

Environmental and Social Standards Task Force (ESSTF)

Sixth Meeting – June 11, 9:00 am EDT

Attendees:

Charles di Leva (Chief Counsel, Environmental and International Law Practice Group, the World Bank)
Scott Lampman (USAID)
Sean Nazerali (BIOFUND, Mozambique)
Mirjam de Koning (PONT)
Laura Werner (Blue Action Fund)
Boris Schinke (KfW)
Karen McDonald-Gayle (CBF)
Kumar Bhattacharyya (CFA Secretariat)
Kathy Mikitin (Individual, Task Force facilitator)

Minutes of May 28 Meeting

Comments were received prior to the meeting from Scott Lampman, Mirjam de Koning, and Boris Schinke and incorporated into the draft. The revised minutes were approved.

Discussion with Charles di Leva

Charles had received a briefing note that presented each of the members of the Task Force, the objectives and considerations of the TF's work and several questions from TF members to help him understand the context of our work.

He explained the relationship of the World Bank's news standard to the performance standards of the IFC and that the Bank's new standards were broader and added several new issues. .

He saw possible similarities between the approach of financial intermediaries (FIs) and CTFs.

One useful tool of FIs is a negative list of environmental or social issues (essentially highly problematic issues such as involuntary resettlement, construction in a critical habitat, etc.) that grantees can assert are not associated with in their projects.

CTFs will need to have staff who understand what standards are and should benefit from training. He pointed to the training course now available on the World Bank website.

Three areas that have received more attention from the World Bank as well as in the soon to be issued revised standards of the EBRD and IDB:

- Labor and working conditions. These follow ILO principles that *inter alia* require workers to have written confirmation of their employment arrangements for

responsibilities, pay and a mechanism to which they can report problems. These apply to not only the recipients of funding, but to employees of the FI (or CTF).

- A grievance mechanism that now is intended to respond to any issue that can arise across the entire range of standards (including sexual abuse and harassment). This would be a local, independent mechanism.
- A concept of stakeholder consultation that goes beyond involvement at the design stage and stresses that there is consultation throughout the project. It is now a requirement to have a stakeholder plan that shows how engagement will continue through project implementation.

Questions: The point was made by TF members that CTFs are smaller than FIs both in terms of resources and the grants they make. There needs to be a simple way to initially identify the risks, possibly through building on assessments already performed and/or national standards.

Do CTFs have to achieve the full system from the beginning by following the path of other organizations or can they start simply and increase the coverage of their ESMS over time. What could simple look like?

Response: Charles responded that if what we are doing is supplemental to what is already going on because of donor involvement that requires E&S safeguards, the CTF can “work off of it”. It is when there are unknowns from differences in scope, geographical area that the heavier requirements are needed. The following can be considered:

- CTFs can be strategic with their assessments.
- Legal agreements with grantees can make sure they don’t undertake activities they can’t handle.
- Support that invokes a low risk category could mean that national level laws only are invoked, again by establishing the low risk (grantee’s asserts that the project will not degrade habitat or not operate on a riverbank creating erosion...). This is much easier for environmental risks.
- The social risks may be more difficult, and are present in even small projects. The Bank has a greater awareness that even simple projects that would not seem to have risks, have them. It is not the project per se, but the context that has risks associated. Projects are no longer classified A, B or C, but the risk context is rated low, moderate, high, etc.
- Up front investment in stakeholder engagement may be a way to start simple. Consultations are easily documented.

Question: Building the best of systems is desirable, but how can CTFs ensure that implementation is consistent? Operations that are global (such as those of the Blue Action Fund) present a special challenge since onsite visits by staff would be too resource intensive.

Response: The Bank requires its staff to make visits several times a year, but when that is not possible, use of third parties is considered. These can be reputable civil society groups or UN partners on the ground. Drones have also been used to monitor construction. It should be noted that the Bank asks the project to cover the cost.

Grievance systems are a key element of any ESMS. To design these and possibly lower cost, there needs to be a good understanding of what exists at the local level.

Question: How should the sphere of influence be defined? If a CTF is doing small infrastructure in a park such as a ranger station, but no involvement in the more complex issues associated with park management, is the duty of care limited to the CTF's own project or must it include all that is going on.

Response: The principle of associated facilities¹ can be applied. The old way of looking at this was that E&S safeguards needed to be applied to the project and any ancillary activities. That has now changed to a narrower concept of responsibility that applies the associated facilities tests.

Question: Rather than activities in parallel, does the duty of care apply when the implementing entity is carrying out high risk activities as part of PA management since the CTF-financed project would enable park management?

Response: Absence of legal association between the high risk and CTF-financed activities would argue that the two are separate. However, there is potential reputational risk from supporting an entity that could get itself into difficulties through its practices.

Questions: Have there been reviews of national ESMS that conclude on whether they are sufficient robust and can thus be relied on? Could risk scans based on existing EIA, EIS or other studies substitute for doing assessments?

Response: Programmatic lending could have reviews of national or local systems and could be useful sources of information. Human rights reports could also identify tools.

Question: CTFs may support PAs or given small grants in the \$20,000 range, with some up to \$300,000. In all cases, proportionality and scale of CTF operations are much below that of the World Bank or most other donors. The cost of doing full-blown consultations or assessments could exceed the value of the grant the CTF is giving, for example a \$20,000 grant.

¹ World Bank Environmental and Social Framework Glossary: "Associated Facilities means facilities or activities that are not funded as part of the project and, in the judgment of the Bank, are: (a) directly and significantly related to the project; (b) carried out, or planned to be carried out, contemporaneously with the project; and (c) necessary for the project to be viable and would not have been constructed, expanded or conducted if the project did not exist. For facilities or activities to be Associated Facilities, they must meet all three criteria."

Response: Scale is important and the proportionality argument is valid. It may also depend on just how many grants of that type will be given out. The analysis may want to look at equitable distribution. Understanding national and local systems is key. A big lesson for the Bank has been the value of a well-functioning grievance mechanism which is a safety valve when things go wrong. In cases where there have been problems, it was because local communities had no place to go when things go wrong.

The Bank has made available tools to help teams through a series of practice notes that are available through the web site.

Where do we go from here?

Ideas for future input to work of the Task Force:

Follow-up on survey responses that were not clear and discussions with CTFs that responded with offers to look at their ESMS.

CI's Critical Ecosystem Partnership Fund (CEPF) ESMS which has guidelines, templates and reporting tools <https://www.cepf.net/grants/before-you-apply/safeguards> . There is even a report of their experience through 2015 : <https://www.cepf.net/sites/default/files/safeguards-report-low-res.pdf> Michael McGreevey had intended to join the TF, but was not able. He would no doubt be willing to talk with us about CI's experience.

Boris also alerted us to the extensive work that KfW has done with IUCN on adapting WB standards specifically for PAs. A series of guidance notes similar to those mentioned by Charles di Leva are being developed for PAs. Currently have a serious incident template, grievance mechanism, human rights. The link to IUCN's ESMS was provided to members after the meeting: <https://www.iucn.org/resources/project-management-tools/environmental-and-social-management-system>. Boris also distributed IUCN's template and screening questionnaire. Experts who might also speak to the TF are: Linda Klare (IUCN's Safeguards expert), Michael Painter and David Wilkie (WCS) and Richard Caines (WWF Int'l).

Also following the meeting, Scott Lampman distributed a note giving his thoughts on this group's deliverables.

The next meeting will finish review of the questionnaire and decide on our approach going forward.

Next Meeting

The next meeting will take place on June 25 at 9 am EDT.