting section (section 6). Paragraph 21 states that ... "The borrower/client will monitor and measure the progress of implementation of the EMP. The extent of monitoring activities will be commensurate with the project's risks and impacts".</p>

	agreement (including the ESCP) have been implemented.	paragraph 19, lays out the borrower's reporting requirements.	
Grievance redress and accountability	<p>Bank requirement I outlines Bank and borrower responsibilities for grievance redress. Paragraph 50 states that ...” the Bank will require the Borrower to provide a grievance mechanism, process, or procedure to receive and facilitate resolution of stakeholders’ concerns and grievances arising in connection with the project, in particular about the Borrower’s environmental and social performance”.</p> <p>Paragraph 51 states that: “project-affected communities and individuals may submit complaints regarding a Bank-financed project to the project grievance redress mechanism, appropriate local grievance mechanism, or the World Bank’s corporate Grievance Redress Service (GRS).”</p>	There are no specific grievance redress mechanisms presented in OP/BP4.01 or OP/BP4.10.	<p>Safeguards Requirement 1: Environment (Appendix 1) includes a Grievance Redress Mechanism section (section 5). Paragraph 20 states that “... The borrower/client will establish a mechanism to receive and facilitate resolution of affected peoples’ concerns, complaints, and grievances about the project’s environmental performance. The grievance mechanism should be scaled to the risks and adverse impacts of the project”. This is very similar to the grievance mechanism requirements of the ESF.</p> <p>In addition, the ADB adopted a new Accountability Mechanism in 2003, whereby people adversely affected by ADB-financed projects can express their grievances; seek solutions; and report alleged violations of ADB’s operational policies and procedures, including safeguard policies.</p>

In the proposed ESF, the Bank's mandatory requirement F (Information Disclosure) is a brief, two-paragraph statement that requires the borrower to commit to ESS10 (Information Disclosure and Stakeholder Engagement), and commits the Bank to apply its Policy on Access to Information with regard to all documents provided to it by the borrower. In turn, ESS10 makes extensive requirements for information disclosure and also makes it clear that these are to be read in conjunction with issue-specific requirements included in ESSs 1, 2, 4, 5, 7, and 8. Disclosure requirements will need to be specified in more detail in either ESS Annexes or Information Notes.

With regard to **consultation and participation**, ESS10 introduces a new instrument to be known as the Stakeholder Engagement Plan (SEP). There is no equivalent of the SEP in either the existing Bank safeguard policies, or in the ADB's SPS. The SEP will supposedly "describe the timing and methods of engagement with the project-affected communities and other stakeholders throughout the life-cycle of the project". A new innovation is Section C of ESS10 which deals with stakeholder engagement during project implementation and external reporting. There is no real equivalent of this in either the existing World Bank policies, or the ADB's SPS.

Monitoring and implementation support is Bank mandatory requirement H under the ESP. The requirement states that the Bank will monitor the E&S performance of projects in accordance with the requirements of the legal agreement, which will include the ESCP. Given the Bank's explicit intention to focus more on environmental and social outcomes, monitoring and supervision will become extremely important. Bank requirement H is clear about Bank and borrower roles in monitoring. It states that 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". A new innovation, which is not part of the existing Bank policies, or those of the ADB is the requirement for 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." This is something that CSOs have been interested in for some time.

The final mandatory Bank requirement under the Environmental and Social Policy relates to **grievance and accountability**. Again, the ESF is explicit about the role of the Bank in this regard. It will require the borrower to establish project-based grievance mechanisms that will allow project-affected communities and individuals to submit complaints regarding Bank-financed projects, or to the World Bank's proposed corporate Grievance Redress Service (GRS)⁶. This approach appears to be similar to that adopted by the ADB, but would be a significant extension of the system that exists in the existing Bank policies.

⁶ Mentioned as a proposal in paragraph 10 of the "Overview" section of the ESF.

3.3. Comparison against the Bank's own objectives

The World Bank had been anticipating a formal review of its safeguard policies for a number of years, but the process was given significant impetus by the IEG's 2010 evaluation. Over the last 4 years, the Bank's objectives for a reformed safeguards system have become clear, and they are listed in the left-hand column of Table 2.

The **first and overriding objective** that the Bank has for the new ESF is an integrated framework that distinguishes principles from policies, and procedures. There is no doubt that due to the incremental development of the existing safeguard system, the individual policies lacked a common policy-framework as well as a unified internal structure. Reforms undertaken by the IFC and the regional banks have all shown a clear trend towards an integrated framework architecture that consists of three "layers" ... an overall or umbrella policy, a set of issue-specific policies, and guidance notes that help to clarify how the issue-specific policies will be implemented. In the proposed ESF, the first layer is represented by the "Vision for Sustainable Development", combined with the Environmental and Social Policy. The second layer consists of the ten Environmental and Social Standards. The final layer ("guidelines") has yet to be produced, but beginnings can be found in the ESS Annexes, and the Information Notes. *It appears that the Bank has met this objective in the proposed ESF.*

The **second objective** that the Bank has for its reformed safeguards system is "enhanced policy clarity and coherence". It appears to have achieved this objective through the structuring of the three-layer integrated framework. The existing system lacks a transparent pyramid structure. Although Operational Policy (OP) 10.00 (and the accompanying Bank Procedure, BP 10.00) defines objectives and procedural responsibilities for investment lending in general, it contains no details on roles, responsibilities and commitments with respect to safeguards and should therefore not be understood as an overall/umbrella policy as defined above. On what would be the second normative layer, the Bank has a number of structurally non-standardized issue-specific policies which each consist of two components, the rather short substantive policy (the OP) and the more extensive procedural rules (the BP). Even less systematized is the third level of the Bank's legal structure, which consists of some explanatory rule books, such as Operational Memoranda or Manuals, which lack the systematic stringency that for example the IFC Guidance Notes have.

In the proposed ESF, the distinction between overall policy ("A Vision for Sustainability"), principles ("Environmental and Social Policy"), and procedures (ESS annexes and information notes) is now clear. In addition, the structure of each ESS is standardized, with each having equivalent sections for introduction, objectives, scope of application, and requirements. *It appears that the Bank has met this objective in the ESF, although it will still need to produce "procedures" under ESSs 2-10.*

The **third Bank objective**, as presented in Table 2, relates to clarifying objectives and desired outcomes. While OP/BP 10.00 does define objectives in general, these are not carried over into the eight issue-specific safeguard policies. In addition, the concept of "outcomes" does not feature in the existing Bank policies with regard to investment lending.

Table 2: World Bank Safeguard system objectives compared against the proposed ESF

Bank objectives	Outcome in proposed ESF
1. Integrated safeguards framework. Distinguish principles, from policies, from procedures.	Normative architecture is now an integrated three-layer framework consisting of an umbrella policy, a set of issue-specific policies, and guidance notes on each issue-specific policy (yet to be completed).
2. Enhance policy clarity and coherence.	Achieved through the introduction of the three-layer integrated framework, and through the establishment of a standard structure for each ESS.
3. Clarify objectives and desired outcomes.	Achieved through the inclusion of “objectives” sections in each of the ESSs, and a clear underlying intention to move towards a risk and outcomes-based approach to safeguards.
4. Improve synergy across policies; consolidate fragmented or duplicative policies.	The issue of fragmentation and duplication has been dealt with in the proposed ESF through the common structuring of the ESSs, and the gathering of all issue-specific second-layer policies into one place within the Environmental and Social Policy.
5. Better delineate roles and responsibilities of the Bank and the borrower.	The different roles and responsibilities of the Bank and borrowers have been clearly delineated in the Environmental and Social Policy, which makes a distinction between “Bank requirements” and “borrower requirements”.
6. Deal with emerging issues such as: climate change; disability; free, prior and informed consent of Indigenous People; gender; human rights; labor and working conditions; community health and safety; and land tenure and natural resources.	Partially achieved through the development of ESSs for community health and safety; labor and working conditions, land tenure, and biodiversity conservation. FPIC is also given special attention as a borrower requirement under ESS 7. However, human rights, gender, disability, and climate change are only lightly dealt with.

In the IFC’s approach, all issue-specific Performance Standards have been structured in a similar fashion, setting out general “objectives” first, followed by “scope of application” and the individual “requirements” for projects. The ADB also uses this tripartite structure (objectives/scope of application/requirements) to define rules under their issue-specific policies. The proposed ESF also follows this approach, and so clarifies the position of “objectives”.

With respect to the issue of “outcomes”, the proposed ESF attempts to move the Bank from its current focus on “frontloaded prescription”⁷, to a more balanced approach that sees monitoring and supervision of project implementation as being at least equally important. This reform is entirely consistent with Paris and Accra commitments, and with the reforms made by the regional Banks. This idea is encapsulated in paragraph 6 of the ESF Environmental and Social Policy which states:

⁷ See the 2010 IEG report for extensive comment on the issue of frontloading versus outcome-based approaches to safeguards.

“The Environmental and Social Standards are designed to help Borrowers to manage and improve their environmental and social performance through a risk and outcomes based approach”.

It appears that the Bank has met this objective in the proposed ESF, although the utility of this reform can only be tested in practice.

The **fourth criterion** listed in Table 2 relates to synergy across policies, and the consolidation of fragmented or duplicative policies. A recurring issue that has been voiced inside the Bank is the safeguard policies' lack of coherence, both in terms of their overall architecture as well as their internal structure. The complaint is that this makes them difficult to work with. The separation of OPs from BPs and the lack of a common structure for all issue-specific policies makes the safeguard framework more difficult to comprehend and apply. The issue of fragmentation and duplication has been dealt with in the proposed ESF through the common structuring of the ESSs, and the gathering of all issue-specific second-layer policies into one place within the Environmental and Social Policy. *It appears that the Bank has met this objective in the proposed ESF.*

The Bank's **fifth objective** for the ESF is to better delineate the roles and responsibilities of the Bank and the borrower. This is a necessary precondition for a safeguards system that seeks to place more attention on environmental and social outcomes. The Bank's focus in the past has been tilted towards procedural compliance with ex ante assessment norms. A safeguards framework that places more emphasis on tracking the environmental and social performance of approved projects will naturally require a more carefully determined relationship with borrowers. The World Bank has so far not managed to integrate upstream appraisal and downstream supervision and evaluation of environmental and social outcomes into a well-balanced safeguard system. In the proposed ESF, the Bank makes a very clear distinction between Bank requirements (nine specified requirements in the Environmental and Social policy), and borrower requirements (ten Environmental and Social Standards). *It appears that the Bank has met this objective in the proposed ESF.*

The **sixth and final objective** that the Bank has proposed for its new ESF is the inclusion of “emerging issues”. To a varying extent, all of the other MDBs have dealt with new issues of global concern in their safeguard reforms. This was also a key recommendation of the IEG evaluation, and has always been a concern of the CSOs. The ESF deals with climate change, sustainable resource management, labor and working conditions, and community health and safety with land tenure, free prior and informed consent (FPIC), biodiversity conservation, gender, disability, and human rights. While the proposed ESF touches on all of these issues, it does so in varying degrees of detail. For example, community health and safety, labour and working conditions, land acquisition, and biodiversity conservation all have separate ESSs specifically allocated to them. This means that there are detailed standards for each of these issues that borrowers are required to adhere to. FPIC is also flagged for special attention, as Requirement B under ESS 7 (Indigenous Peoples).

The same degree of focus is not applied to climate change, gender, disability, or human rights. Gender and disability concerns are dealt with in the Vision for Sustainable Development where the Bank indicates that environmental and social risks will be taken into account in its due diligence. Social risks are defined to include project impacts that fall disproportionately on “disadvantaged or vulnerable groups”. This term is further defined to refer to those who, “by virtue of, for example, their age, gender, ethnicity, religion, physical or mental disability, social or civic 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”⁸. The existing safeguard policies do not specifically define these groups, so this is a step forward. However, they do not garner the same level of focus as the other “emerging issues”.

In addition, the draft ESF includes only ad hoc mention of climate change. There are no specific requirements for assessing and managing the impacts of climate change on ecosystems, or on the viability of projects. The same could be said for human rights, with the term only being mentioned twice in the entire ESF text. *It appears that the Bank has only partially met the “emerging issues” objective in the proposed ESF.*

3.4. Comparison against the Netherlands Position Paper Criteria

The Netherlands Position Paper outlines five objectives that DGIS has for the World Bank safeguard review process. These are listed in the left-hand column of Table 3. The objectives have been met in varying degrees.

Issues raised by the **first criterion** (“Better coherence, easier application, aligned with highest international standards”) were addressed in paragraph 31, where it was indicated that the new ESF is an integrated framework that distinguishes principles from policies, and procedures. As such, it would be in line with recent reforms made by other multi-laterals, such as the African Development Bank, EBRD, UNDP, and UNIDO.

The **second Position Paper criterion** has two parts: the addressing of “emerging issues”, and the integration of safeguard policies into both investment loans and DPLs. The emerging issues concern was dealt with in Section 3.3 (last two paragraphs), where it was indicated that the ESF deals with: climate change; sustainable resource management; labor and working conditions; community health and safety; land tenure, free prior and informed consent (FPIC); biodiversity conservation; gender; disability; and, human rights. While the proposed ESF touches on all of these issues, it does so in varying degrees of detail. The second part of this criterion suggests that the Bank should integrate safeguard policies into investment loans *and* DPLs. The Bank makes it clear that the new ESF will not be applied to DPLs. This is consistent with the approach taken in the existing safeguard policies.

⁸ ESF paragraph 4, and footnote 9.

Table 3: Comparison of the Netherlands Position Paper Criteria with proposed ESF

NL Position Paper criteria	Outcome in proposed ESF
Better coherence, easier application, aligned with highest international standards.	<p>Aligned with international standards in the following ways:</p> <ul style="list-style-type: none"> (i) normative architecture is now an integrated three-layer framework consisting of an umbrella policy, a set of issue-specific policies, and guidance notes on each issue-specific policy (yet to be completed); (ii) strong move towards “principled and outcome-based approach”, and away from frontloaded prescription; and, (iii) greater stress on “borrower ownership”.
Address emerging issues.	<p>The following “emerging issues” are addressed, at least in some fashion: climate change; working conditions and workforce protection; community health and safety; biodiversity conservation, FPIC of indigenous people, land acquisition. Less attention paid to human rights, gender, and disability.</p>
Strive to fully integrate safeguard policies in both Investment Loans and Development Policy Loans.	<p>Proposed ESF will not deal with DPLs.</p>
The Bank should make investments in its internal risk management capacity in order to balance meaningful ex ante assessments of environmental and social standards and impacts with appropriate supervision, monitoring and mitigation.	<p>The ESF is designed specifically to shift the focus of safeguards staff attention more towards implementation/supervision/monitoring. The Bank’s Questions and Answers update from August 22, 2014 states that ... “both the World Bank and the Borrower will need to invest in capacity building and skills enhancement”. No specific capacity building programs are outlined in the proposed ESF.</p>
Safeguard policies should refer to human rights explicitly, such as enshrined in the United Nations Charter.	<p>The following are the only statements made about human rights in the ESF:</p> <ul style="list-style-type: none"> (iv) In this regard, the Bank’s operations are supportive of human rights and will encourage respect for them in a manner consistent with the Bank’s Articles of Agreement (para 3 in A Vision for Sustainable Development); (v) 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 (in ESS 7 (Indigenous Peoples), Objective dot point 1). <p>The human rights reference has been translated into actions to address adverse impacts on disadvantaged and vulnerable groups, where these are defined as: “those who, by virtue of, for example, their age, gender, ethnicity, religion, physical or mental disability, social and civic status, sexual orientation, gender identity, economic disadvantages or indigenous status, may be more likely to be adversely affected by the</p>

	project impacts and/or more limited than others in their ability to take advantage of a project's benefits" (ESF Glossary, p.99).
The Bank should move from an approach of prescriptive safeguards policies to a focus on capacity building of borrowers.	This is a central focus of the proposed ESF, which moves the Bank much more clearly towards a reliance on country safeguard systems. Bank requirement B in the Environmental and Social Policy deals specifically with "use and strengthening of borrower's E&S framework". Bank requirement E (Environmental and Social Commitment Plan) is also focused entirely on the relationship between the Bank and its borrowers.

The design of DPLs is directed by the World Bank's Operational Policy 8.60 (Development Policy Lending). The policy requires that operational design draws upon relevant analytic work on the environment, as well as requiring that environmental issues be considered as part of risks assessment for the operation. Paragraph 11 of OP8.60 is of key relevance to environmental consequences and reads as follows:

"The Bank determines whether specific country policies supported by the operation are likely to cause significant effect on the country's environment, forests and other natural resources. For country policies with likely significant effects, the Bank assesses in the Program Document the borrower's systems for reducing such adverse effects and enhancing positive effects, drawing upon relevant country-level or sectoral environmental analysis (undertaken by the country, the Bank, and third parties). If there are significant gaps in the analysis or shortcomings in the borrower's systems, the Bank describes in the Program Document how such gaps or shortcomings would be addressed before or during program implementation, as appropriate".

With respect to environmental and social assessment of development policy lending, OP8.60 recommends due diligence in "determining likelihood of significant effects" on the environment and natural resources and recommends that an assessment is undertaken of country systems to determine whether there is appropriate environmental management capacity to handle the potential effects of reforms. The policy also recommends that specific actions should be identified to ensure sound environmental management - either within or outside of the lending series. In practice, few relevant assessment approaches, such as strategic environmental (and social) assessment (SE(S)A) have been undertaken of DPLs since the introduction of OP8.60 nearly 10 years ago⁹.

The **third Position Paper criterion** focuses on the need for the Bank to make internal investments in risk management capacity in order to engineer the proper balance between ex ante assessments and better supervision, monitoring, and mitigation. This is an important recommendation, as a significant tenor of the ESF is the shift in safeguards staff attention towards implementation. The Bank recognizes this need in one of its Questions and Answers, but there has been no further elaboration of this commitment.

⁹ World Bank (2004), Good Practice Note 4: Environmental and Natural Resource Aspects of Development Policy Lending

The **fourth criterion** focuses on the Netherlands' interest in the ESF having an explicit reference to human rights, which should then be translated into concrete actions to assess and address adverse impacts on vulnerable groups. There are only two mentions of the term "human rights" in the ESF: in the initial Vision statement; and in the objectives associated with ESS7 (Indigenous Peoples). However, the reference has been translated into actions that address adverse impacts on disadvantaged and vulnerable groups, and these are defined to include: "those who, by virtue of, for example, their age, gender, ethnicity, religion, physical or mental disability, social and civic status, sexual orientation, gender identity, economic disadvantages or indigenous status, 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" (ESF Glossary, p.99).

The **final Position Paper criterion** listed in Table 3 recommends that the Bank should move from an approach of prescriptive safeguards policies to a focus on capacity building of borrowers. This is a central focus of the proposed ESF, and a commitment made by all of the aid agencies that have accepted the "alignment" requirement of the Paris Declaration on Aid Effectiveness, and the Accra Agenda for Action. Bank requirement B in the Environmental and Social Policy deals specifically with "use and strengthening of borrower's E&S framework". Bank requirement E (Environmental and Social Commitment Plan) is also focused entirely on the relationship between the Bank and its borrowers.

4. What is the substance of CSO criticisms?

4.1. Introduction

The draft ESF has become a source of extensive criticism emanating from international and national CSOs. Interest was piqued during the initial stages of consultation beginning in 2012, but has accelerated since the release of the first draft of the ESF on July 30, 2014. Many CSOs have written critical commentaries, and these have been drawn on extensively by media organizations¹⁰.

Some CSOs have collaborated to present condensed commentaries. A selection of key commentaries is given here:

- Civil Society Statement on World Bank Safeguards (undated. Signed by 360 CSOs).
- Priority Concerns with Safeguards Draft (undated).
- Initial Comments by Civil Society Organizations on the World Bank's Safeguard Policies Review and Update (December 2012).
- LAC CSOs Concerns on Environmental and Social Policy and ESSs First Draft (July 24, 2014).
- Bank Information Center (2014), Talking Points: Proposed World Bank ESS1 and the Environment and Social Commitment Plan (ESCP). What is the ESCP about? (Draft, November 10).
- Policy briefing note on World Bank safeguards (undated, Both ENDS).
- Memorandum on the 'alternative approach'. (Forest Peoples Programme, October 2014).
- Civil Society Statement on ESS6 – Biodiversity (July 25, 2014).

Table 4 summarizes the main concerns raised by the CSOs, indicates where these concerns can be found in the draft ESF, and then evaluates the specific criticism on the basis of the related ESF texts.

A central theme of the CSO critiques is the shift to a more flexible, open-ended application of safeguards, whereby the borrower is given more responsibility for application. Many CSOs clearly do not have confidence in this approach. There is a general opinion that the Bank is "diluting its standards", and so in some sense giving up on environmental and social requirements that CSOs feel were hard fought for after some notable disasters in the pre-safeguard days of the 1960s and 1970s.

CSOs are specifically concerned about the "negotiation room" that will be created because the Bank and borrower will jointly agree on a tailored application of the ESF standards for each loan decision. They fear that such negotiation will lead to a weak application of the standards, especially when there is pressure to release a loan. Another concern is that the Bank will reduce its focus on ex ante assessment, which will mean that the full range of environmental and social risks is not in view when the loan decision is taken. There is also limited assurance amongst CSOs that the Bank will have sufficient capacity for oversight and sufficient leverage to enforce compliance after the loan decision.

¹⁰ A sample list of critical comments is presented in Annex 1. This list is amended from the extensive resource contained on the webpages of the Bank Information Center (<http://www.bicusa.org/issues/safeguards/>).

Finally, an increased reliance on borrower systems comes too soon for many CSO's, who point to a mixed track record in the use of national safeguards¹¹.

It is easy to see how these criticisms have come about, as some aspects of the proposed ESF are a considerable departure from previous Bank practice, and the implementation arrangements for the ESF are not yet detailed. The ESF does include various intended "failsafes". For example ESS 1 (Assessment and Management of Environmental and Social Risks and Impacts) states the following in paragraph 6 of Annex 2:

"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 or significant adverse environmental or social risks or impacts, until the relevant plans, measures or actions have been completed and where necessary implemented to the satisfaction of the Bank, including satisfying applicable requirements on consultation and disclosure".

In addition, the Bank's due diligence commitments in the ESF should act to counter CSO concerns about "dilution". For example, the ESF text indicates that the ESCP will become part of the Legal Agreement on the loan, and that the ESCP itself needs to be based on the environmental and social assessment. This implies that assessments will take place before the Bank's loan decision. However, it is by no means clear, and it may take a number of years of ESF implementation before it is possible to tell whether due diligence associated with the ESCP is sufficient to enforce standards at the outcome level. Consequently, neither "failsafes" nor due diligence commitments seem to have not been sufficient to tackle the "dilution" critique.

The CSO critiques have also identified problems with the substance of a number of social and environmental standards in the ESF. There have been several considered reactions that show a weakening of specific existing safeguards, most notably on involuntary resettlement, indigenous peoples, and biodiversity. These are each addressed in the CSO critique table. The table also lists a number of "missed opportunities" concerning human rights, labour standards, climate change, children, and LGBT rights. The criticism here does not concern a weakening in comparison to the current Bank safeguards, but a too limited effort on the part of the Bank to set the bar, or follow other industry leaders, on the topics mentioned.

A reading of Table 4 suggests that a number of CSO criticisms have limited basis in the ESF text. This may perhaps be due to the fact that some of the critiques were developed prior to the release of ESS1 Annexes 1 and 2, and Information Notes 1 and 2 on October 7, 2014. These procedural guidelines relate to the environmental and social assessment procedure (ESS1 Annex 1); the ESCP (ESS1 Annex 2); environmental and social risk classification (Information Note 1); and, use and strengthening of borrower's environmental and social framework (Information Note 2). Having said this, however, there are also criticisms which may be shared by DGIS, and possible responses have been made in the Conclusions and Recommendations section (Section 5).

¹¹ Quintero, J, A. Ninio, and P.J. Posas (2011), Use of Country Systems for Environmental Safeguards. Analytical background paper, 2010 Environment Strategy. World Bank, Washington, DC.

Table 4: CSO Criticisms and their assessment

Criticism	WB ESF text it relates to	Assessment of the Criticism
<p>Open-ended application of standards, less a focus on ex-ante application, more responsibility on Borrower:</p> <p>The most contentious proposal concerns the shift to be made from compliance with safeguard requirements at project approval to agreeing on a framework for fulfilling standards during project development and implementation – with the responsibility for implementation resting on client countries.</p>	<p><u>Environmental and Social Policy text, para 13:</u> “The Bank will require the Borrower to structure projects so that they meet the requirements of the ESSs in a manner and timeframe acceptable to the Bank.”</p> <p><u>From ESP ESCP para 34:</u> “The Borrower will develop and adopt an ESCP, which will set out measures and actions required for the project to achieve compliance with the ESSs over a specified timeframe. The ESCP will be agreed with the Bank and will form part of the legal agreement”.</p> <p><u>ESS1 pg.29</u> “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. A completion date for each action will be specified in the ESCP.”</p> <p><u>On pp 29 in the footnote:</u> “The ESCP will take into account the findings of the environmental and social assessment, the Bank’s</p>	<p>Here the Bank is clearly proposing a strategic change in its approach to safeguards, which is consistent with the move away from “front-loading” that is evident in the reforms undertaken by other donors. The ESF is not entirely clear regarding the timing/sequencing of the application of the standards in relation to the loan decision. However, the loan decision is informed by the ESCP (which becomes part of the legal agreement on the loan) which in turn is based on the environmental and social assessment, suggesting that ESS1 needs to be complied with before the loan agreement is entered into. Other references also suggest that some of the mitigation measures resulting from application of standards must precede the loan agreement. Examples include the project’s mitigation strategy as described in a Biodiversity Action Plan (ESS6), and the mitigation measures concerning Cultural Heritage (ESS8).</p> <p>The Bank should further clarify the sequencing of assessment and decision-making by the Bank itself.</p> <p>The term “timeframe acceptable to the Bank” does not necessarily imply a safeguards process that is entirely “open-ended”. In fact, the use of the term “timeframe acceptable to the Bank” could be read as meaning that the Bank retains a measure of control of compliance with the ESSs.</p> <p>A number of paragraphs imply that projects will not proceed until Legal Agreements are in place. Examples include: <u>ESP Section H para 46:</u> “A project will not be considered complete until the measures and actions set out in the legal agreement (including the ESCP) have been implemented”. However, the Bank could better clarify, in clear language</p>

	<p>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. A completion date for each action will be specified in the ESCP.”</p> <p><u>And in the factsheet ESS1:</u></p> <p>“Under the proposed framework the Borrower and the World Bank will agree on an ESCP after the assessment.”</p>	<p>that projects will not proceed until a Legal Agreement has been signed between the Bank and a borrower.</p>
<p>Reliance on Borrower and Borrower system</p> <p>The ESF “outsources implementation and monitoring of safeguards to borrowers”¹².</p>	<p><u>ESS1, para 16:</u></p> <p>“The Borrower will:</p> <p>(a) Conduct environmental and social assessment of the proposed project, including stakeholder engagement;</p> <p>(b) Disclose appropriate information and undertake stakeholder engagement in accordance with ESS10;</p> <p>(c) Develop and implement an ESCP; and</p> <p>(d) Conduct monitoring and reporting on the environmental and social performance of the project against the ESSs.”</p> <p>Regarding borrower responsibility, the ESF is clear that the standards contained within the ESF apply, even if the borrower is responsible. For example:</p> <p><u>From ESF Framework para 7:</u></p>	<p>The requirements that the borrower take responsibility for the applications of the standards is not new in itself. However, there is now a more definite focus on reliance on borrowing countries’ safeguard systems, it should be noted that information note 2 explains that the Bank will undertake the review of the borrower system, as is now the case under the country systems safeguard OP 4.00. The following quote is also relevant:</p> <p><u>From paragraph 29 of Info note 2:</u></p> <p>“The review may also recommend not using the Borrower’ ES Framework. This may be appropriate in cases where: the project is complex and high risk.</p> <p>In addition, the Bank makes clear commitments to due diligence. See the following, from Section C (Environmental and Social Due Diligence) of the ESP:</p> <p><u>From ESP, paras 27–29:</u></p> <p>“27. The Bank will conduct environmental and social due diligence of all projects proposed for support through Investment Project Financing. The</p>

¹² Statement by International Network on Displacement and Resettlement.

	<p>“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”.</p> <p><u>From ESF para 21:</u></p> <p>“The Borrower will carry out an environmental and social assessment of the project to assess the environmental and social risks and impacts of the project during each stage of the project cycle. The assessment will be commensurate and proportional with the potential risks and impacts of the project and the project classification assigned by the Bank, and will assess, in an integrated way, all relevant direct, indirect and cumulative environmental and social risks and impacts during each stage of the project cycle, including those specifically identified in ESSs2-10”.</p> <p><u>B. Use and Strengthening of Borrower’s ES Framework</u></p> <p>23. The Bank supports the use of the Borrower’s existing environmental and social framework in the assessment, development and implementation of projects supported through Investment Project Financing, providing this is likely to be able to address the risks and impacts of the project, and enable the project to achieve objectives materially consistent with the ESSs.</p>	<p>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.</p> <p>28. The Bank’s environmental and social due diligence will be appropriate to the nature and scale of the project, and commensurate with the level of environmental and social risks and impacts, with due regard to the mitigation hierarchy. The due diligence will assess whether the project is capable of being developed and implemented in accordance with the ESSs. The environmental and social due diligence will be integrated into the Bank’s overall project appraisal.</p> <p>29. 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, 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.</p>
<p>Bank oversight</p> <p>“The draft removes Bank’s major oversight functions by relying on the recently revised OP 10.0 of investment lending, which already</p>	<p><u>From para 1, Environmental and Social Policy:</u></p> <p>“1. This Environmental and Social Policy sets out the mandatory requirements of the Bank in relation to the</p>	<p>OP10.00 defines what is meant by “investment project financing”. The Bank’s oversight functions are clearly described in ESP Section C (Environmental and Social Due Diligence). There is no indication that reference to OP10.0 removes the Bank’s oversight functions.</p>

<p>diluted supervision from a policy requirement to a voluntary guidance”¹³.</p>	<p>projects it supports through Investment Project Financing”.</p>	
<p>Weakening of borrower systems during project implementation It remains unclear how the proposed draft will help the Bank and Borrowers make decisions to prepare or use borrower systems to effectively implement safeguards in countries where major dilutions of national social and environmental frameworks are being proposed or recently approved.</p>	<p>No specific text reference.</p>	<p>The main text of the ESF does not make much mention of how the Bank would deal with countries where environmental and social safeguards are being diluted. However, the new Information Note 2, sheds considerable light on this question. For example: <u>From para 29 of Info note 2:</u> The review may also recommend not using the Borrower’s ES Framework. This may be appropriate in cases where: the project is complex and high risk; Information Note 2 (Use and Strengthening of Borrower’s Environmental and Social Framework) has sections on “identification of measures and actions”, and “changes in borrowers’ ES framework. For example: “35. The Borrower will be required to notify the Bank of a material change in the Borrower’s ES Framework that may adversely affect the project. Such a change will relate to the review of the Borrower’s ES Framework conducted by the Bank”. “36. Where the Bank has been notified by the Borrower of a material change in the Borrower’s ES Framework that may adversely affect the project, the Bank will assess the extent to which the change is inconsistent with the ESSs and the ESCP. The Bank will discuss with the Borrower ways to address the change, and may agree additional measures and actions”.</p>

¹³ LAC CODE Letter 24.07.14.

		<p>In addition, ESS1 Section A includes the following: <u>From ESS1 A. (Use of Borrower's ES Framework), para 20:</u> "If the ES Framework is changed in a manner inconsistent with the ESSs and the ESCP, the Bank will, at its discretion, either: (a) require revisions to the ESCP as necessary to meet the requirements of the ESSs; and/or (b) take such other measures as the Bank deems appropriate, including applying the Bank's remedies".</p>
<p>Status of the ESCP Borrowers could make a "promise" to prepare an "Environmental and Social Commitment Plan" for eventual safeguards implementation. The Commitment plan is "only a summary of what the borrower promises to do"¹⁴. There is no clarity on what an Environmental and Social Commitment Plan is, when it would be disclosed, or how implementation is to be reported, particularly if corrective actions are needed and how and when compliance will be met.</p>	<p>Section E: "The Bank will assist the Borrower in developing an ESCP. The ESCP will set out the material measures and actions required for the project to achieve compliance with 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.</p> <p>40. 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."</p> <p><u>Under ESS1 para 51 & 52:</u> "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...Based on the results...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."</p>	<p>The Bank further clarified details on the required content of the ESCP in the October 7, 2014 release of ESS1 Annex 2 (Environmental and Social Commitment Plan). This annex provides significant extra detail, including a hypothetical/template ESCP.</p> <p>Note that the ESCP related texts indicate that the ESCP should be more detailed than a summary and more binding than a promise. In addition, paragraph 6 of the new ESS1 Annex 2 implies that the Bank would not allow a project to go ahead until the ESCP is "to the satisfaction of the Bank".</p> <p><u>From ESS1 Annex 2, para 6:</u> "A key aspect of the ESCP is set out in paragraph 36 of ESS1. This states that 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 or significant adverse environmental or social risks or impacts, until the relevant plans, measures or actions have been completed and where necessary implemented to the satisfaction of the Bank, including satisfying applicable requirements on consultation and disclosure".</p> <p>However, the corrective actions that the Bank will take if the ESCP is not followed are not specified (such as contractual remedies, including</p>

¹⁴ Both Ends briefing paper.

		suspension of disbursements). Neither is there clarity on process of implementation (reporting) and disclosure of the ESCP.
<p>Information disclosure and the ESCP</p> <p>Throughout the ESF, there are various commitments to disclosing the ESCP “early and often” during the project cycle. However, the proposed ESCP lacks an explicit disclosure plan.</p>	<p><u>From ESS 10, Section C, paragraph 21:</u></p> <p>“Borrowers will be expected to use appropriate stakeholder engagement practices to disclose information and receive feedback on the effectiveness of the project and the implementation of the mitigation measures in the ESCP”.</p> <p><u>From ESS 10, Section C, paragraph 22:</u></p> <p>“If there are material changes to the project that result in additional risks and impacts of concern to the project-affected communities, the Borrower will inform them how these risks and impacts are being addressed and disclose an updated ESCP in accordance with the SEP”.</p>	<p>Overall, information disclosure is outlined in detail in ESS 10, and is further outlined in ESS 1. However, no specific disclosure plan is presented for ESCPs.</p> <p>This is an important omission that needs to be resolved in ESS1 Annex 2, or in a separate Information Note.</p>
<p>Resettlement (ESS5): critical requirements missing</p> <p>ESF does not include the critical requirements in relation to resettlement-planning instruments, including baseline data, and weakens requirements to assess alternatives, in order to avoid or minimize displacement. It dilutes requirements for information disclosure, consultation and participation of displaced persons in resettlement planning, implementation and monitoring.</p>	<p><u>At various points in ESS5 and ESS7. Including:</u></p> <p>ESS 5, para 5;</p> <p>ESS does not apply to:</p> <p>“Impacts on incomes or livelihoods that are not a direct result of land acquisition or land use restrictions imposed by the project on the land of the affected persons or communities”.</p>	<p>The ESF does not go into as much detail about resettlement planning as does the existing OP/BP4.10. The Bank should rectify this situation in ESS Annexes or Information Notes.</p> <p>However, the following sections of the ESF touch on the issue of resettlement planning:</p> <p><u>From ESS 5:</u></p> <p>“17. To address the issues identified in the environmental and social assessment, the Borrower will prepare a plan commensurate with the risks and impacts associated with the project”.</p> <p><u>From footnote 19, page 61 of the ESF:</u></p> <p>“The Borrower’s plan may be a resettlement plan or livelihood restoration plan, or a combination of both, depending on the impacts that have been identified through the environmental and social assessment”.</p>

<p>No specific objective to treat resettlement as opportunity to improve the lives of those to be resettles, for example by benefit sharing (OP/BP 4.12).</p> <p>Costs for resettlement no longer need to be included in the total costs of the project (OP 4.12).</p> <p>Compensation requirements weakened.</p> <p>“Downstream” displacement effects are not covered under the standard, since ESS5 only applies to land acquisition or land use restrictions.</p>		<p>With respect to the consideration of alternatives, the following sections are relevant:</p> <p><u>From ESS 7 (Indigenous Peoples) Avoidance or Mitigation of Adverse Impacts:</u></p> <p>“16. Adverse impacts on Indigenous Peoples 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.</p> <p><u>From Objective 1 of ESS 3 (Land Acquisition, Restrictions on Land Use, and Involuntary Resettlement):</u></p> <p>“To avoid involuntary resettlement or, when unavoidable, minimize involuntary resettlement by exploring project design alternatives”.</p> <p>From ESS5 (Resettlement) Community Engagement:</p> <p>”14. 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, where applicable. Disclosure of relevant information and participation of affected communities and persons will take place throughout the planning, implementation, monitoring, and evaluation of the compensation process, livelihood restoration activities, and relocation process”.</p>
<p>Resettlement (ESS5): open-endedness</p> <p>With respect to involuntary resettlement the open-endedness could imply that a hydropower project receives approval for a loan from the Bank before potentially</p>	<p>No specific text reference.</p>	<p>The ESS states that requirements should be met before taking possession of any lands, but does not relate the requirements to the timing of the Bank’s loan decision. Therefore, the text does not specifically preclude the scenario that loan approval is given before resettlement planning has taken place. The procedural sequence from appraisal to approval is not clear. The Bank should clarify this issue.</p>

<p>affected people are being informed, consultations are being held, or a resettlement action plan is designed and being shared with them.</p> <p>ESF dilutes Bank appraisal and supervision responsibilities for resettlement planning and execution, relying on self-assessment and self-reporting by the borrower and approving displacement-inducing projects without conducting due diligence on comprehensive resettlement plans.</p>		
<p>Resettlement (ESS5): accounting</p> <p>The ESF also does not ensure transparent accounting at project completion so that no displaced people end up worse off.</p>	<p>ESS5, paragraph 20: "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".</p>	<p>Requirements for accounting are included, but may not meet transparency desired by CSOs.</p>
<p>Application of safeguards to subprojects and FIs</p> <p>According to the leaked documents to the Guardian, the Bank's legal department identified a serious dilution of existing Bank safeguards for "Financial Intermediaries (FIs)".</p>	<p><u>Under Special Considerations Introduction, page 15:</u></p> <p>"For all projects involving the preparation and implementation of subprojects the Borrower is responsible for classifying the subprojects, carrying out environmental and social assessment, and reviewing the results of such assessment. Where the Bank is not satisfied that adequate capacity exists on the Borrower's</p>	<p>Requirement on FIs to ensure appropriate assessment of subprojects seems to be in place. What has changed is that national standards are now applicable to subprojects not considered of high risk, where before safeguards applied to all projects.</p>

<p>The current safeguards require that all FI sub-projects carry out appropriate Environmental Assessments and that the FI verifies that the subproject meets national requirements¹⁵. The new draft only requires <i>'high risk'</i> projects to be carried out in accordance with the safeguards.</p>	<p>part, all High Risk subprojects, including the environmental and social assessment, will be subject to prior review and approval by the Bank.”</p> <p>and “The Bank will require the Borrower to carry out appropriate environmental and social assessment of all subprojects in accordance with national law. Where subprojects are classified as High Risk, the environmental and social assessment will be consistent with ESSs 1 to 8 and ESS10. The Bank will require the Borrower to ensure that subprojects are structured to meet national regulatory requirements relating to environmental and social risks and impacts, and where subprojects are classified as High Risk, they are also structured to meet ESSs 1 to 8 and ESS10.” and</p> <p>“The Bank will require the FI to verify before approval of a subproject, that the subproject is structured to meet the relevant environmental and social national law requirements and, if the subproject is classified as High Risk, the ESSs.</p> <p>See also pp 90 under ESS9.</p>	<p>In practice, national requirements could of course mean lower standards than the ESSs.</p>
<p>Biodiversity conservation and management of natural resources (ESS 6)</p> <p>The ESF allows the destruction of critical habitat and even protected areas and nature reserves as well as forests and biodiversity of importance to local communities. The draft introduces “biodiversity</p>	<p><u>In ESS6 paragraph 9:</u></p> <p>“The Borrower will avoid adverse impacts on biodiversity. When avoidance of adverse impacts is not possible, the Borrower will implement measures to minimize adverse impacts and restore biodiversity. The Borrower will ensure that competent biodiversity expertise is used to conduct the environmental and social assessment, to assist in the development of a mitigation hierarchy that complies with this ESS, and to verify the implementation of mitigation</p>	<p>ESS6 does not preclude destruction of habitat or adverse effects on biodiversity, but rather suggests that “The objective of biodiversity conservation and sustainable management of living natural resources must be balanced with the potential for utilizing the multiple economic, social and cultural values of biodiversity and living natural resources in an optimized manner.”</p>

¹⁵ Both Ends policy briefing.

<p>offsets” into previous “no-go” critical natural habitats and protected areas.</p> <p>The new draft moreover does not recognize the rights of forest peoples, and therewith is a massive dilution of the existing safeguard on Forests and Natural Habitats.</p> <p>The draft eliminates requirements for comprehensive baseline studies to inform protection for the right to land, livelihood and adequate housing.</p>	<p>measures. Where appropriate, the Borrower will develop a Biodiversity Action Plan.”</p> <p>Offsets and impact on critical habitat need to be considered together (because of the net-gain requirement). Relevant text in ESS6, pp 68:</p> <p>“For the protection and conservation of biodiversity, the mitigation hierarchy includes biodiversity offsets, which will be considered only after appropriate avoidance, minimization, and restoration measures have been applied. A biodiversity offset will be designed and implemented to achieve measurable conservation outcomes that can reasonably be expected to result in no net loss and preferably a net gain of biodiversity; in the case of critical habitats, a net gain is required.”</p>	<p>Impact on critical habitat is conditional upon achievement of net gain through biodiversity offsets. Interpretation of implications is dependent on confidence in the effectiveness of offsets.</p> <p>In relation to plantations the text is more restrictive, it states that: “The Borrower will not use any Bank funds to finance or support: (a) plantations that involve any conversion or degradation of critical habitats, including adjacent or downstream critical habitats; or (b) projects that, in the Bank’s opinion, would involve significant conversion or degradation of critical habitats, including forest areas.”</p> <p>Protected areas are recognized in the ESS6, but the national framework is leading. The text states that “Borrower will:</p> <p>(a) Demonstrate that the proposed development in such areas is legally permitted;</p> <p>(b) Act in a manner consistent with any government recognized management plans for such areas”</p> <p>There is no specific reference to forest peoples in ESS6. The text more generally: “addresses the need to consider the livelihood of Indigenous Peoples and affected communities whose access to, or use of, biodiversity or living natural resources may be affected by a project.” and the assessment required under the ESSs must: “Where applicable, the assessment will consider the use of and dependence on natural resources by Indigenous Peoples and affected communities who live in or around the project area and whose use of biodiversity resources may be affected by the project, as well as their potential role in the conservation and sustainable use of such biodiversity resources.”</p>
<p>Indigenous peoples rights</p> <p>The draft allows governments to “opt out” of compliance to the</p>	<p><u>ESS7 page 76, under Scope of Application:</u></p> <p>“Where the Borrower is concerned that the process of identifying groups for purposes of applying this ESS</p>	<p>Under Borrower Requirement D (Special Considerations), and under ESS 7, the draft text enables “opting out” of the requirements concerning Indigenous Peoples, under specific circumstances, and with approval by the Bank. The Bank claims that this waiver already exists in the current</p>

<p>Indigenous Peoples Policy to protect Indigenous Peoples rights.</p>	<p>would create a serious risk of exacerbating ethnic tension or civil strife, or where the identification of culturally–distinct groups as envisioned in this ESS is inconsistent with the provisions of the national constitution, the Borrower may request the Bank to agree on an alternative approach, in which risks and impacts of the project on Indigenous Peoples will be addressed through the application of the ESSs other than ESS7. The Borrower will initiate the request for such an alternative approach through written communication with the Bank, setting out a detailed rationale for the request. In doing so, the Borrower will also provide detailed information confirming how the alternative approach will address risks and impacts of the project on Indigenous Peoples. The alternative approach will be structured so that relevant project–affected communities (of Indigenous Peoples) will be treated at least as well as other project–affected people. The agreement between the Bank and the Borrower regarding this approach will be set out in the ESCP.”</p>	<p>safeguards, although it has never been acted upon. While the conditions upon which an alternative approach can be requested by a borrower are constraining, and the Bank appears to have final say on whether an alternative approach may be applied, the CSOs have major concerns about how the exemption will be applied. The Bank should consider the possibility of removing the opt out clause from ESS7.</p>
<p>Human rights standards The ESF does not articulate how it will operationalize its commitments to human rights nor identify how the Bank will identify risks to human rights for activities it intends to support through a robust human rights due diligence process.</p>	<p>No specific text reference.</p>	<p>Not necessarily a weakening in comparison to current safeguards, possibly the ESF are an opportunity to put human rights commitments in practice. More detailed analysis would be needed to confirm this, but does not fall within the scope of this Briefing Paper.</p>
<p>Labor and working conditions (ESS2) Does not apply to third party contractors, and civil servants are</p>	<p><u>Under ESS2:</u> “The term “project worker” is used to refer to people employed or engaged directly by the Borrower, the project</p>	<p>This is technically not a weakening in comparison to the current safeguards. However, in comparison, IFC and AfDB include specific reference to freedom of association and right to collective bargaining.</p>

<p>excluded, Applies only those directly employed by a project.</p> <p>Does not live up to the ILO conventions and Core Labour Standards.</p> <p>Freedom of association and right to collective bargaining are not specifically ensured by the ESS. National laws apply.</p>	<p>proponent and/or project implementing agencies to work specifically in relation to the project. ESS2 applies to full-time, part-time, temporary, seasonal and migrant workers.</p> <p>4. 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. ESS2 will not apply to such government civil servants, except for the provisions of paragraphs 15 to 19 (Protecting the Work Force) and paragraphs 20 and 21 (Occupational Health and Safety).”</p> <p>“11. In countries where national law recognizes workers’ rights to form and to join workers’ organizations of their choosing without interference and to bargain collectively, the project will comply 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.”</p>	<p>In addition, the IFC is more specific about the conditions for workers engaged by third parties and workers in the supply chain.</p>
<p>Climate change</p> <p>ESF does not ensure that projects are in-line with national climate plans, nor does it have clear requirements for assessing and managing the impacts of climate change on the viability of projects or the resilience of ecosystems or local communities in project areas. Does not require assessments of</p>	<p>No specific text reference.</p>	<p>In practice, this would now come down to the way in which Climate Change is addressed in the ESIA for a project (ESS1). Good practice ESIA, according to the standards in the ESS1, should analyze the impact of a project on greenhouse gas emissions, and – conversely – the impact of existing greenhouse gas emissions on the proposed project.</p>

greenhouse gas emissions for all high-emission projects or to take steps to reduce emissions.		
Children, people with disabilities and LGBT ESF lacks specific, differentiated requirements to address the risks and impacts for each of these groups.	No specific text reference.	Similarly, in practice, this would now come down to the way in which these topics are addressed in the ESIA for a project (ESS1). Good practice ESIA, according to the standards in the ESS1, should include impacts on LGBT groups.
Land rights ESF does not avoid land grabbing nor does it strengthen protection of land rights. For example: ESS 5 on Land use does not apply to projects concerning land titling and land use planning.	ESS5. Land Acquisition, Restrictions on Land Use and Involuntary Resettlement (para 5) does not apply to: “d) Land titling/regularization activities; or e) Regulation or planning of natural resources or land use on a regional or national level to promote sustainability. However, in the case of all such activities, a social, legal and institutional assessment may be required in accordance with ESS1, to identify potential risks and impacts, together with appropriate design alternatives or measures to minimize and mitigate adverse economic and social impacts, especially those that affect poor and vulnerable groups.”	Will depend in how this exemption is applied in practice. Not necessarily a weakening in comparison to current safeguards, the ESF may be opportunity to put land right ambitions into practice. More detailed analysis would be needed to confirm this, but does not fall within the scope of this Briefing Paper.
Inspection Panel ¹⁶ Unclear if redress through Bank’s Inspection Panel is possible. “In the various instances where the ESS are proposed not to apply (for instance	<u>Under Bank Requirement I.</u> “Project-affected communities and individuals may submit complaints regarding a Bank-financed project to the project grievance redress mechanism, appropriate local grievance mechanism, or the World Bank’s corporate	The ESF makes no specific pronouncement on Inspection Panel redress if national laws are violated. However, Bank Requirement I does generally indicate that the Inspection Panel’s role remains as it currently is under existing safeguard policies. In addition, under the WB’s “Questions and

¹⁶ Note that the Inspection panel function complements the relevant grievance redress mechanisms for a project. Note that the Inspection panel function complements the relevant grievance redress mechanisms for a project. Complaints are to be submitted to the relevant grievance redress mechanisms first. When this has not delivered a satisfactory resolution, affected communities and individuals may submit their complaint to the World Bank’s independent Inspection Panel to request an independent compliance audit.

<p>where national frameworks are to be applied, or where a financial intermediary is implementing projects with moderate or lower risk category)¹⁷.</p>	<p>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 communities and individuals may submit their complaint to the World Bank's independent Inspection Panel to request an independent compliance audit to determine whether harm has occurred as a result of World Bank non-compliance with its policies and procedures.</p>	<p>Answers" document of August 22, 2014, the following statement is made:</p> <p>"Q: Will the Proposed Framework affect the role of the Inspection Panel?</p> <p>A: As Management stated in the 2012 Approach Paper, the role of the independent Inspection Panel is not part of the review and the mandate of the Panel will remain unchanged. Unlike the current safeguards, the draft Policy contains explicit reference to the Panel".</p> <p>However, the Bank could make it specifically clear that Inspection Panel redress applies if borrowers violate national laws.</p>
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¹⁷ Asia Indigenous People Pact.

5. Conclusions and recommendations for consideration by DGIS

5.1. Summary: results of the three comparisons

Three comparisons were undertaken in Section 3, as follows:

- the proposed ESF, the existing Bank safeguard policies, and the ADB's SPS compared against the mandatory Bank requirements listed in the ESF;
- the proposed ESF compared against the objectives that the Bank set itself; and,
- the proposed ESF compared against the criteria presented in the Netherlands Position Paper.

The mandatory requirements comparison pointed to the significant changes proposed by the Environmental and Social Framework. The ESF matches the ADB's Safeguard Policy Statement in some regard, but goes well beyond it in others. The ESF marks a considerable change in direction for Bank safeguard thinking, as its integrated framework attempts to move away from an overly strong concentration on ex ante assessment to a more balanced approach that treats ex ante assessment, implementation and supervision as being equally important. Examples of new innovations include the project screening approach; the Environmental and Social Compliance Plan; the Stakeholder Engagement Plan, and new grievance redress mechanisms.

The comparison of the ESF against the Bank's own objectives perhaps naturally shows that most have been met. One exception is the "emerging issues" of climate change and human rights, where no specific mandatory requirements or environmental and social standards have been proposed.

The final comparison of the proposed ESF against the criteria presented in the Netherlands Position Paper showed that most have been met, except that there is little attention paid to human rights, gender and disability; and that the ESF will not deal with DPLs. Furthermore, the ESF does not outline the capacity development efforts needed to build sufficient internal environmental and social risk management capacity at the Bank. In time, the ESF could certainly lead to a more coherent and integrated approach that moves away from an emphasis on prescriptive safeguards policies and towards a focus on capacity building of borrowers. However, the Position Paper also pointed to the fact that the ESF will only work in practice if the Bank makes considerable investments in its internal risk management capacity.

5.2. Summary: results of the analysis of the CSO critique

The detailed analysis of CSO critiques showed that many of the concerns are general, and that they relate to a perception that the Bank is “diluting” its “standards”. Key criticisms concern the open-ended application of the standards. The scope of application of the ESF as a whole, and of certain standards, is also a topic of debate. In addition, there are concerns that the Bank has weakened specific existing safeguards, for example concerning involuntary resettlement, indigenous peoples, and biodiversity. Finally, there is critique that the Bank has missed an opportunity to further strengthen standards concerning human rights, labour standards, climate change, children, and LGBT. The analysis in Section 4 suggested that not all of the CSO criticisms may be shared by the DGIS, and that a number of concerns could be dealt with by the Bank making absolutely clear its due diligence responsibilities. Recommendations in that regard follow.

5.3. Recommendations

Policy Architecture: accelerate the production of annexes and information notes:

There is no question that the Bank needed to undertake this revision of its safeguard policies. It needed to change its overall policy and administrative architecture, to an integrated framework that provides an easily understandable three-layer structure of overall policy; a set of issue-specific policies; and, guidance notes on each issue-specific policy. It has achieved this aim with the ESP and ESSs. One reason why it may have received so much criticism from CSOs is that it has not released procedural guidance notes for all but a small number of issues. As a consequence, there is much uncertainty about the implementation the ESF. The **first recommendation** is that the *Bank accelerate its production of ESS annexes and Information Notes. Initial focus should be on ESS5 (Land Acquisition, Restrictions on Land Use and Involuntary Resettlement), ESS 7 (Indigenous Peoples), and Information Disclosure (ESP F). It would be best if these procedural guides were to be finalized prior to Bank Board approval of the ESF.*

Treatment of Emerging Issues:

A number of the so-called “emerging issues” are only lightly dealt with. These include: climate change, gender, disability, disadvantaged groups, and human rights. There is considerable CSO pressure for the Bank to deal with each of these issues more comprehensively, and on an individual basis. The **second recommendation** is that, *the Bank should establish one or more “expert groups” to enable considered revision of the ESF with respect to these issues.*

Safeguard Considerations for DPLs and P4R: institute mandatory requirements:

CSOs have been critical of the Bank’s decision not to include Development Policy Loans and Program-for-Results modalities in the current safeguard review. They point out that DPLs, in particular, make up a substantial part of the Bank’s investment portfolio and, as such, should be subject to safeguard rules. The Bank’s argument for not including consideration of these modalities is that “environmental and social requirements need to be tailored to the nature of specific financial instruments”¹⁸.

¹⁸ World Bank Questions and Answers Update, August 22nd, 2014.

While this statement is undeniable, it is also true that these loan variants can have considerable environmental and social implications. At the same time, the Bank has been building experience with the application of environmental and social assessment to planning at a more strategic level than projects, through the instrument of Strategic Environmental and Social Assessment (SESA). However, At present, OP 8.60, which directs the design of DPLs, only “recommends due diligence in determining the likelihood of significant effects on the environment and natural resources and recommends that an assessment is undertaken of country systems to determine whether there is appropriate environmental management capacity to handle the potential effects of reforms”¹⁹.

This language makes it clear that environmental assessment is not a formal requirement of DPL appraisal. Nor is there any mention of assessment of social outcomes. In its August 22 Questions and Answers Update, the Bank indicates that it is currently conducting a retrospective of P4R and that a retrospective of DPL is planned for 2015. In addition, IEG is preparing an evaluation of the environmental and social aspects of DPLs. We are told that “... management will review and reflect upon the conclusions of these retrospectives and the IEG evaluation”.

The **third recommendation** is that –when these retrospectives are complete – *the Bank institutes a mandatory requirement for environmental and social assessment of DPLs and P4R, and includes these modalities within the purview of the ESF*. This should entail more detailed treatment of the instrument of Strategic Environmental and Social Assessment (SESA) in ESS1.

Link between Appraisal and Supervision: add conditionality requirements:

The proposed ESF shows a concerted effort on the part of the Bank to better balance the focus of its safeguard efforts between “upstream” project appraisal, and “downstream” implementation and supervision. Most of the regional banks have shifted towards the latter, and this fits with both contemporary aid effectiveness thinking and a real attempt to better monitor the outcomes of financed projects. Until now the World Bank has put its main emphasis on intensive upstream risk–screening using its own staff. The ESF would change this equation. Many CSOs have taken this proposal to mean a move towards open–ended, deferred appraisal and compliance, and expect this to lead to less stringent application of the social and environmental standards.

This assessment is understandable. Providing borrowing clients with too much leeway could be considered to be too risky. However, analysis of the procedural steps required of the clients of IFC and the other “reformed” regional banks does not suggest that these steps have been relaxed. Due diligence approaches have remained detailed. For example the ADB defines general as well as specialized requirements for policy implementation in its overall policy, and in point D of each of the issue–specific Safeguard Requirements.

The ESF also explains the proposed approach to Bank due diligence in some detail in Section C (Environmental and Social Due Diligence) of the Environmental and Social Policy. The ESF clearly states that the ESCP will become part of the Legal Agreement, and that the ESF should be based on the environmental and social assessment.

¹⁹ OP 8.60.

This implies that assessment will still take place prior to the Bank's loan decision, and that information on the environmental and social risks will be available to the Board at this time. However, ESS1 Annex 2 does not specify how conditionality remedies will be triggered in instances of borrower non-compliance after the loan decision has been made. Bank action on this issue would come some way towards alleviating CSO concerns. The Bank's "veto points" need to be made very clear at a number of moments along the appraisal-to-project completion trajectory. The Bank Information Center's "Talking Points" from November 10 suggest that conditionality could be built in by:

- providing indicative budget information for relevant action items;
- the requirement of special independent monitoring methods;
- the definition of non-compliance remedies in relation to suspension of loan disbursements; and,
- the identification of the Bank person or entity responsible for supervising the enforcement of the agreed upon ESCP.

The **fourth recommendation** is to *further specify conditionality requirements, for example through inclusion of the abovementioned four conditionality requirements within Section C of the ESP.*

Use of Borrowing Country Safeguard Systems: refrain from using inadequate country systems and build both internal and borrowing country capacity:

A central plank in the World Bank's shifting of focus towards implementation is the need to rely more on the use of country safeguard systems. This desire matches current thinking about improving outcomes by encouraging country "ownership". However, it carries with it significant risks, and this is a main concern of the CSOs, who see low capacity and corruption leading to worse environmental and social outcomes if the Bank delegates its responsibilities to borrowers. Extensive experiments with use of country systems by the ADB and the World Bank has shown that "equivalence" with bank safeguard policies is almost impossible for countries to achieve. "Acceptability" of implementation appears to be an even more challenging goal. Consequently, the **fifth recommendation** is that *the Bank should refrain from using borrower systems before it has been independently verified²⁰ that these systems are equivalent to the Bank's safeguards. If they are considered to be equivalent, performance of borrower systems should be monitored during loan implementation, and corrective action should be taken where necessary to ensure standards are met.*

Information Disclosure for ESCPs: disclosure requirements:

Throughout the ESF, there are various commitments to disclosing the ESCP "early and often" during the project cycle. However, the proposed ESCP lacks an explicit disclosure plan. This is an important omission that needs to be resolved in ESS1 Annex 2, or in a separate Information Note. The following aspects of disclosure requirements could be dealt with in a redrafted ESF:

- ESS1 should make it clear that the World Bank Board and affected people should be informed about risk management options at least 120 days prior to Board approval for "high risk" and "substantial risk" projects.
- Draft ESCPs that become part of legal agreements should be publicly disclosed prior to Bank approval meetings.

²⁰ Verification should be undertaken by consultants/agencies who are independent of both the borrower and the Bank.

- ESCP implementation should be publicly reported on. The required content and reporting frequency should be specified in ESS1 Annex 2.
- Provisions for third party monitoring should be made clearer in a separate Information Note²¹.

The **sixth recommendation** is to *further specify requirements, for example through inclusion of the abovementioned four requirements within either ESS1 Annex 2, or in a separate Information Note.*

Resettlement: redesign resettlement planning:

ESS 5 appears to have raised many concerns for CSOs. Most revolve around the content and timing of resettlement planning. It is perceived that the open-endedness of the new ESF could result in loan approval prior to the design of resettlement action plans. It is also feared that critical requirements such as the assessment of alternatives and the need for consultation and information disclosure may be diluted, thereby resulting in weakened protection for those who need to be resettled.

These claims are difficult to substantiate prior to the implementation of the ESF. However, they are widely held and so deserving of further investigation. The **seventh recommendation**, therefore, *is that the Bank should consider redesigning its approach to resettlement through establishment of a specialist “expert group”. At a minimum, the Bank should rectify many of the uncertainties around ESS 5 by rapidly developing and ESS 5 Annex or Information Note.*

Biodiversity Conservation: redesign approach to biodiversity conservation:

As is the case with resettlement, ESS 6 has raised a raft of apparently serious concerns for CSOs. These relate to the possible destruction of critical habitat, protected areas and nature reserves, as well as forests and biodiversity of importance to local communities. It is also argued that the ESF introduces “biodiversity offsets” into previous “no-go” critical natural habitats and protected areas.

These claims are difficult to substantiate prior to the implementation of the ESF. However, they are widely held and so deserving of further investigation. The **eighth recommendation**, therefore, *is that the Bank should consider redesigning its approach to biodiversity conservation through establishment of a specialist “expert group”. At a minimum, the Bank should rectify many of the uncertainties around ESS 6 by rapidly developing and ESS 6 Annex or Information Note.*

Indigenous People’s Rights: remove mention of the alternative approach (“opt out clause”):

A significant concern with the Bank’s approach to indigenous peoples is what is known as the “alternative approach”, where the ESF enables “opting out” of the ESS 7 requirements under specific circumstances, and with approval by the Bank. The Bank claims that this waiver already exists in the current safeguards, although it has never been acted upon. While the conditions upon which an alternative approach can be requested by a borrower are constraining, and the Bank appears to have final say on whether an alternative approach may be applied, the CSOs have major concerns about how the exemption will be applied. The **ninth recommendation** is that *the Bank should consider removing the opt-out clause from ESS 7; from ESS 1 (para 28); and, from the ESP (Section D: Special Considerations).*

²¹ These four requirements are adapted from the Bank Information Center’s “Talking Points” of November 10th.

Labour and Working Conditions: include reference to freedom of association and right to collective bargaining:

The inclusion of ESS 2 in the proposed ESF is positive, as the existing safeguard policies do not deal with this issue. However, CSOs have pointed to some perceived drawbacks, most of which are based on the argument that the Standard does not live up to the ILO Conventions and associated Core Labour Standards. To bring ESS 2 up to the same level as the IFC and AfDB, the **tenth recommendation** is to consider inserting *specific reference to freedom of association and right to collective bargaining into ESS 2.*

Access to the Inspection Panel: apply redress if borrower violates national laws:

While Bank Requirement I does generally indicate that the Inspection Panel's role will remain as it currently is under existing safeguard policies, the ESF makes no specific pronouncement on Inspection Panel redress if national laws are violated. **Recommendation eleven** *is for the Bank to make it specifically clear that Inspection Panel redress applies if borrowers violate national laws. This could be achieved through amending paragraph 51 of Bank Requirement I, or through an amendment to each ESS.*

Investing in Capacity Building and Systems strengthening:

More borrower ownership of safeguards is a good thing, but it will require long term investments in both borrower capacity and the Bank's own supervision system. The ADB has accepted the first part of this equation through the implementation of its TA 7566 project, but both banks will need to invest in more staff with monitoring, inspection, and compliance supervision experience. This also fits the criteria in the Netherlands Position Paper with respect to the proposed ESF. **Recommendation twelve** is therefore *for the Bank to accelerate its plan for implementation of new ESF into its own practices, including specification of the resource commitments entailed. Recommendation thirteen* *is for the Bank to accelerate its plans for addressing – where possible with others – the issue of national system strengthening, including specification of the resource commitments that will be reserved.*

ANNEX 1: SAMPLE LIST OF CRITIC RESOURCES²²

Media stories:

- IRIN: [Concern over World Bank proposals to roll back safeguards for indigenous people](#)
- Daily Star: [World Bank and rights of indigenous people](#)
- Guardian: [Leaked World Bank lending policies ‘environmentally disastrous’](#)
- Reuters: [World Bank review shows flaws in social, environment safeguards process](#)
- Reuters: [Change to big World Bank aid projects could cede policing to governments](#)
- IPS: World Bank Board Declines to Revise Controversial Draft Policies ([EN](#)) ([ES](#)) ([PT](#))
- Huffington Post: [World Bank Faces Pushback Over Leaked Safeguards](#)
- Huffington Post blog: [World Bank Poised to Deny Africa’s Indigenous Peoples Their Rights](#)
- Huffington Post blog: [The World Bank’s New Environmental and Social Policies Fail to Tackle Climate Change](#)
- Huffington Post blog: [The World Bank Can’t Sacrifice the Poor to Stay in the Game](#)
- Devex: [4 questions about World Bank safeguards](#)
- Devex: [World Bank safeguards: Pushing more money out the door at the expense of the poor?](#)
- Think Progress: [World Bank Preparing To Scrap Protections For The Environment, Indigenous People](#)
- The Hindu: [World Bank rolling back safeguards: leaked report](#)
- New York Times: [Letter to the Editor](#)
- Mint Press: [World Bank Accused Of Transferring Safeguards Responsibility To Borrowers](#)
- Foreign Policy: [Development Déjà Vu: How can the new BRICS bank avoid repeating the same mistakes and egregious human rights violations of the World Bank?](#)
- Balkan News Agency: [Albanian Government shall ask the World Bank to change its safeguard policies for women and LGBT people](#)
- Gestión: [ONG de todo el mundo piden al Banco Mundial que rechace plan que reduce protecciones ambientales](#)
- El Comercio: [Lo ambiental no les pesa a los bancos](#)
- Chirapaq: [Gobiernos estarían extentos de respetar territorios indígenas](#)
- La Región: [¿Se viene el paquetazo ambiental del Banco Mundial?](#)
- La Mula: [¿Qué se trae el Banco Mundial?](#)
- Info Región: [Nuevas salvaguardas del Banco Mundial pondrían en riesgo a pueblos indígenas](#)
- Servindi: [Banco Mundial prepara paquetazo anti ambiental](#)

²² This list is adapted from a Bank Information Center website (<http://www.bicusa.org/safeguards-reaction-roundup/>).

Press releases:

- [World Bank Breaks its Promise Not to Weaken Protections for the Poor and Planet](#) (BIC)
- World Bank: Reject Plan to Roll Back Safeguards ([EN](#)) ([FR](#)) ([ES](#))
- [World Bank turns Its back on rights protections for the poor, global civil society response gathers momentum](#) (IDI)
- [World Bank moves to undermine the rights of indigenous peoples](#) (FPP)
- [Press release on Sexual Orientation and Gender Identity and Expression in World Bank safeguards](#)

CSO statements and analysis:

- Both ENDS: Policy briefing note on World Bank safeguards
- Bretton Woods Project (www.brettonwoods.org)
- ITUC/Global Unions communiqué: [Unions call on World Bank to adopt as strong a labour standard as other development banks](#)
- CSO Statement: Significant concerns with the proposed World Bank safeguards for indigenous peoples ([EN](#)) ([FR](#)) ([ES](#))
- CSO Statement: World Bank's Draft Safeguards Fail to Protect Land Rights and Prevent Impoverishment ([EN](#)) ([FR](#)) ([ES](#))
- CSO Statement: [Dilutions in proposed Biodiversity standard](#)
- Bank on Human Rights Coalition statement to Executive Directors ([EN](#)) ([ES](#))
- ITUC: [Major weaknesses in World Bank's draft labour standards safeguard](#)
- GenderAction: [Gender Review and Recommendations on the World Bank Safeguards Draft](#)
- BIC issue analysis
 - [Environmental and Social Assessment](#)
 - [Child Rights](#)
 - [Gender and Sexual Orientation and Gender Identity and Expression \(SOGIE\)](#)
 - [Disability](#)
 - [Climate Change](#)
 - [Five Ways the World Bank Safeguards Undermine the Pelosi Amendment](#)
- Bank Information Center (2014), Talking Points: Proposed World Bank ESS1 and the Environment and Social Commitment Plan (ESCP). What is the ESCP about? (Draft, November 10)
- WWF Talking Points: World Bank Safeguards Review and Update (undated)
- Memorandum on the 'alternative approach'. (Forest Peoples Programme, October 2014)
- Civil Society Statement on ESS6 – Biodiversity (July 25, 2014)

CSO Letters:

- IWGIA: [Serious concerns over revision of World Bank Safeguard Policies](#)
- Egyptian CSO Letter to Executive Director Merza Hasan ([EN](#)) ([AR](#))
- Latin American CSO Letter to Board ([EN](#)) ([ES](#))
- Mesoamerican CSO [Letter to Executive Director](#) Juan Jose Bravo
- Joint Indian CSO [Letter to Executive Director](#) Mukesh Prasad
- National Alliance of People's Movements (India) [Letter to Executive Director](#) Mukesh Prasad
- Indonesian Trade Union [Letter to Executive Director](#) Sundaran Annamala
- Nepalese CSO [Letter to Executive Director](#) Sundaran Annamala
- Alyansa Tigil Mina (Philippines) [Letter to Executive Director](#) Roberto Tan
- Philippine Coalition on the CRPD [Letter to Executive Director](#) Roberto Tan

CSO web updates:

- ITUC: [World Bank's potential big step backwards on workers' rights](#)
- BIC: [Fixing World Bank Incentives for Effective Safeguard Implementation](#)
- BIC: [The World Bank Moves to Weaken Its Protection for the Poor](#)
- REDD Monitor: [If the World Bank dismantles its safeguards, what would that mean for REDD?](#)
- AIDA: Letter presenting Latin American civil society organizations' concerns on the dilution of the World Bank's safeguards policies([EN](#)) ([ES](#))
- AIDSESP: [Documento de políticas y normas socioambientales del Banco Mundial amenazan derechos indígenas](#)
- FUNDEPS: [El Banco Mundial busca debilitar los estándares socio-ambientales en sus proyectos: Respuestas de Organizaciones de la Sociedad Civil](#)
- Conectas: Bad Example: New World Bank Framework Rolls Back Human Rights Protections ([EN](#)) ([PT](#))

Official documents:

- [First draft of Environmental and Social Framework \(ESF\) for consultation](#)
- [Q&A on the First Draft](#)
- [Phase 2 consultation plan](#)
- [Official Safeguard Review consultation homepage](#)
- [World Bank Press release on First Draft](#)
- [U.S. Government Comments on World Bank Safeguards Review](#)
- [World Bank Internal Audit Department \(Advisory Review of the Bank's Safeguard Risk Management: June 16, 2014\)](#)
- [Independent Evaluation Group \(2010\) \(Safeguard and Sustainability Policies in a Changing World\)](#)