

DOCUMENT OF THE INTER-AMERICAN DEVELOPMENT BANK

**MANAGEMENT'S RESPONSE TO THE FINAL REPORT OF THE EXTERNAL ADVISORY PANEL OF EXPERTS ON THE
MODERNIZATION OF THE ENVIRONMENTAL AND SOCIAL POLICIES OF THE IDB**

MAY 29, 2020

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**MANAGEMENT’S RESPONSE TO THE FINAL REPORT OF THE EXTERNAL ADVISORY PANEL OF EXPERTS ON THE
MODERNIZATION OF THE ENVIRONMENTAL AND SOCIAL POLICIES OF THE IDB.**

1. The IDB is updating its environmental and social policies to enhance environmental and social sustainability outcomes in its operations. The modernization process will develop a new Environmental and Social Policy Framework (ESPF) that incorporates both environmental and social aspects in an integrated policy.
2. The IDB established an External Advisory Panel of Experts (“the Panel” or “the Expert Panel”) to provide independent advice on the quality and integrity of the ESPF during its early and final preparation. The Panel held its first meeting on October 2nd, 2019 and provided recommendations on IDB’s pre-consultation draft ESPF.¹
3. On December 18, 2019, the IDB Board of Directors approved the first draft ESPF. The IDB conducted a public consultation, which was completed on April 20, 2020, and has prepared a second draft ESPF incorporating recommendations and suggestions received during the consultation process. The Panel of Experts held a meeting on May 11 to revise the second draft ESPF which incorporates the inputs from the public consultation process. The Panel report summarizes the Panel’s assessment and recommendations on IDB’s second draft ESPF. The Panel also assessed the feedback received by the IDB during the public consultation process and how it was incorporated into the post-consultation, second draft ESPF.
4. Management would like to thank the Panel for its important and relevant contributions to the ESPF development process. Management is particularly grateful for the Panel’s commitment and timely input considering the circumstances caused by the COVID-19 pandemic.
5. Management is pleased to note the Panel’s assessment that: (i) the second draft ESPF is a step forward in the process of establishing a more robust ESPF for the IDB’s operations; (ii) the revised second draft ESPF shows the Bank’s efforts to listen to stakeholders engaged in the public consultation process; and (iii) many of the previous recommendations offered by the Panel were addressed, most notably the treatment of gender issues and vulnerable groups; inclusion of African descendant populations; IDB’s commitment to Sustainability; the Exclusion List; roles and responsibilities of the IDB and the Borrower; climate change mitigation and adaptation; and references to international agreements.
6. Management agrees with the Panel’s view that current COVID-19 pandemic crisis reveals the urgency of changing our ways to a more sustainable and inclusive development. This important and dramatic change in context has been incorporated in the introduction of the ESPF. The revised second draft ESPF reiterates IDB’s commitment to sustainable development, which encompasses

¹ First Report of the External Advisory Panel of Experts on the Modernization of the Environmental and Social Policies of the IDB. [\(XR-28\)](#)

equal access to services and opportunities for all, including for the poor and most vulnerable,² and is achievable only without compromising the health of the environment. Management would also like to highlight IDB's commitment to promote environmental and social sustainability, which goes beyond the ESPF. Sustainability requires a long-term vision that considers the benefits provided by natural capital, social capital, and ecosystem services over long time horizons. Over the last decade such commitment has been incorporated in all the areas of the Bank's work, including the Institutional Strategy, country strategies, sector framework documents, and IDB's operational program. In this regard, the IDB is committed to strengthening countries' institutional and legal frameworks so that environmental and social governance systems operate efficiently and effectively.

7. Management welcomes the Panel's recommendations to help the Bank to further strengthen the proposed ESPF. Most of them have been incorporated in the new revision of the draft ESPF, while the other recommendations will be addressed as part of the work that will continue after the ESPF is approved and before it becomes effective, such as development of the Environmental and Social Review Procedures (ESRP) and Guidelines for implementation of the ESPFs.

Response to the Panel's general recommendations

8. ***Do good beyond do no harm.*** This is one of the core principles of the environmental and social policy modernization process. Management agrees with the Panel's opinion that, the Borrower should not only address avoidance of harm but also consider, incorporate and report on enhancement of environmental and social benefits. The revised second draft ESPF has been strengthened in Paragraph 1.4 in the policy statement to reflect this. As recommended, the following sentence has been added to paragraph 1.4 in the policy statement: "*The IDB requires its Borrowers to not only report on ways in which harms will be avoided, but also consider and report on ways in which project design will enhance both the social and environmental good*". ESPS 1 and ESPS 10 have also been revised to request explicitly that Borrowers encourage stakeholders to share their views on access to opportunities.
9. ***Upstreaming.*** Management agrees with the Panel's comment about the relevance and importance of an upstream focus. The first step in the mitigation hierarchy that the draft ESPF requires Borrowers to follow is to avoid adverse environmental and social impacts. This is best done in the upstream phase of project development. A key instrument the IDB can use to support Borrowers in this phase is technical assistance, and paragraph 3.5 in the policy statement has been strengthened to mention: "*The IDB may also offer technical assistance to implement*

² By virtue of disability, state of health, indigenous status, gender identity, sexual orientation, religion, race, color, ethnicity, age, language, political or other opinion, national or social origin, property, birth, economic disadvantage, or social condition. Other vulnerable individuals and/or groups may include people or groups in vulnerable situations including the poor, the landless, the elderly, single-headed households, refugees, internally displaced people, natural resource dependent communities or other displaced persons who may not be protected through national legislation and /or international law.

Strategic Environmental and Social Assessments (SESA), a Regional Environmental and Social Impact Assessments (RESIA), cumulative Impact assessments or other upstream instruments". Paragraph 1.4 in the policy statement now also mentions IDB's support in the upstreaming planning of environmental and social issues, as part of its dialogue with LAC countries. It is also worth noting that the IDB core operational work entails the mainstreaming of environmental and social aspects in the project design. Issues such as gender and climate change and sustainability are reviewed and promoted in the upstream phase. In addition, the IDB is leading several initiatives aiming at developing tools to include sustainability considerations in the upstream phase of project development, among them the [Sustainable Infrastructure](#) initiative.

10. **Consequences and sanctions in cases of non-compliance.** Management agrees with the Panel's recommendation that procedures and guidelines to be developed after the ESPF is approved establish the specific steps the IDB would follow to apply corrective measures and remedies in case of non-compliance.
11. **Clarity of language: expectations vs requirement.** Management agrees with the Panel's view that the ESPF language must be clear and specific to facilitate its adequate implementation. During public consultation, several stakeholders proposed specific language clarifications, and many of them have been incorporated in the second draft ESPF. Each project is unique, and a policy must also retain enough flexibility to accommodate a variety of circumstances. Management very much appreciates and has considered the specific recommendations proposed by the Panel to clarify further the use of conditional language.

Response to the Panel's recommendations on cross cutting issues

12. **Human Rights.** Management is pleased that the Panel considers the inclusion of language regarding human rights in the ESPF as a significant step-forward for the IDB. Management agrees with the Panel's recommendation to clarify language in ESPS 1 to match the strength of the policy statement. The footnote mandating a Human Rights due diligence in certain circumstances has been incorporated into the main text and provides more specificity. Factors and criteria to support assessment of the specific circumstances requiring a human right due diligence and methodology will be further detailed in the procedures and guidelines to be developed after the ESPF is approved.
13. **Gender.** Management is pleased that the Panel considers the inclusion of language in the ESPF to cover all genders and address gender identity aside from sexual orientation as a step-forward for the IDB. Management agrees with the Panel's recommendation to clarify further certain definitions such as gender-based violence, gender identity and intersectionality. Such definitions have been included in the glossary of the revised second draft ESPF, ensuring consistency with ESPS 9 language. Management agrees that internal capacity development and guidance for both IDB personnel and Borrowers will be particularly needed on. The implementation of the ESPF will be accompanied by training activities to build IDB's and Borrowers' capacity of these issues.

14. **Climate Change.** Management is pleased that the Panel considers that the draft ESPF adequately tackles climate change as a cross-cutting issue, covering both mitigation and adaptation measures. Management agrees with the Panel's recommendation that all new infrastructure projects be assessed under a climate resilience lens and in terms of associated direct and indirect GHG emissions. ESPS4 already requires all projects to be assessed under a climate resilience perspective (*"the Borrower will identify appropriate disaster and climate change resilience and adaptation measures to be integrated to the project design, construction and operation"*). Process and methodology will be further detailed in the procedures and guidelines to be developed after the ESPF is approved. Furthermore, Paragraph 8 of ESPS 3 has been revised to encompass explicitly direct and indirect GHG emissions, including, where significant, emissions from the indirect effects of the project (e.g. induced deforestation).
15. **Health Risks.** Management is pleased that the Panel welcomes the inclusion in ESPS 1 of risks associated with pandemics, epidemics and transmission of communicable diseases that may be caused or exacerbated by project activities. Management agrees with the Panel recommendation for the ESPF to be more explicit about the relevance of Health Impact Assessment (HIA) in certain circumstances. A reference to HIA has been added in ESPS 1.
16. **African descendants and traditional peoples.** Management is pleased that the Panel considers that the various additions in the draft ESPF to include these populations cover an important gap identified in the first draft. In order to further strengthen the protection of African descendant communities, irrespective of their formal recognition under national laws and regulations, the following new paragraph on African descendant population has been added in ESPS 1 in replacement of the footnote 119 in ESPS 7: *"For projects with adverse impacts to African descendants, the Borrower is required to: (i) engage project-affected African descendant people and communities in a process of culturally appropriate ICP; and (ii) propose and implement culturally appropriate measures to avoid or minimize risks to and adverse impacts throughout the project's life cycle. The Borrower will also ensure that the collective rights of African descendants, as recognized by national laws or applicable international law, are fully respected"*.
17. **Oceans.** Management agrees with the Panel's view that sustainability of oceans is a critical issue of concern that should be specifically included in environmental and social impact assessments, where relevant. ESPS 6 objective has been modified to include terrestrial, freshwater, coastal and marine biodiversity.
18. **Environmental and human rights defenders.** Management recognizes the cost that [environmental and human rights defenders](#) have to bear for demanding similar requirements as those laid out in the ESPF. The IDB does not tolerate retaliation, such as threats, intimidation, harassment, or violence, against those who voice their opinion or opposition to an IDB-financed project or to the Borrower, and this position has been incorporated in a new paragraph³ of the

³ "The IDB does not tolerate retaliation, such as threats, intimidation, harassment, or violence, against those who voice their opinion or opposition to an IDB-financed project or to the Borrower. The IDB takes seriously any credible allegations of reprisals. When complaints of this nature are raised to the IDB, the IDB works to address them with the involved parties, within the scope

Policy Statement. ESPSs 1, 2, 9 and 10 also include specific references to the effect that Borrowers must develop and implement stakeholders engagement processes and grievance mechanisms free of retaliation, and fear of reprisal.

19. **Other issues (project-induced in-migration, non-living resources, capacity of sub-national governments, international agreements):** Management agrees with the Panel's recommendations on these issues. They will be addressed as part of the work that will continue after the ESPF is approved and before it becomes effective, such as development of the Environmental and Social Review Procedures and Guidelines for implementation of the ESPSs.

Response to the Panel's comments on specific sections of the document

20. **Exclusion List.** Management notes the Panel's favorable view on the inclusion of thermal coal mining and coal-fired power generation in the Exclusion List, which is aligned with the consensus of opinions shared by stakeholders in the public consultation process. Management is pleased that the Panel considers that the Exclusion List included in Annex 1 of the second draft ESPF addresses its previous recommendations. Management agrees with the Panel's recommendation to clarify that new or additional facilities dedicated to a coal project (e.g. dedicated transmission line) should also be excluded. This clarification has been incorporated in the Annex 1. The other Panel recommendations concerns risks of adverse impacts from project activities (impact on areas recognized as inhabited by indigenous peoples living in isolation and initial contact, projects that may remove or alter a critical habitat, adverse impact on World Heritage Sites) rather than specific project activities, and are addressed through the environmental and social assessment process under the ESPSs 7,6 and 8 respectively. The scope of exclusion of drift net fishing is aligned with the most recent policies and standards of other MFIs (e.g. EBRD's Environmental and Social Policy 2019).
21. **Policy-based Loans (PBLs).** Management agrees with the Panel's view that PBLs can have wide social and environmental adverse impacts, which should be adequately assessed and mitigated. Adverse social impacts related to specific country and/or institutional changes but not derived from changes to the environment, for example changes in tariffs or fiscal management, are better assessed using other instruments than the ones contemplated under the ESPF (e.g. an environmental and social impact assessment). Such impacts are addressed in paragraph 3.22 of the PBL Guidelines, which requires that *"The Bank should analyze whether specific country policies and/or institutional changes supported by the operation are likely to have significant impact on poverty, equity, social inclusion, gender issues and other social considerations."* The Environmental and Social Review Procedures (ESRP), to be developed after the ESPF is approved, will present a detailed PBLs Screening process including, as recommended by the Panel, critical questions that should be asked before PBLs are approved.

of its mandate. In such instances, the IDB raises its concerns directly to the Borrower or relevant party and takes follow up action, as and where appropriate." (Policy Statement, paragraph 7.2).

22. **Financial Intermediaries (FI): classification and disclosure of information.** Management agrees with the Panel's recommendation to consider subcategorization for FI. As indicated in paragraph 3.17 of the policy statement, each FI operation will receive a risk classification (high, substantial, moderate, or low). This risk classification will be reassessed throughout the project cycle and adjusted in accordance with the developments and circumstances of implementation and findings of the IDB's monitoring and supervision. Management also agree with the Panel's recommendation to clarify how disclosure requirements will apply to FIs. The following introduction was added to the last sentence of paragraph 3.24 of the policy statement: "*For all operations under the scope of the ESPF, irrespective of their classification*". After the ESPF is approved, the IDB will develop detailed procedures that specify how the Bank processes FI operations.
23. **ESPS 6, zoonotic diseases.** Management agrees with the Panel's recommendation to avoid facilitating the emergence of zoonotic diseases, particularly relevant in the current COVID-19 context. The following sentence was added to paragraph 20 of ESPS 6: "*The Borrower will avoid creating conditions that would facilitate the transmission of zoonotic diseases to workers, communities and populated areas.*"
24. **Meaningful consultation.** Management agrees with the Panel's recommendation to include a definition of meaningful consultation in the glossary. The following definition has been added: "*Meaningful consultation is a process that establishes the needs, values, and concerns of the public, provides a genuine opportunity to influence decision, and uses multiple and customized methods of engagement that promote and sustain fair and open two-way dialogue.*"
25. **Other recommended edits to specific sections of the ESPF:** Management has carefully considered all the edits recommended by the Panel on specific sections of the ESPF. Most of them have been incorporated in the new revision of the draft ESPF. Others will be addressed in the development of the procedures and guidelines.

MODERNIZATION OF THE ENVIRONMENTAL AND SOCIAL POLICIES OF THE IDB
SECOND DRAFT ENVIRONMENTAL AND SOCIAL POLICY FRAMEWORK
MANAGEMENT’S RESPONSE TO THE FINAL REPORT OF THE EXTERNAL ADVISORY PANEL OF EXPERTS

Topic	Comment	Answers
General comments		
Expectations vs Requirements	The Panel recommends that the IDB further reduces the use of conditional language (such as “the borrower may ...” or “ where feasible/possible ”). In this report, some wording suggestions are offered along these lines. However, additional adjustments are likely to be necessary to ensure that the forcefulness of the policy statement is carried through all the ESPS.	The ESPSs have been revised to reduce the use of conditional language, where appropriate. In cases where there is the need for such language, guideline documentation will clarify those nuances.
“Upstream” focus	Despite the positive additions made to the new version, the Panel believes there are still potential leverage points being missed to influence major decisions that are usually made by national government agencies before a specific project is brought to IDB for support. References to some upstream instruments, such as Strategic Environmental and Social Assessments (SESA) and Regional Environmental and Social Impact Assessments included in paragraph 3.5 of the Policy Statement are good but the language is passive and should be stronger. For instance, there is no specific indication that the early application of these tools would help inform the design of the project and reduce project-processing time. High-risk projects, cross-border projects, projects proposed in environmentally or socially sensitive areas, and framework investment projects should benefit from one or more upstream instruments as appropriate to complement the ESIA before investment decisions are made. Similarly, the	Par 3.15, which refers to technical assistance support in the context of the ESPF, has been strengthened with the following sentence: “The IDB may also offer technical assistance to implement Strategic Environmental and Social Assessments (SESA), Regional Environmental and Social Impact Assessments (RESIA), cumulative Impact assessments or other upstream instruments.”

	reference to technical cooperation in paragraph 4.8 misses the opportunity to spell out how the IDB can support the Borrower's upstream planning, using a SESA, regional or cumulative impact assessments or other upstream instruments.	
Take the opportunity to “do good” as opposed to only “do no harm”.	<p>This is one of the guiding principles for the modernization effort. Even though E&S mainstreaming is tackled in separate IDB instruments and Performance Standards are primarily born out of the concern to do no harm, the Panel believes the ESPF should mandate more opportunities to “do good”.</p> <p>The addition in paragraph 1.4 of the Policy Statement about IDB's commitment to maximizing sustainable development benefits is positive but the wording in the following two sentences should be stronger.</p> <p>The ESPF should mandate that the Borrower consider and report on alternatives to seize sustainable development opportunities beyond doing no harm. Alternative wording for last sentence: “The ESPF should mandate that, when preparing projects and conducting all assessments required by the different ESPS, the Borrower not only report on ways in which harms will be avoided, but also consider and report on ways in which project design will enhance both the social and environmental good”.</p> <p>The commitment to maximizing sustainable development benefits is not supported throughout the framework. A good start would be to add a specific objective in ESPS 1 to reflect this important principle. On the social aspects, projects should explore opportunities aside from job creation. References to access to benefits seem to be more focused on mitigation and the offsetting of negative impacts. Certainly, paragraph 17 of ESPS 7 regarding land titling of indigenous territories is a good example of doing good. But, other than a brief reference in paragraph 2, there are no concrete mandates to pursue opportunities to engage indigenous peoples as commercial, development, and/or conservation</p>	<ul style="list-style-type: none"> Paragraph 1.4 has been updated to include the following sentence: <p><i>The IDB requires its Borrowers to not only report on ways in which harms will be avoided, but also consider and report on ways in which project design will enhance both the social and environmental good. Where the environmental and social assessment of the project has identified such potential opportunities in sustainable development [...]</i></p> <ul style="list-style-type: none"> ESPS 1 and ESPS 10 on meaningful consultation have been updated to include that stakeholders can share their views on access to opportunities.

	<p>partners in projects. Similarly, ESPS 9 does not establish a mandate to pursue the empowerment of women's businesses, entrepreneurship, or leadership skills, for example. Also, in ESPS 1, paragraph 31 on meaningful consultation, stakeholders should be encouraged to express their views on opportunities and not just on concerns about risks (also relevant to ESPS 10). Opportunities exist in each ESPS to provide more explicit guidance on how to promote different social "goods".</p> <p>On the environmental side of projects, IPBES latest reports on biodiversity loss conclude that ~1 million animal and plant species are now threatened with extinction, many within decades, with the average abundance of native species in most major land-based habitats falling by at least 20%, mostly since 1900 and due primarily to: (1) changes in land and sea use; (2) direct exploitation of organisms; (3) climate change; (4) pollution and (5) invasive alien species (www.ipbes.net). In the face of such data, it is no longer sufficient to aim at simply doing no harm. For certain types of projects (in particular those related to infrastructure, extractive industries, agriculture/livestock, forestry, aquaculture, fisheries, and energy), ESPS 6 could mandate consideration of and reporting on alternatives that go beyond the aspiration of having a neutral impact and that instead seek to have a positive net impact on biodiversity and/or ecosystems.</p> <p>The IDB team should look through all the ESPS again with this lens to search for more opportunities to enhance sustainable development outcomes.</p>	
Consequences and sanctions in cases of non-compliance	<p>The Panel welcomes clarifications introduced regarding roles and responsibilities of the Bank and the Borrower and, in particular, the additions in paragraphs 3.21 and 3.23 on monitoring and supervision. Either in the ESPF or the Implementation Plan, the IDB should be more specific about how it will act when it is not satisfied with the Borrowers' environmental and social performance. A guidance note or a</p>	<p>This item will be developed in guidelines.</p>

	<p>procedure should further establish the specific steps the IDB would follow to apply corrective measures to support the Borrower to achieve compliance with the ESPS, evaluate performance, and proceed with sanctions (as outlined in footnote 25, page 11) where other means have been exhausted.</p>	
Comments on issues that are either cross-cutting or not specific to any particular Performance Standard		
Human Rights	<p>The inclusion of language regarding human rights early in the Policy Statement represents a significant step-forward for the IDB and spells out the key elements of a Human Rights Due Diligence (HRDD). This is later mentioned in footnote 12 in ESPS 1. The Panel recommends placing respect, protection and fulfillment of human rights as one of two overarching principles from which all other commitments derive (the other being enhancement of environmental well-being: see below). The Panel also suggests editing the language in paragraph 1.3 to include “internationally and regionally recognized” human rights standards.</p> <p>Language in ESPS 1 should be more prescriptive to match the strength of the policy declaration. As a general principle, the Panel recommends including a mandate for the social component of the ESIA to be carried out incorporating a human rights lens and determining the specific circumstances under which a Human Rights Due Diligence should be required. These circumstances should be broader and much more specific than IFC’s commitment² in this regard and should cover projects involving significant involuntary resettlement, influence on Indigenous, African Descendent and Traditional Peoples’ lands, investment in security provision, pre-project conflicts and displacement, and investment in contexts of post or on-going conflict, among others. In line with this, the Panel recommends doing away with the words “(W)here appropriate” in paragraph 5 of ESPF 1 (see comments on ESPS 1 further below in this document). Finally, such a mandate should be placed in the</p>	<p>Par 5 of ESPS 1 has been modified to be match the strength of the policy statement. See specific comments on ESPS 1, below.</p>

	main text instead of a footnote and a guidance note should outline how these assessments will be carried out.	
Gender.	<p>Clearly a step forward, the new version of the proposed ESPF has explicitly included language to cover all genders and address gender identity aside from sexual orientation. It may be helpful to also provide definitions of sex and gender and gender identity for those who may not be aware of how these terms are being applied in this policy framework.</p> <p>It is also important to include a definition of gender-based violence (GBV) that is expanded to include sexual and gender based violence (SGBV), one that is comprehensive of the wide range of vulnerabilities due to gender, sex and sexual exploitation, especially as this clarifies the inclusion of sexual harassment, abuse, exploitation, human trafficking, and exposure to sexually transmitted diseases (as indicated in paragraph 12) and other forms of exploitation that may occur as a result of a person's self-defined sexual orientation. The addition of sexually transmitted diseases as a component of sexual and gender based violence is supported by the findings of the International conference on population and development ICPD POA, Cairo, 1994: the social and economic disadvantages faced by women make them more vulnerable to sexually transmitted infections, including HIV, for example, by their exposure to the high-risk sexual behavior of their partners, the symptoms of infections from sexually transmitted diseases are often hidden, making them more difficult to diagnose than in men, and the health consequences are often greater.</p> <p>The panel recommends the following definitions to be appropriately included to support ESPS 9 and to inform the interpretation of sex, gender and gender identity as it is applied throughout the policy framework. Sex" refers to the biological differences between males and females, such as the genitalia, physical and genetic differences. "Gender" refers to the ascribed and expected roles of a male or female in society, known as a gender roles, or an individual's concept</p>	<ul style="list-style-type: none"> • The Term GBV has been expanded to SGBV. • Sex, gender, gender identity, an SGBV definitions have been included in consistency with ESPS 9 language.

of themselves, or their **gender** identity. **Gender identity** refers to a person's perception of having a particular gender, which may or may not correspond with their sex at birth.

Sexual and gender-based violence (SGBV) refers to any act that is perpetrated against a person's will and is based on gender norms and unequal power relationships. It encompasses threats of violence and coercion. It can be physical, emotional, psychological, or sexual in nature, and can take the form of a denial of resources or access to them. It inflicts harm on women, girls, men and boys.

The Panel believes some of the edits to paragraph 1.3 (Fostering gender equality) are confusing and suggests the following wording: "... including gender-based exclusion; gender-based violence - including sexual exploitation and human trafficking-; and sexually transmitted diseases." Also, the definition of gender empowerment in footnote 7 should say "Gender empowerment **means...**" (instead of *is understood to mean*) and should replace the word "**while**" with "**also**" in its second sentence. Additional observations to ESPS 9 are provided below in this report.

Also, internal capacity development and guidance notes will be necessary for IDB teams to deal with challenges of implementation of certain provisions in adverse contexts. For example, this kind of challenge will emerge when IDB must "ensure the inclusion of all genders in the consultation process" (Policy Statement – paragraph 1.3 – Fostering gender equality) if the community where the development is taking place is not open and accepting of gender diversity or it is criminalized by law. Similarly, in those same situations, IDB teams must have, or be provided with, the right skills to require Borrowers "to identify diverse peoples or groups potentially affected by IDB-supported projects" (Policy Statement – paragraph 1.3 – Promoting non-discrimination and inclusion of vulnerable groups).

- We edited par 1.3 and related footnote for clarity.

	<p>The Panel welcomes the definition of intersectionality newly included in the Glossary to better understand the meaning of pre-existing language on this issue in Policy Statement, paragraph 1.3 and ESPS 9 paragraph 5. But, the word “race” in the definition should be replaced with “ethnicity”.</p> <p>As a general comment, while the inclusivity of different gender groupings and acknowledgement of the cross cutting impact of gender across the various standards are indeed welcome, the Panel signals that its frequent repetition may lead either to an unwanted creation of a victimhood status or may have an adverse effect in countries where laws criminalize the LGBTI community. Without denying the vulnerability of various gender groups, it might be convenient to avoid excessive emphasis and to note that good definitions and clear overarching principles stated upfront in the policy document should be helpful to address this concern.</p>	<ul style="list-style-type: none"> • Ethnicity is now mentioned in the definition of intersectionality. • One request of the consultation was cross referencing gender with other ESPSs. Although repetitive it emphasizes on gender aspects that should be considered across the ESPSs.
African descendants and traditional peoples	<p>The various additions in the text to include these populations cover an important gap identified in the first draft. The definition of African descendants included in the Glossary is welcome and it would be helpful to also place it in the Policy Statement and in the preamble of ESPS 5. Also, given the multiple realities in different countries and sub-regions, a guidance note may be helpful to outline how protections for African Descendants and Traditional Local Peoples should be applied, according to each context. The Panel also welcomes the definition on other traditional peoples. Traditional peoples in the content of some societies may refer to social groups who are in the political minority and have a shared ethnic or collective identity. The Panel also notes that a definition of indigenous peoples is missing from the Glossary and recommends that the definition included in ESPS 7 is either replicated or referred to in the Glossary.</p>	<p>The definition of IP is now in the glossary.</p>
International agreements	<p>The new version includes references to a series of international treaties, conventions and declarations. The IDB should consider referencing Agenda 2030, the Montevideo Consensus, approved in the 2014 UN Conference on</p>	<p>Agenda 2030 has been referenced in the policy statement (footnote in paragraph 1.3).</p>

	Population and Development, and the Convention on Violence against Women of Belem do Pará. It should also review again what regional agreements are relevant for to the purpose of the ESPS and merit explicit mention in the ESPS.	
Health risks	<p>The panel welcomes the inclusion in ESPS 1 of risks “associated to pandemics, epidemics and any transmission of communicable diseases that may be caused or, exacerbated by, project activities;...” Aside from being relevant to the COVID-19 pandemic we are suffering, it also encompasses both emerging and re-emerging diseases (such as dengue, zika, cholera) which are putting some indigenous peoples and other vulnerable populations at risk.</p> <p>The Panel recommends explicitly stating in the text that the need for economic recovery after a pandemic (such as COVID-19), an epidemic, or any sort of social or economic crisis, should not happen at the expense of the environment or local communities and should not justify wavering of all or parts of the ESPF. This is especially important as economic recovery in these cases is likely to be driven by infrastructure projects associated with interests that will lobby for relaxation of social and environmental safeguards, and access to Indigenous Peoples’ lands.</p> <p>Health impact assessment (HIA) is becoming more prevalent and important in impact assessments around the globe. They tend to be included in the Social Impact Assessment (SIA), however there may be an important opportunity in the revised ESPF to specifically identify HIA as an important factor in ESIA’s and where appropriate should be included in assessments. The inclusion of health and HIA in the ESPF and ESPS1 would bring the IDB’s framework in line with the best practices and highlight even more that sustainability is beyond just environmental, social and economic considerations, going further to include health (and cultural) factors. For many communities, “health” is not just the absence or presence of disease but can extend to other non-</p>	<ul style="list-style-type: none"> • The Bank has revised the paragraph 1.1 and 1.2 of the Policy Statement to emphasize that both the COVID-19 and the climate crisis call for more sustainable and inclusive development. • A mention to HIA has been included in footnote 12 of ESPS 1.

	<p>medical factors such as spiritual health which may be tied with cultural and/or historical dimensions. The Panel is also of the view that the inclusion of health in the ESPF is not just important for human health, but the health of communities - sometimes referred to as the wellbeing of a community. The panel encourages the IDB to further explore and consider this important latter consideration in the ESPF and ESPS1.</p>	
Climate Change	<p>The proposed ESPF adequately tackles climate change as a cross-cutting issue and covers both mitigation and adaptation measures and explicitly includes a reference to the Paris Agreement. In relation to this Agreement, it would be appropriate to explicitly mention the commitment to “Holding the increase in the global average temperature to well below 2°C above preindustrial levels and pursuing efforts to limit the temperature increase to 1.5°C above pre-industrial levels”. Additional emphasis could be made across the Standards to match the reference to climate resilience made in paragraph 1.3 of the Policy Statement. Also, it should mandate that all new infrastructure projects be assessed under a climate resilience lens and in terms of associated direct and indirect GHG emissions (see comment on paragraph 8 of ESPS 3).</p>	<ul style="list-style-type: none"> • ESPS 4 contains the requirements to assess for climate resilience. These will be developed further in guidelines.
Project-induced in-migration	<p>Aside from very brief references in paragraph 12 of ESPS 4 and paragraph 19 of ESPS 2, there is no mention of project-induced in-migration in the policy statement or any of the ESPSs. In-migration can be a very important and significant impact of a project or development in general. The IFC has a guide on how to address and manage it. The Panel recommends this potential issue is acknowledged in both in the policy statement and ESPS 1 and 2.</p>	<ul style="list-style-type: none"> • In-migration is a risk considered under ESPS 4. Migrant workers are also covered under ESPS 2. These requirements will be further developed in guidelines.
Non-living resources	<p>While conservation and sustainable use of living organisms is captured across the ESPF, treatment of non-living resources is left to ESPS 1. Considering how important these resources have become in the construction, infrastructure and technology supply chains, it seems appropriate to include specific wording to promote their responsible use. For instance, ESPS 3 could require that sand and other material inputs for infrastructure investments are sourced in ways</p>	<ul style="list-style-type: none"> • Raw materials are considered under ESPS3. This will be further developed in guidelines.

	that are sustainable and do not cause environmental and social harms.	
Oceans	<p>While water management is covered, the sustainability of oceans seems to be missing. The ocean plays a critical role in our climate system as it sequesters carbon, but it is significantly impacted by climate change, ocean acidification and ill-conceived offshore infrastructure projects, among other threats. Some critical alterations with deep consequences include sea-level rise, increased intensity of storms, changes in ocean productivity and resource availability, disruption of seasonal weather patterns, loss of sea ice, altered freshwater supply and quality. Coastal areas are vulnerable to sea level rise and disruption of local communities and industries. Mangroves are very important for carbon storage, protection against storm surge, and serve as nurseries for fisheries, which are being depleted by uncontrolled large-scale commercial fishing. These changes are happening at an unprecedented rate. Mitigation and adaptation are needed to address threats to the ocean and the lives that depend on it.</p> <p>Though this would be sector specific, it is an issue of concern that should be specifically included in assessments in ESPS1 (in terms of the needs to assess impacts on oceans generally) and in ESPS 6 (in terms of impacts on living natural resources).</p>	<p>ESPS 6 objective has been modified to include <i>terrestrial, freshwater, coastal and marine</i> biodiversity. Associated requirements by type of ecosystem will be further developed in guidelines.</p>
Capacity of sub-national governments	<p>The Panel would like to highlight the importance of strengthening the capacity of regional and local governments, which are often ill-equipped to properly monitor and supervise the application of environmental and social protections and recommends this is included in the Implementation Plan.</p>	<p>Strengthening environmental and local governance is a key aspect to achieve environmental and social sustainability. The ESPF states IDB's commitment and support to Governments in this task in paragraph 1.4. The Implementation Plan will consider training aspects to executing agencies and the Bank will continue its work on mainstreaming environmental and social sustainability at national, local and sectorial levels.</p>
Environmental and human	<p>The Panel notes that, while this new ESPF marks clear advances in comparison with prior standards, it is being prepared at a time when environmental and human rights defenders in Latin America who demand the same</p>	<ul style="list-style-type: none"> The ESPF reflects IDB's commitment to ensure there is no retaliation against those who voice their opinion against an IDB-financed project or the Borrower. The IDB is joining

<p>rights defenders</p>	<p>requirements as those laid out in the ESPF are often subjected to intimidation, criminalization, violence and murder. As such, the Panel believes that both the Policy Statement and several ESPSs should lay out requirements of IDB and the Borrower, respectively, in the context of IDB financed projects, to ensure adequate measures against retaliations and for the protection of the rights and freedoms of these defenders, including protecting them from violence by third parties. The Panel recommends that the IDB identify a specialist to look into the issue and come up with recommended wording for inclusion in the Policy Statement and in the ESPSs, especially ESPS 1.</p>	<p>the IFC (2018), and recently World Bank (2020), which also have established commitments against retaliation. For clarity, a definition of reprisals has been included in the glossary.</p>
<p>Comments on specific sections of the document</p>		
<p>Policy Statement</p>	<p><u>IDB's commitment to environmental and social sustainability</u> Paragraph 1.3 (Building climate change resilience and minimizing greenhouse gas (GHG) emissions). Where it says, "(t)he IDB will not finance projects that, according to its analysis, would increase the threat of loss of human life, significant human injuries, severe economic disruption, or significant property damage related to natural hazards and climate change.", the Panel recommends including a reference to risks to biodiversity and ecosystem services.</p> <p>Paragraph 1.3 – Promoting non-discrimination and inclusion of vulnerable groups: "immigration status" should be listed among the characteristics mentioned in the first sentence.</p> <p>Paragraph 1.5 – The Panel recommends the following edit: "The IDB will only support projects that meet the ESPF's standards in an acceptable manner and timeframe." The reference to "in an acceptable manner and timeframe" brings unnecessary ambiguity to an otherwise very clear statement.</p>	<ul style="list-style-type: none"> • Biodiversity and ecosystem services are covered under the next bullet. • Par 1.3 has been updated to include national or social origin. • The ESPF functions in an outcome-oriented framework. This language keeping "in an acceptable manner and time" is there to avoid misinterpretations that projects need to meet the ESPSs at time of approval, which is not realistic.

<p>Policy-based loans (PBLs)</p> <p>Limiting the analysis of social aspects of a PBL to those “derived from geophysical and biotic changes associated with a particular operation” (paragraph 4.7) is a significant weakness of the ESPF. PBLs can have wide social and environmental impacts and there is no clear reason not to assess and mitigate them. The Panel recommends an explicit statement about the need to ascertain social impacts of PBLs, such as outlining a series of critical questions that should be asked before PBLs are approved and/or including or paraphrasing paragraph 3.22 of the PBL guidelines (as noted in the summary of consultations matrix document on the point of PBL).</p>	<p>No changes</p>
<p>Roles and responsibilities</p> <p>Paragraph 3.3 – There are possible situations in which “less stringent levels or measures than those provided in the World Bank’s EHSG are necessary” and a process for this is determined in paragraph 5 of PS3. More detailed guidelines will be needed to reflect the realities of countries in which IDB works.</p> <p>Paragraph 3.8 Monitoring and Supervision: “The extent of monitoring should be proportionate to the project’s environmental and social risks and impacts.” Guidance notes should specify procedures to ensure uniformity in the application of this notion of “proportionate monitoring” across all loans.</p> <p>Paragraph 3.16 (d): Categorization: The IDB should consider subcategorization for FI and detail procedures in guidance notes or another document that specifies how IDB processes FI projects.</p> <p>Paragraph 3.19. The Panel applauds the clarity of the statement in the final sentence regarding FPIC for indigenous peoples and suggests replacing the verb “ascertain” with “verify”. The Panel recommends that the IDB clarifies</p>	<ul style="list-style-type: none"> • Par 3.3, 3.8, 3.16 comments will be developed in guidelines. • Par 3.19 has been modified with the suggestion • Par 3.23 was modified to clarify that it refers to the project’s closure. • Par. 3.24. To clarify, the following sentence was added to para 3.24: “<i>For all operations under the scope of the ESPF, irrespective of their classification final or updated documentation, including any new or additional social and environmental assessment report or management plan developed after project approval, will also be disclosed when available.</i>”

	<p>whether the refusal of peoples to participate in FPIC processes will be considered an act of non-consent to the project.</p> <p>Paragraph 3.23. “A project will not be considered complete until the measures and actions set out in the legal agreement (including the ESAP) have been implemented.” This sentence should be revised for clarity. As it stands, it could be read that obligations last beyond the life of the loan even after the IDB is fully paid back. Is this what IDB means?</p> <p>Paragraph 3.24.- Information disclosure. Reference is made to projects A and B but no reference to FI. Please clarify.</p>	
	<p>Grievance Mechanism</p> <p>Paragraph 7.2: The Panel recommends adding in the final sentence “...taking into account the safety and security of the complainants as a matter of priority.”</p> <p>Project-related documentation and arrangements Paragraph 8.1- The Panel recommends adding a final sentence to say: “IDB will be guided by public policy considerations, in addition to commercial considerations, in its pursuit of legal remedies.”</p>	<ul style="list-style-type: none"> • Par 7.2 has been modified • Par 8.1. No change.
	<p>Policy Review</p> <p>Paragraph 9.1 – The Panel recommends specifying the time-period (in years) for the policy review cycle (by adding “normally within X years”) and establishing how frequently (every 6 to 12 months) the Board will receive a progress report to make the necessary adjustments</p>	<ul style="list-style-type: none"> • Par. 9.1. No change.
Exclusion list	<p>Coal. The Panel is pleased to see Thermal coal mining or coal-fired power generation in the Exclusion List and suggests adding associated facilities that are essential to the viability of the coal project (e.g. the construction and/or operation of a dedicated transmission line to connect a coal-fired plant to the grid).</p>	<ul style="list-style-type: none"> • We added associated facilities to the exclusion of thermal coal mining and coal-fired power generation.

	<p>Indigenous peoples living in isolation and initial contact. The Panel reiterates the suggestion to add an exclusion to projects that are likely to impact areas recognized as inhabited and used by indigenous peoples living in isolation and initial contact. ESPS 7 paragraph 13 should be adjusted accordingly.</p> <p>Critical Habitats. Given recent reports of the IPBES on biodiversity loss mentioned above and forecasts of future trends, the Panel recommends adding an exclusion to projects that may remove or alter a critical habitat recognized by a national or international body as important for the survival of critically endangered species or critical for identified ecosystems. ESPS 6, paragraph 3.17 and 3.18 should be adjusted accordingly.</p> <p>World Heritage Sites (WHS). The Panel recommends adding an exclusion of projects in World Heritage Sites, unless there is consensus between UNESCO and the host-country government that the proposed activity / project will not adversely affect the natural, cultural and spiritual value of the site and FPIC has been obtained (as described in ESPS 7, paragraphs 20 and 21) if the WHS is recognized as of cultural and spiritual importance to indigenous peoples. ESPS 8, paragraph 13 should be adjusted accordingly.</p> <p>Drift net fishing. Considering the importance of sustainable management of oceans, the Panel would like to understand the rationale for retaining the outdated reference to 2.5-km length of drift nets, based on the 1991 UN ban, and suggests that this is revised downwards based on the most recent scientific knowledge available.</p>	
Environmental and Social	<p>ESPS 1 The Panel would like to reiterate here its recommendations to add an objective to identify opportunities to maximize potential benefits and mandate that the Borrower considers</p>	<ul style="list-style-type: none"> • ESPS 1 on meaningful consultation has been adjusted to include “access to opportunities”

<p>Performance Standards</p>	<p>and reports on possible sustainability opportunities, those which seek to do good, beyond doing no harm.</p> <p>Paragraph 5:</p> <ul style="list-style-type: none"> - The Panel recommends inclusion of the following sentence into paragraph 5: “The Borrower’s ESMS should start with an Environmental and Social Policy, which is a brief description of an organization’s commitment to sustainable development and management of E&S issues. This is often publicly disclosed and always communicated internally. The E&S Policy will often be complemented with procedures that will outlines how the organization addresses E&S and sustainability issues as part of its operations.” This could be a separate sentence (included as the second sentence), or it could be included with the list of ESMS components. - “Where appropriate, the Borrower will complement its environmental and social assessment with further studies focusing on specific risks and impacts, such as human rights, gender, and natural hazards and climate change.” The Panel would like to stress that these issues are headlined on pages 1 to 4 of the policy statement. Consistent with our recommendation on Human Rights above, the Panel recommends rewording this paragraph so that these and other issues also headlined in paragraph 1.3 of the Policy Statement are generally assessed across ESIAs and the ESPF determines the specific circumstances in which additional studies will be requested. <ul style="list-style-type: none"> • Paragraph 6: Replace “policy” with “this ESPF” in “will ensure conformance with the policy.” <p>Paragraph 12: “These include master economic development plans, country or regional plans, feasibility studies, disaster and climate change risks studies, alternatives analyses, and cumulative, regional, sectoral, or strategic environmental assessments where relevant.” In line with our</p>	<ul style="list-style-type: none"> • Par 5. We departed from the IFC on the requirement of a Borrower’s E&S Policy because it was confusing in the public context (Policy may have different implications than for a private entity). Public entities abide by national environmental and social institutions, systems, laws, regulations and procedures. • Par 5. (new par 6) Last sentence has been rewritten with the following text: <p><i>“ The Borrower will consider risks and impacts related to human rights¹, gender, and natural hazards and climate change throughout the assessment process. Where appropriate, the Borrower will complement its environmental and social assessment with further studies focusing on those specific risks and impacts.</i></p> <p>In addition <i>A requirement for human rights due diligence is most likely to be appropriate where the nature of the project or its operating contexts pose significant risk to human rights, such as in contexts of post or on-going conflict. “</i></p> <ul style="list-style-type: none"> • Par. 6. Reference to the policy was deleted. • Par. 12. No change.
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<p>recommendation above to seize opportunities to do good beyond doing no harm, ESPS 1 should specify how they would inform project design and speed up project-processing times; in addition, ESPS 1 could mandate the use of one or more instruments under circumstances specified above.</p> <p>Paragraph 15: Where it says, “The programs may apply broadly across...”, the Panel recommends replacing “may” to “shall” or “will”, as contractors often fail to properly implement EMPs. A commitment for all who work on the project to comply with the conditions of the project approval needs to be in place and a compliance mechanism established.</p> <p>Paragraph 20: In relation to involvement of external experts, current wording of the ESPF suggests that expertise will only be required in the assessment phase. The Panel recommends also including participation of experts during monitoring of the operations phase, where risks are uncertain and may not be well-known.</p> <p>Paragraph 33: In line with the observation made in Section on cross-cutting issues in this report, the inclusion of the word “gender” in points (i) and (ii) regarding informed consultation and participation does not seem to add much. Would the meaning of the two points be all that different if "gender" was not included?</p> <p>Paragraph 36. – Borrowers should be required (not encouraged) to make publicly available reports on their environmental and social sustainability. This would ensure alignment with paragraph 38 below.</p>	<ul style="list-style-type: none"> • Par 15. “May” has been replaced with “will” • Par 20. Monitoring has been added to the paragraph. • Par. 33. The words “all genders’ are relevant to ensure an inclusive process. We have modified the sentence to “ the views of people of all genders” to clarify this point. • Par 36. Reports on their environmental and social sustainability referenced in par 36 are at the corporate level, not at the project level as the ones mentioned in par 38.
<p>ESPS 2</p> <p>The Panel believes that the inclusion of the ILO Declaration on Fundamental Principles and Rights at Work is helpful;</p>	

<p>objectives (particularly the first and last ones) have improved; the requirement of a dedicated grievance redress mechanism for workers is positive; and the addition to paragraph 4 leaves no doubt about coverage of the ESPF.</p> <p><i>Child labor:</i> Paragraph 23 – The Panel would like to propose an alternative wording for this paragraph. “The Borrower will not employ children below the minimum age of employment or engagement, which will be the age of 15 unless national law specifies a higher age. Children over the minimum age will not be employed or engaged in any manner that is economically exploitative, or is likely to be hazardous or to interfere with the child’s education, or to be harmful to the child’s health or physical, mental, spiritual, moral, or social development. Children under the age of 18 will not be employed in hazardous work. The Borrower will identify the presence of all persons under the age of 18. All work of persons under the age of 18 will be subject to an appropriate risk assessment and regular monitoring of health, working conditions, and hours of work. Where national laws have provisions for the employment of children under the age of 18, the Borrower will follow those laws.”</p> <p>Also, similar to provisions regarding forced labor, the Panel Recommends adding a line to say: “If child labor cases are identified, the Borrower will take appropriate steps to remedy them.”</p> <p><i>Occupational health and safety:</i> Paragraph 25 (ii) The Panel suggests adding “radiological substances.”</p>	<ul style="list-style-type: none"> • Par. 23. Agreed. • Radiological substances are included in hazardous substances. This could be clarified in guidelines.
<p>ESPS 3 There is a case to be made for putting emissions in title of Standard, given that it is a policy commitment upfront in Paragraph 1.3 of the Policy Statement. Thus: “Resource Efficiency, Emissions Reduction and Pollution Prevention.”</p>	<ul style="list-style-type: none"> • The minimization of emissions is a matter of pollution prevention with positive climate change related effects.

	<p>Paragraph 13 – Hazardous materials. Language should be strengthened from “should be assessed” to “must be assessed”.</p>	
	<p>ESPS 4</p> <p>Community health and well-being. There is no discussion of community "well-being" in the policy or ESPSs. While attention is paid to individual's health, the community as a whole can be impacted by a development. Could the IDB consider how to include a reference to the importance of community well-being in the policy and/or ESPS1?</p> <p>Risks to projects (paragraph 1, third objective & paragraph 4). These belong in ESPS 1.</p> <p>Paragraph 1. The Panel suggests adding in the word "adverse" before impacts.</p> <p>Paragraph 12. The Panel wonders whether an influx of project labor, especially permanent labor, can be considered as an emergency. A massive influx of casual laborers seeking work may qualify.</p> <p>The section on Resilience to Natural Hazards and Climate Change fits better in ESPS 1, unless a closer connection is made to community safety from natural hazards caused by the project. And in connection with this, the Panel would</p>	<ul style="list-style-type: none"> • Provisions to ensure community well-being may be prove difficult to implement, due to the broad nature of the concept. • Risks to the project are connected to the community health and safety as stated in ESPS 1. • Para 1: Agree. • Para 12. This sentence has been modified to specify that emergencies include disease outbreaks. • The IDB considers that, although risks to the project will also fit under ESPS1, both type of risks (to the project and exacerbated by it) should be analyzed together. Therefore, the best placement is under ESPS4. We also believe that any risk from natural hazards to the project may impact

	<p>encourage the IDB to highlight that, often, events termed natural disasters are actually human caused or worsened and ask borrowers to mitigate these risks.</p> <p>Panel Recommendations on Security Personnel:</p> <ul style="list-style-type: none"> - It would be appropriate to follow IFC's example in their paragraph 13 and retain the differentiation between public and private security forces, if legislation in some countries in which IDB invests does not allow for private security companies to be contracted. - This section should say more about ensuring that security personnel do not create risk and vulnerability for local communities in their out of work hours, with particular emphasis on gender-based violence. - Paragraph 15, The final sentence on grievance mechanisms should explicitly require anonymity and personal safety for complainants. - Training in Human Rights for security personnel should be mandated. - Observation of Voluntary Principles on Security and Human Rights should be mandated when a private company is hired to offer security services. 	<p>the lives of project-affected people either physically or in terms of access to benefits.</p> <ul style="list-style-type: none"> • The term "natural disasters" has been replaced to "disasters related to natural hazards" across the document. • Recommendations on security personnel will be developed in guidelines.
ESPS 5		

<p>This standard originated with a rural condition in mind whereas the modern resettlement occurs in varied set ups, and increasingly peri-urban or urban. The coordination with local government in the case of urban resettlement is key and can present a major opportunity to contribute to improved standards of living for the resettled people and also the city to improve its services and infrastructure.</p> <p>MDBs' resettlement policy needs to evolve in this direction. Guidance notes could expand on the difference between rural and urban resettlement procedures</p> <p>Community engagement - Paragraph 10. The footnote on obtaining women's perspectives is substantive enough to be moved up into the text.</p> <p>Paragraph 20. "Existing social and cultural institutions of the displaced persons and any host communities will be respected". The Panel would like to ask if this sentence only refers to the need to respect forms of governance and cultural organization or if it also means that the Borrower will be required to replace community buildings or assets (such as schools, community halls, or places of worship).</p>	<ul style="list-style-type: none"> • Agree. Guidelines will differentiate between rural and urban resettlements. • Agree. The following text was added: "Existing social and cultural institutions of the displaced persons and any host communities will be respected, <i>and community assets (e.g. schools, community halls, places of worship) adequately replaced</i>"
<p>ESPS 6</p> <p>Some indirect impacts of projects include deforestation, degradation of natural habitats, over-hunting and wildlife trade. Opening new roads and the transit of new people into natural areas may encourage the dissemination of invasive fauna and flora species that alter natural habitats significantly. In addition, wildlife trafficking may trigger the development of zoonotic diseases while deforestation and stagnant bodies of water can host a myriad of diseases (eg. dengue, malaria, etc.). The Borrower should take measures to avoid creating conditions that may allow the transit and establishment of invasive alien species including viruses and harmful bacteria into populated areas.</p>	<ul style="list-style-type: none"> • Indirect impacts are explicitly included in the scope of the assessment. This will be further developed in guidelines. • Agree. The following text was added to par 20 <p><i>" The Borrower will avoid creating conditions that would facilitate the transmission of zoonotic diseases to workers, communities and populated areas."</i></p> <ul style="list-style-type: none"> • This will be further developed in Guidelines.

	<p>In line with our recommendation on ESPS 5, paragraph 9, the Panel believes it is important to include a minimum flow requirement for hydro projects.</p>	
	<p>ESPS 7</p> <p>The panel recommends reiterating the definition of African descendants included in the Glossary in the preamble of ESPS 5.</p> <p>The definition of “consent” and the clarity of the scope of application of the FPIC requirement, along with wording in paragraph 3.19 of the Policy statements are important improvements. A guidance note may be necessary to further spell out the details of how this will be assessed.</p> <p>Panel’s recommendations to paragraph 2:</p> <ul style="list-style-type: none"> - “Indigenous Peoples may play a role in sustainable development by promoting, owning, and managing activities and enterprises as partners in development.” This is an important positive statement and this ESPS should expand on it. It should also be included as an objective of the ESPS. - Eliminate “may” or add “often” before “by promoting”... - Footnote 119 on African descendants is better placed in paragraph 5. <p>Paragraph 8. “The Borrower will respect the rights of indigenous peoples and individuals as established in the applicable legal norms according to their relevance to Bank operations.” The Panel does not understand the meaning of this paragraph and believes it should be eliminated or rewritten.</p> <p>Paragraph 11 makes a positive inclusion of trans-border indigenous migration but footnote 123 seems to be misplaced.</p>	<ul style="list-style-type: none"> • Not necessary. ESPF works as an integrated framework and definition already included in glossary. • Agree. Guidelines will contain details on FPIC. • Indigenous Peoples’ role in sustainable development is emphasized in the Policy Statement • Agree. • Footnote was deleted from ESPS 7. A specific paragraph on African descendants has been inserted in ESPS 1. • This paragraph was reinstated from the current policy with the principle of no dilution in mind. The paragraph has been rephrased as follows: <i>“The Borrower will respect Indigenous Peoples and individuals’ rights as established in applicable legal norms, which include national legislation, customary laws, and international laws applicable by virtue of their ratification.”</i> • Footnote has been positioned in par 9.
	<p>ESPS 8</p> <p>Equitable sharing of benefits from the use of cultural sites is an objective of the ESPS but it is only addressed in paragraph</p>	<ul style="list-style-type: none"> • Details on good faith negotiations will be further developed in guidelines.

<p>15. It mandates good-faith negotiations but refers to an Information and Consultation Process (ICP) as outlined in ESPS 1. Negotiation and Consultation are different decision-making processes in nature. The paragraph should spell out more clearly what “good-faith negotiations” means and what happens if there is no agreement at the end of it.</p> <p>Also, the Panel recommends covering the spiritual aspects of natural resources in this ESPS and that the implementation Plan includes training in intercultural knowledge and skills for the IDB project teams and for the Borrower.</p> <p>A guidance note should detail how to proceed when chance archaeological finds occur.</p>	
<p>ESPS 9</p> <p>In addition to the specific suggestions and edits noted above in this report and those outlined below under ESPS 9, the Panel recommends -due to the cross cutting nature of gender as a variable across all social and economic sectors and based on the incremental changes that have been consistently added throughout the consultative process- that this ESPS requires alteration and streamlining with the other standards in this policy document.</p> <p>Paragraph 2 makes an important distinction between equality and equity, terms that are often confused or misused as synonyms.</p> <p>Fourth objective: Where it says, “To prevent exacerbation of gender-based violence”, the Panel recommends changing to “prevent gender-based violence”.</p> <p>Paragraph 1. Repeat Gender equality instead of “It is”.</p> <p>Paragraph 5 and 13 are the same. The Panel recommends deleting paragraph 13.</p>	<ul style="list-style-type: none"> • Streamlining with other standards is spelled-out in paragraph 8. • Agree. • Agree • Agree • Par 13 refers to the requirement of intersectionality in the Gender Analysis. • Agree

<p>Paragraph 7. The Panel recommends replacing “likely exist” with “are likely to exist.”</p> <p>Paragraph 9. The Panel finds the wording of the second sentence confusing and weak and suggests rewriting.</p> <p>Paragraph 11 – Among the aspects to consider in the Gender analysis, the Panel recommends including a specific reference to project design and implementation (e.g.. public transportation projects that should take women’s needs into account)</p> <p>Paragraph 12: Where GBV risks are identified, a reference to “restitution” should also be included. The Panel recommends giving further consideration to this input from the consultation process: “The IDB should 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.”</p>	<ul style="list-style-type: none"> • Par 9 calls for the application of the ESPS 9 without contravening national laws • Covered in para 12. • These nuances will be further developed in Guidelines.
<p>ESPS10</p> <p>The Panel believes the text should determine more specifically what “meaningful” consultation means and that a guidance note outlines who will decide if a consultation has been meaningful and how that assessment is made. The Panel recognizes that this may be difficult, and may differ from one project to the next. However, some guidance would still be helpful. The IDB may have a definition that they wish to include, but here are two for their consideration:</p> <ul style="list-style-type: none"> - Meaningful public participation is a process that “establishes the needs, values, and concerns of the public, provides a genuine opportunity to influence decision, and uses multiple and customized methods of engagement that promote and sustain fair and open two-way dialogue.” (John Sinclair, University of Winnipeg) - “A meaningful participation process needs to have the inherent potential to influence decisions made throughout 	<ul style="list-style-type: none"> • Agree. The following definition has been added: <p><i>Meaningful consultation is a process that “establishes the needs, values, and concerns of the public, provides a genuine opportunity to influence decision, and uses multiple and customized methods of engagement that promote and sustain fair and open two-way dialogue.</i></p>

the assessment, provide inclusive and accessible opportunities for early and ongoing engagement from the public and Indigenous Groups, and provide the capacity required for active participation in the engagement.”

Consistent with our recommendation to search for more opportunities to do good, stakeholders should be encouraged to express their views on opportunities for social and environmental improvements, and not just on concerns about risks.

Paragraph 8. Grievance mechanisms should also allow for stakeholders to present their suggestions and feedback, which should also be responded to.