Public Consultation Meeting ESPF
Civil Society Organizations
Inter-active Virtual Session
Washington DC – 13 March 2020

Location: Inter-American Development Bank, Andres Bello Meeting Room

Context

The Inter-American Development Bank (IDB) is updating its environmental and social policies and consolidating them into a single integrated and coherent policy framework. On December 18, 2019, the IDB Board of Directors approved a draft proposal of the new Environmental and Social Policy Framework (ESPF), which is now the subject of a public consultation process in order to obtain feedback, comments and recommendations from all interested stakeholders.

The consultation process involves: (a) an active use of the IDB's website (https://www.iadb.org/en/mpas) and public communications resources to disseminate ESPF materials and gather comments and suggestions from stakeholders through a virtual process which will be open until April 20th, 2020, (b) a round of meetings with representatives of government agencies, civil society organizations and indigenous groups hold in IDB regional hubs in Europe, Asia, the United States and Latin America and the Caribbean.

On January 19, 2020, the IDB posted for comments the draft standard agenda for these meetings. The agendas for the face-to-face meetings were adjusted according to specific suggestions received in advance.

Once authorized by the Board of Directors, the IDB will release a new version of the draft ESPF that addresses the suggestions and recommendations received. In accordance with the Consultation Plan approved by the IDB's Board of Directors on July 2, 2019, the new version of the ESPF will be available to the public in the dedicated website (https://www.iadb.org/en/mpas) for an additional 30 days period for virtual review by stakeholders.

This document constitutes the minutes of the consultation meeting held in Washington D.C. on March 13th, 2020 with representatives of civil society and international organizations invited to attend from the United states and Canada. Due to the current context of the Coronavirus/COVID-19 pandemic, the meeting was held virtually, using Microsoft teams and transmitting from the IDB's headquarters.

A total of 61 participants connected to the virtual meeting. The official language of the session was English, with simultaneous translation into Spanish.

The session began with the opening greeting by the IDB team. The IDB presentation on the draft of ESPF included:

- ¿What is the IDB? And ¿what is your mission?
- The ESPF development
- The ESPF next steps, from the public consultation process
- The ESPF Guiding Principles
- ESPF Architecture
- Policy Statement
- Environmental and Social Performance Standards
- ESPF Policy Highlights

The key comments and suggestions from the participants are summarized below:

- **Policy Statement – General Features:**

The participants welcomed the IDB's effort to modernize its environmental and social safeguard policies. They raised comments and suggestions regarding mainstreaming, Policy-based Lending (PBL's), the dynamic risk rating, the relationship of the proposed local grievance mechanisms with the Independent Consultation and Investigation Mechanism (MICI), and the overall Implementation Plan.

With regard to mainstreaming, it was noted that, unlike the Bank's previous policies, the proposed ESPF focuses on the management of environmental and social risks at the project level. Participants suggested that the Bank's approach to mainstreaming should be mentioned in the policy statement. Participants also suggested including an explicit recognition of "the human right to development", in accordance with the ESPF's guiding principle to "do good beyond do no harm".

While the draft proposal is consistent with the principle of no dilution for this type of loans, it was suggested that the Bank consider including social, as well as environmental factors in its assessment of the potential issues and risks associated with a PBL.

In relation to the ESPF's dynamic risk rating, participants questioned whether it would replace the A, B, C categories resulting from early screening of potential projects, and also underscored the importance of including contextual risk as a key factor in the risk assessment. Moreover, participants pointed out that the on-going nature of the risk assessment should lead to corresponding modifications to Environmental and Social Action Plans (ESAP) or Indigenous Peoples Plans (IPP) if necessary.

With regard to the proposed introduction of project related grievance mechanism, participants suggested clarifying their relationship with the MICI in the policy statement. A specific suggestion was made to expand the description of the role of MICI (p.29) and make clear that access to MICI was not contingent upon having exhausted the recourse offered by the project grievance mechanism.

- **Environmental and Social Performance Standards (ESPS)**

- **ESPS 1. Assessment and Management of Environmental and Social Risks and Impacts**: Comments related to ESPS1 focused on a number of areas. The first was that the mitigation hierarchy should be an overarching guiding principle underlying the required assessment process. The second was that such instruments as climate change assessment, human rights assessments, gender assessments and consideration of a country's Biodiversity Action Plans and Nationally Determined Commitments (NDC) be required instruments for all project assessments. In addition, participants suggested that the ESPS1 or the Policy Statement include references to international conventions that its member countries may have signed.

- **ESPS 2. Labor and Working Conditions**: The IDB's adoption of an ESPS for labor and working conditions was well received by the participants, and the benefits of aligning the Bank with other MDB's were underscored. Participants also recognized that this was a new area for the IDB and were pleased to offer assistance on developing guidance for its implementation.

  As most countries in Latin America and the Caribbean have signed on to ILO labor conventions, these should have equal standing to national laws, and ILO standards should be applied. It was suggested that the language and detail dealing with due diligence should be strengthened with regard to covering contractor workers and third parties, and retrenchment procedures and obligations for these as well as direct workers. With regard to gender, it was recommended that the IDB require training on non-discrimination and gender sensitivity to all project staff, that gender disaggregated employment data be collected to ensure non-discriminatory hiring practices, and that Borrowers extend non-discrimination protections to contract workers and primary supply workers. The policy should also consider the applicability of the Voluntary Principles on Security and Human Rights.

- **ESPS 3. Resource Efficiency and Pollution Prevention**: Comments on this standard included the need to ensure that Borrowers undertake climate change assessments and gender assessment. In particular, it was recommended that project designs include mechanisms to ensure that women are not disproportionately affected by project related pollution. Participants encouraged the Bank to define an Exclusion List that prohibits financing activities such as thermal coal, upstream oil and gas, and in protected tropical forests.

- **ESPS 4. Community Health, Safety and Security**: Several references were made regarding community, health safety and security. One was that the Bank acknowledge and promote a "community's vision for development". It was also emphasized that cross-cutting subjects such as

gender, vulnerable groups, the protection of children, and human rights that should be considered within this performance standard. With regard to gender , in particular, the IDB should acknowledge that women may be disproportionately vulnerable to the health impacts of pollution and that women and LGBTQ people are vulnerable to violence in communal conflicts and in relation to the influx of outside workers to a community. Safeguard mechanisms must be designed to address these issues.

- **ESPS 5. Land Acquisition and Involuntary Resettlement**: The discussion raised no issues directly related to the overall scope of this standard, although suggestions made regarding the scope of other standards did address ESPS5. Regarding ESPS7, for instance, participants encouraged the IDB to draw from the World Bank Indigenous People's standard for material on titling and registry of indigenous people's land. A specific statement was made to restrict individual titling of indigenous lands.

  In addition, in the discussion of gender issues, it was suggested that gender assessments be applied to resettlement planning to develop, intra-household analysis and disaggregated data for livelihood, land-tenure and compensation plans. Mechanisms also need to be created to ensure that LGBTQ not be at risk in resettlement projects, and that resettlement plans analyze and make provisions for "unpaid" care work.

- **ESPS 6. Biodiversity Conservation and Sustainable Management of Living Natural Resources**. The participants commended the IDB's commitment to biodiversity conservation but questioned whether the language regarding prohibition of the use of offsets for projects affecting Critical Habitats was clear enough. Participants suggested the Bank clarifies if this prohibition means the IDB would not invest in Critical Habitats at all or that a proposed project may proceed, as long as offsets are not required to meet the objectives of the mitigation hierarchy. In addition, participants suggested that the Bank include Alliance for Zero Extinction (AZE) sites as areas of Critical Habitat, as have the World Bank, the IFC and the Equator Principles**.** The role of women in the use and management of natural resources should be part of project analysis, and women should be consulted in determining the types of ecosystems services that should be prioritized in conservation activities.

- **ESPS 7. Indigenous Peoples**: There were extensive comments and suggestions made regarding the scope and language of the ESPS7. Drawing from material, that was submitted in writing to the Bank, it was pointed out that the IDB needs to review its existing indigenous people's policy (OP 765) to ensure that the "no dilution" principle had been consistently applied in developing ESPS7. Participants noted a number of areas that needed additional treatment:

As a general matter, the Bank might make specific reference to ILO 169 and UN and Inter-American conventions that provide for the rights of indigenous peoples. It would also be useful to require the preparation of human rights assessments for projects that may impact indigenous communities.

While participants welcomed the Bank's explicit adoption of FPIC, participants suggested that FPIC should be applied in all cases dealing with indigenous communities, not merely cases involving potential infringement on lands or territory. Moreover, participants mentioned FPIC should be applied also when projects are changed or relocated. In addition, a community's refusal to participate in consultations should not be interpreted as positive silence. It is especially important to have guidance for conducting consultations in a culturally appropriate manner.

A clear aim of the standard should be to safeguard the development of indigenous communities. As such, it might draw from World Bank guidance on land survey's, titling, and registry of indigenous lands, restrict individual titling, and develop methods for protecting the "intangibility" land, using buffer zones, for instance. It was also noted that guidance should be strengthened on dealing with transboundary populations and that work within areas where population are in isolation or have made only initial contact should be prohibited. A representative of the Indian Law Resource Center indicated that additional written material on these matters would be submitted to the IDB.

Particular concerns were raised with regard to indigenous women and LGBTQ peoples. It is important that the IDB ensure that women and LGBTQ peoples participate in project consultations and that they have dedicated spaces in which they can engage in FPIC without fear of coercion. In addition, Borrowers should be required to ensure that compensation collectively distributed to indigenous communities reaches indigenous women and LGBTQ peoples in the community.

Participants also note that that treatment of afro-descendant population groups should be developed more explicitly, and that the ESPF should address how the Bank might deal with communities not officially recognized by government.

- **ESPS 8. Cultural Heritage**: No comments were made specifically about the scope of the cultural heritage performance standards, although it was noted women have an important role in preserving cultural heritage and that a gender lens should be used in the design of mechanisms to protect cultural heritage. Women and LGBTQ peoples should be included in cultural heritage consultations, and that they have equal access to project related benefits derived from cultural heritage.

- **ESPF 9. Gender Equality**: Highlighting gender issues with a standard was welcomed by the participants, and it was noted that a new ILO standard on gender was adopted in June 2019. Participants raised a number of suggestions that IDB gender guidance should consider.

These included how to deal with national and local exclusionary laws and the stigmas associated with LGBTQ identities; how to empower and protect LGBTQ groups in consultation processes; how best to include LGBTQ issues in due diligence and generate quantitative data on gender conditions; how to design, accessible and protected grievance mechanisms, and how to sensitize Borrowers , as well as IDB staff to gender issues and solutions.

It was noted that the standards should also cover the protection of children from sexual exploitation and provide for separate assessments of risks to children, as well as grievance mechanisms that are accessible and protective of children.

- Participants suggested that the intersectionality between gender and other issues should be reflected in other ESPSs. In all its projects, the IDB should commit actively to prevent gender harm and promote greater gender equity. As reflected in the references to gender in each of the ESPSs, participants regarded ESPS9 as a cross-cutting standard that applied to all project work, and called for the IDB to apply gender assessments in all cases, developing disaggregated data, promoting protections for LGBTQ peoples as well as women, allocating funds to address sexually based violence, and associated grievance mechanisms, and actively requiring gender equity training and reporting. The representative of Gender Action submitted written comments to the IDB, which are reflected in this Minute and stated that additional information consolidating observations from other civil society organization in Latin America and the Caribbean would be provided to the IDB for consideration in the revisions to the proposed ESPF.

- **ESPF 10. Stakeholder Engagement and Information Disclosure**: A separate standard on stakeholder engagement was welcomed by the participants, although there were several areas in which they felt the standard needed to be clarified and strengthened. Underscoring the importance of stakeholder engagement as the very foundation of sound project development and the source of local knowledge and buy-in, participants urged the Bank to use more concrete, less discretionary language in the requirement, for instance, stating that the Bank should " foster" rather than merely "promote" meaningful participation. Similarly, it was felt that ESPS10 should apply across the board to all categories of projects, not only those of higher risk. In this regard, a call was made that FPIC also apply to all projects, not only those involving indigenous peoples.

  A recommendation was also made that protections for women's participation in consultation processes be explicitly expanded to LGBTQ peoples, as they too, face barriers to participation due to lack of respect and safety.

  Specific suggestions were also made regarding contextual risk, required information disclosure and consultation timelines, and the relationship between the proposed ESPF and the Bank's Access to Information Policy. It was noted with regard to contextual risk, that the Bank might explain how it will deal with stakeholders who might be subject to reprisals in project related situations. In relation to timelines and information disclosure, it was suggested that specific timelines be added to the policy along with a fuller description of the relationship between the ESPF and the forthcoming Access to Information Policy.

- **Other topics**

- Implementation Plan. Participants asked about the status of the implementation plan and the continuity of the online training programs for borrowers. Recognizing that the Implementation Plan was still being developed, participants suggested the Bank to disclose it for public consultation.
- Exclusion List. Participants encouraged the Bank to define an Exclusion List that prohibits financing activities such as thermal coal, upstream oil and gas, and in protected tropical forests.

At the end of the meeting, the IDB provided a brief summary of the main comments and suggestions raised by the participants. The IDB explained that new guidance notes for each standard will be developed by the IDB after the approval of the new ESPF. The IDB also confirmed that the Bank will provide continuous training and technical assistance to the borrowers to implement the ESPF's requirements.

IDB representatives highlighted that the public consultation process of the IDB's ESPF will continue through April 20th and that the Bank is open to receiving additional comments and recommendations from Civil Society Organizations and other stakeholders via its dedicated website (https://www.iadb.org/en/mpas).