

## Recommendations regarding: World Bank Draft Environmental and Social Standard 10 on Information Disclosure and Stakeholder Engagement

*This submission seeks to identify and summarize the Bank Information Center's (BIC) priority recommendations regarding the World Bank's proposed Environmental and Social Standard 10 concerning Information Disclosure and Stakeholder Consultation<sup>1</sup> (ESS10) and will reference other more detailed and specific recommendations which have been submitted by BIC and other civil society organizations (CSOs).*

BIC welcomes the addition of a new Safeguard on Information Disclosure and Stakeholder Engagement and is pleased to see the World Bank (hereafter sometimes referred to as “the Bank”) giving this critical component to safeguarding the environment and communities the space it deserves in the proposed Environmental and Social Framework. We consider the following points necessary to ensure that this Standard is meaningful and effective.

### **First and foremost, two overarching areas need to be addressed in this Safeguard:**

- **The role of the Bank in providing oversight:** It is clear that the Environmental and Social Standards are intended to be the responsibility of the Borrower to implement. However - and especially for ESS10 - it is essential that the Bank describes in clear terms its expectations of the Borrower in reporting on how it is in compliance with the Standards and it is even more critical for the Bank to verify this information. This is particularly important in countries which are known to have laws or practices whereby governments repress civil society and/or criminalize activists and marginalized communities.
- **The link to upstream engagement and analysis:** In order to ensure systematic, useful and consistent engagement, ESS10 must provide for stakeholder engagement throughout the entire project cycle, starting upstream of individual projects with the Systematic Country Diagnostic (SCD). This is essential as this is where national or sectoral level environmental and social risks can be identified. Moreover it is important for the analysis produced at the SCD stage to be carried through to the project level, firstly to ensure that those identified risks are taken into account, and secondly because some key aspects of the SCD analysis should underpin a strong and effective Stakeholder Engagement Plan (SEP). At the individual project level, engagement should be required at the project concept stage and not only after projects are already in preparation and appraisal stages.

### **With respect to the proposed text, BIC has the following recommendations:**

Broadly, we ask that the Bank develop language which;

- Provides clear **minimum requirements** for what is considered acceptable with respect to information disclosure and consultation, especially for, but not limited to, high or substantial risk projects.
- Ensures that stakeholder participation is made **accessible and safe**.

- Commits the Borrower to being deliberately **inclusive and participatory** in all aspects of ESS10 such that all stakeholders are empowered to participate in and benefit from the disclosure of information and stakeholder engagement process.

Specifically, BIC would like to highlight the following areas that we see needing changes and/or enhanced specificity:

- **Stakeholder Identification and Analysis**

We do not find it appropriate for the Borrower to be the sole identifier of Stakeholders. Instead, this task must be undertaken in collaboration with the community and there must be deliberate efforts to identify and engage those who may be differently or disproportionately affected by the project, including “disadvantaged or vulnerable groups,” regardless of the type of project. As an example, children and young people should be identified in all types of projects and not just those traditionally associated with children (for example education or health projects).

Secondly, Stakeholders should include persons or groups who *consider themselves* potentially affected by, or interested in, project actions in the project’s area of influence<sup>1</sup> and thus the Bank and Borrower must ensure an open participation process whereby all potential Stakeholders have the opportunity to become engaged at different stages of the project cycle should they choose to do so.

- **Stakeholder Engagement Plan**

We insist that the Borrower must develop the SEP in collaboration with the community. To that end, the draft SEP should be made accessible and available for comment prior to project appraisal. Complex projects might require the Borrower to work with a community-based advisory group in developing the SEP.<sup>2</sup> For projects that are regional or national in scope, involving multiple locations, the Bank should require both SEPs for subprojects as well as a regional or national level SEP to promote the identification of and planning for cumulative impacts of the entire project.

In terms of the SEP content, the Bank should include in ESS10 language to specify the minimum requirements with respect to developing a plan which allows for meaningful, safe, accessible and inclusive consultation. The SEP should also involve analysis of stakeholder engagement capacity and ensure resources for strengthening capacity as part of the plan.

- **Information Disclosure**

In order to achieve ESS10’s stated objective of promoting adequate Stakeholder engagement, proactive disclosure of **timely, accessible and relevant** information is essential. To ensure that this happens, minimum requirements for disclosure are essential, particularly for, but not limited to, high and substantial risk projects. It is critical for the Bank to ensure that it is not simply a matter of informing communities of potential risks and mitigation plans as is suggested in ESS10 paragraph 2, but that consulting with communities early on is what is needed in order to develop a more comprehensive picture of what those

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<sup>1</sup> Project area of influence is defined well in *Conservation International’s Proposed Edits & Comments*, ESS10, Glossary, p.24, December 2014

<sup>2</sup> Ibid, paragraph 13a, p.20

potential risks might be, and to whom, and ways to mitigate those risks. Moreover, disclosure should not only happen “if communities or groups may be affected...” as is stated in paragraph 10. Rather, there should be minimum requirements for disclosures for all projects.

Timely: With the exception of extraordinary circumstances, minimum prior disclosure of information, in local languages, is 10 business days in advance of the consultation.

For high and substantial risk projects, the Borrower must submit to the Bank which must then disclose on its website, key draft documents, such as, but not limited to<sup>3</sup>, the Environmental and Social Impact Assessment, Resettlement Plans, and Indigenous People’s Plans, at least 120 days before Board consideration or before project appraisal.

Accessible<sup>4</sup>: To ensure that all potential Stakeholders can access the information, the information should be age appropriate and accessible to persons with disabilities through means such as sign language, Braille, large print, audio, plain-language, human-reader, and ensuring accessibility to the information environment or facilities.<sup>5</sup>

Relevant: Currently, the Bank does not go far enough in laying out what is considered relevant information (ESS10 paragraph 10). The Borrower should disclose drafts, final versions and updates of the SEP such that Stakeholders can comment on and expect changes to the Plan according to their proposals. Through that mechanism, Stakeholders can also suggest which information they find important and in which manner it should be disclosed. Additionally, we find it not unreasonable to require Borrowers to disclose *at minimum*<sup>6</sup> all the information that the Bank itself is required to disclose in accordance with the Bank’s Access to Information Policy.

- **Meaningful Consultation**

In order to achieve ESS10’s stated objective of promoting adequate Stakeholder engagement, the Standard requires significantly more detail on what minimum requirements the Borrower should be expected to uphold, for example in laying out when and where consultations will happen, and demonstrating how feedback is incorporated.<sup>7</sup> Consultations must be done in a way which allows any potential Stakeholder to participate and the Bank must ensure that the Borrower makes proactive efforts to consult with those who may be differently or disproportionately affected by the project, including, but not limited to, children, persons with disabilities, and those often discriminated against or criminalized because of their sexual

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<sup>3</sup> For more recommendations for minimum disclosure requirements for high and substantial risk projects, please see *Conservation International’s Proposed Edits & Comments*, ESS10, paragraph 10A, p.19, December 2014

<sup>4</sup> For further recommendations on promoting accessibility throughout ESS10, please see the *Disability Redline edits*, ESS10 section, which were submitted to the Bank by various CSOs on February 25<sup>th</sup> 2015.

<sup>5</sup> This is in addition to the ways in which information will be disclosed according to the Bank’s draft ESS10, paragraph 11

<sup>6</sup> Beyond that minimum, additional recommendations on what information should be disclosed are included in *Conservation International’s Proposed Edits & Comments*, ESS10, December 2014

<sup>7</sup> We encourage the Bank to reference its own *Consultation Guidelines* which provide strong examples of important factors for effective participation

orientation, gender identity or expression (SOGIE). All potential Stakeholders should have the right to participate in consultations.

While we welcome the inclusion of several references to children in ESS10, Borrowers must be provided with guidance on how to overcome real and perceived barriers to child participation in consultations (for example, how to identify potential participants, obtain parental consent, produce child friendly materials, and address other concerns associated with unique areas of vulnerability for children.)<sup>8</sup>

Consultations must be fully accessible to persons with disabilities where there is access to the built environment and other facilities and services related to the consultations, reasonable accommodations are provided if needed, and all materials and activities in advance of and during the consultation are fully accessible for all Stakeholders participating.<sup>9</sup>

The Bank must also specify in ESS10 that consultations should be safe, free of reprisal and SOGIE-sensitive and gender-responsive as is further detailed in the *Gender and SOGIE Model Safeguard* submitted by various CSOs.<sup>10</sup> Where needed the World Bank needs to provide a safe space for persons or communities that cannot freely and openly engage due to prosecution or discrimination.

Finally, we would like to point to Conservation International's *Proposed Edits & Comments on ESS10*<sup>11</sup>, which provide more detail on what consultation must entail in order to be meaningful including for high and substantial risk projects.

- **Grievance Mechanisms**

We appreciate the Bank's efforts to increase access to remedy for communities through the addition of language requiring grievance mechanisms and believe that in order to ensure that grievance mechanisms are accessible, the Bank should insert language as is proposed in the *Disability Redline edits*.<sup>12</sup>

We consider it critical that potentially affected communities are made aware of *all* grievance mechanisms including the Bank's Inspection Panel. It is also necessary to include language allowing for Stakeholders to inform the design of the project's grievance mechanism and for affected communities to - without qualifications - submit complaints confidentially. Moreover, communities should be able to access the Bank's Inspection Panel without first exhausting other grievance options. These are examples of ways in which we feel the grievance piece of ESS10 should be strengthened. For more comprehensive ESS10 recommendations on how to ensure that grievance and redress are independent, transparent, participatory, and free of reprisal, we encourage the Bank to look to the *Comments on the Draft Environmental and Social*

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<sup>8</sup> For further suggested guidance on consulting with children, please see BIC's Child Rights submission, *Children's Consultation Guidelines*.

<sup>9</sup> For more details on how to make consultations and other aspects of ESS10 more accessible, please see *Disability Redline edits*, ESS10 section, submitted to the Bank by various CSOs on February 25, 2015.

<sup>10</sup> Refers to the document submitted to the Bank by multiple CSOs in May 2014.

<sup>11</sup> *Disability Redline edits*, ESS10 section, paragraphs 18 and 19, pp.21-22, submitted to the Bank by various CSOs on February 25, 2015

<sup>12</sup> *Ibid*, ESS10 section, Annex 1 on Grievance Mechanisms, paragraphs 2 and 3

*Framework – ESS10 and Implications on Accountability*,<sup>13</sup> submitted by the Center for International Environmental Law on behalf of multiple CSOs.

- **Ongoing Reporting and Engagement during Project Implementation**

Much of the promise of the ESF rests on faith that the Bank can reverse an erosion of confidence in their capacity to properly supervise safeguards during implementation, which in turn has contributed to a candor gap and a persistent loss of project quality.<sup>14</sup> The ESF depends on robust stakeholder participation during project implementation. The Borrower should provide ongoing information and opportunities for engagement with Stakeholders throughout the implementation and evaluation stages of the project. Feedback on the effectiveness of the project and implementation of mitigation measures must be defined early on in the SEP and explicitly identified for the actions outlined in the Environmental and Social Commitment Plan (ESCP). Any material changes to the project being considered must require an update of the SEP with appropriate consultation, and potentially identifying additional stakeholders beyond those who were originally identified.<sup>15</sup>

There need to be minimum requirements on the frequency that the Borrower should provide for intentional, extensive feedback from Stakeholders (such as at the mid-term review or the Performance and Learning Review, and prior to closure) as well as minimum requirements for the diversity of Stakeholders providing this feedback. This feedback should be reflected in a dedicated safeguard performance section of the periodic Implementation Status Reports (ISR) and in any annual report. In certain circumstances, for example when projects use Borrower Frameworks, or if deferral or risk appraisal and compliance merit its use, the Borrower should rely on community and/or independent third party monitoring for complementary performance feedback and verification of Borrower information to the Bank and affected people.

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<sup>13</sup> Submitted on March 1<sup>st</sup> 2015

<sup>14</sup> See [Persistent Decline in World Bank Lending Quality Leaves Results in Doubt](#), Vince McElhinny, Oct. 1, 2014

<sup>15</sup> For suggested text edits, please refer to *Conservation International's Proposed Edits & Comments*, ESS10, Section C, December 2014