Use of Country Systems for Environmental Safeguards

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Executive Summary

This internal background paper has been prepared to help inform the 2010 Environment Strategy with respect to a proposed way forward on use of country systems (UCS). It has now been five years since the World Bank’s Board approved the launch of a pilot program to explore using a country’s own environmental and social safeguard systems, where they are assessed as being equivalent to the Bank’s systems, in Bank-supported operations. The Bank’s Operational Policy and Bank Procedure OP/BP 4.00 (Piloting the Use of Borrower Systems to Address Environmental and Social Safeguard Issues in Bank-Supported Projects) has provided the framework in which the pilots have been undertaken. Its core elements involve: (1) determining equivalence of the borrower system to the Safeguard-based “operational principles” in OP 4.00 Table A1, (2) determining acceptability of the borrower’s implementation practices, track record, and capacity, and (3) ‘gap filling’ where equivalence or acceptability fell short.

Investigation done for this paper, which included document review, focus groups, and formal and informal interviews, reveal that the original goals of UCS are still relevant. Original goals included scaling up development impact, increasing country ownership, facilitating donor harmonization, and simplifying and reducing costs. These goals are only being partially met with the present approach; however, some useful lessons have been learned from Bank experience piloting the UCS approach under OP/BP 4.00 that can be developed and carried forward.

Drawing on new understandings obtained through this investigation, it is possible to outline ways forward that will better meet UCS’ original aims and client and staff needs in the present context of external and internal change. These will require some adjustment to the existing approach. Certain changes can be phased in, and some need to happen in an integrated, coordinated way. Identified ways forward involve the need to:

1. Adopt and disseminate a broader definition of country systems for environmental performance, expanding beyond environmental assessment systems to more explicitly take into account other environmental instruments and practices (e.g. engineering codes, zoning regulations, audits, land use planning, licensing systems).

2. Adopt country and/or sector-level approaches in addition to project level approaches.

3. Orient more toward internationally agreed principles, outcomes, and benchmarking, rather than equivalence/acceptability/gap-filling, in UCS capacity strengthening efforts.

4. Embrace a differentiated approach to UCS based on risk and country capacity.

5. Articulate clear criteria and procedures for determining the acceptability of a country’s environmental and social systems and performance.

6. Coordinate changes to UCS with other major efforts, including those being contemplated or discussed in relation to Investment Lending Reform and safeguards.

7. Provide greater effort and support for strengthening client capacity in general (not only around Safeguards) to implement their own systems and raise environmental and social standards of performance.
1. Introduction

1. The World Bank has now had five years of experience with use of borrower systems for Safeguards under Operational Policy (OP) 4.00. On March 18, 2005, following a process of consultation and public comment, the World Bank’s executive directors approved the launch of a pilot program to explore using a country’s own environmental and social safeguard systems (that is, its national, sub-national, or sectoral implementing institutions and applicable laws, regulations, rules and procedures), where they are assessed as being equivalent to the Bank’s systems, in Bank-supported operations. The Bank’s Executive Directors then authorized up to 14 pilots within the framework outlined in Operational Policy (OP)/Bank Procedure (BP) 4.00, Piloting the Use of Borrower Systems to Address Environmental and Social Safeguard Issues in Bank-Supported Projects. OP 4.00 is a policy that describes the Bank’s ‘use of country systems’ (UCS) approach, criteria for assessing country systems, and respective roles of the borrower and the Bank. Key elements of the OP 4.00 approach governing the pilots are equivalence of the borrower system to the principles in OP 4.00 Table A1, acceptability of the borrower’s implementation practices, track record, and capacity, and ‘gap filling’ where equivalence or acceptability falls short. Gap filling is expected to be carried out before the borrower undertakes implementation of the relevant project activities (OPCS, 2007b). The pilot program was designed to be applied to individual projects, for specific safeguards, in willing partner countries for operations whose risks were judged to be moderate. In January 2008, the Board approved a proposal by Bank Management to incrementally scale up the initiative from the project-level to sub-national and country levels. This 2008 scale up also expanded application of OP 4.00 and Safeguards Diagnostic Review “to the full range of the Bank’s investment vehicles as well as to the national, sub-national and parastatal agencies involved in project implementation” (OPCS, 2009b, p. 1). Appendix 1 lists pilots to date, under both Phases 1 and 2, and a map of the 24 pilots to date is shown in Figure 1.

2. The purpose of this background paper is to investigate the current UCS approach and suggest the way forward. More specifically, this background paper investigates: (1) lessons learned from the current OP 4.00 UCS approach, (2) causes of the limited uptake by TTLs and clients and underlying issues, and (3) recommendations for the way forward on UCS, taking into account recent experience, feedback from staff involved with (or resistant to) the approach, and strategic thinking about current pressures and future developments (i.e. Investment Lending Reform, ILR). It was determined early on that the paper would cover only environmental safeguard policies and take a strategic, advisory focus toward the future. This investigation is being carried out in the context of the World Bank Group’s (WBG’s) Environment Strategy which is expected to be drafted by autumn 2010 and completed and approved in December 2010. The Environment Strategy will identify key areas in which the WBG should engage to support its internal and external client base to: (i) more effectively address environmental priorities and

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1 Table A1 of OP 4.00 lists the objectives and operational principles of eight World Bank environmental and social safeguard policies: OP 4.01 (Environmental Assessment), OP 4.04 (Natural Habitats), OP 4.36 (Forests), OP 4.09 (Pest Management), OP 4.37 Safety of Dams, OP 4.11 (Physical Cultural Resources), OP 4.12 (Involuntary Resettlement) and OP 4.10 (Indigenous Peoples). Two of the 10 safeguards were not included as they relate to international law rather than country systems; these were OP 7.50 (Projects in International Waterways) and OP 7.60 (Projects in Disputed Areas).
move toward greater environmental sustainability, and (ii) identify best approaches to pursue the environmental sustainability of WBG operations.

Figure 1: Map of OP 4.00 pilots to date

3. **This investigation involved document reviews, two focus groups, over a dozen formal interviews (which included a vice president, advisors, senior managers, task team leaders (TTLs), lawyers, and safeguard coordinators and specialists), and numerous informal discussions.** Among the participants were staff representing each region. Feedback from focus group and interview participants underlined the importance of situating any reform of OP 4.00 and the UCS approach within the larger context of the times we live in, growing borrower capacity, and evolving understanding about the necessary policy changes to make Bank lending more efficient, effective, and relevant. Participant feedback also provided a wealth of innovative ideas and operations-based suggestions for the way forward on UCS.

4. **There is currently significant momentum for change.** Momentum for change in Bank policies and procedures is being precipitated by Investment Lending Reform (ILR). ILR—already being piloted and slowly rolled out—intends to catalyze a major shift away from frontloading (project preparation) to backloading (project supervision) and to rely on the use of country systems to do so. The ILR Concept Note (OPCS, 2009a, para. 15) specifically states that “the move to greater

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2 The authors are grateful to peer reviewers Agi Kiss, Ede Jorge Ijjasz-Vasquez, John Stein, and Tracy Hart and to interview and focus group participants for valuable information and input on the paper. The findings, interpretations, and conclusions expressed herein are those of the authors and do not necessarily reflect the views of the Board of Directors of the World Bank or the governments they represent.
reliance on country systems will be critical to our safeguards work.” Momentum for change is also growing based on internal pressure from staff and external pressure from borrowers for greater flexibility in light of country diversity and advances countries have made in capacity development, governance, and implementation. World Bank Group President Zoellick (2010) has contributed to accelerating the momentum for change. World Bank staff (2010) are keenly aware of the changing nature of client capacity, while borrowing countries are ready to take on more and manage projects using their own systems, without the additional, sometimes redundant effort added by the World Bank’s Safeguards Procedures (particularly Bank Policies, BPs). Staff and borrowers are clamoring for greater flexibility to do what they think is right, efficient, and prudent based on country knowledge and experience. As one interviewee stated, “The institution has to let us move.”

5. The paper is structured according to the investigation aims: (a) lessons learned, (b) reasons for limited uptake of UCS and underlying issues, and (c) recommendations for the way forward. Document appendices contain an up-to-date list of the UCS pilots (Appendix 1) and sample interview questions (Appendix 2).

2. Observations and Lessons Learned

2.1 Original goals of UCS and current fulfillment

6. The original goals of UCS were solid and remain relevant. The World Bank’s explicit goals for UCS were to scale up development impact (in terms of efficiency, quality, and timeliness), increase country ownership of development programs and projects, facilitate donor harmonization, and simplify and reduce costs (OPCS, 2007). The Bank’s Department of Operations Policy and Country Services (OPCS) (2007b) reports that UCS was seen to be a key way to recognize “the importance of country ownership and institutional capacity building.” These goals are as desirable today as they were in 2005. The Independent Evaluation Group report (IEG, 2010, p. 97) also affirms that “these objectives are still relevant.”

7. However, the UCS pilot program under OP 4.00 has had limited success in achieving those goals. With respect to each goal, the IEG report makes strong statements:

a. Scale up development impact (in terms of efficiency, quality, and timeliness):
   (1) “The method prescribed in OP 4.00 has not worked satisfactorily” (IEG, 2010, p. 99). (2) “Some country directors and sector managers are concerned that UCS will increase the cost and time of project preparation and supervision, while increasing reputational risk. Of the regional safeguard advisors and environmental and social development sector managers interviewed by IEG, three-quarters maintain that the right approach is not being followed, and not one believes UCS in its present form can be scaled up” (IEG, 2010, p. 98). (3) “Gaps in both equivalence and acceptability will likely remain too wide to permit UCS to be scaled up unless the Bank modernizes its own policies” (IEG, 2010, p. 100).
b. **Increase country ownership of development programs and projects:** (1) “The country systems approach adopted for the safeguard policies proved to be too onerous and has lost ownership among WB staff and their clients” (IEG, 2010, p. 97). (2) “Even countries like China … have declined to participate in the UCS experiment because they find the approach too intrusive” (IEG, 2010, p. 98). (3) “Borrowers do not perceive significant benefit from UCS, so ownership is low” (IEG, 2010, p. 99).

c. **Facilitate donor harmonization:** The 2005 Paris Declaration on Aid Effectiveness, which stressed the need for harmonization, “established global commitments from donors and partner countries to improve management and effectiveness of aid in reducing poverty and inequality” (IEG, 2010, p. 97). However, the IEG report (2010, p. 98) states that: “The Bank has insisted that country safeguard policies be brought up to the Bank’s standards, rather than starting from the country’s own systems and accepting compromises in equivalence.”

d. **Simplify and reduce costs:** (1) “[R]ecent experience suggests that the anticipated time and cost savings in the progressing of subsequent operations have not materialized” (IEG, 2010, p. 97). (2) “The incremental preparation cost to the Bank for UCS projects was expected to decline as the fixed cost of diagnostic work was shared among projects and sectors. However, the Bank’s experience indicates that this will not be the case, especially when investments fall in other sectors and/or involve additional or different safeguard policies” (IEG, 2010, p. 99).

8. **Feedback from the focus groups and interviews largely supports the findings of the IEG report, with a few notable exceptions:** in Romania, Tunisia, South Africa, and the India Power Grid project pilot, for example, the equivalence on environmental safeguards was not overly difficult to achieve. When the lawyer undertaking the equivalence determination knew the countries and the language well, the time investment was sometimes not as great as was the case for other pilots. In Romania, the TTL reports that far from expressing lack of ownership of the approach, the borrower became frustrated that the successful equivalence and acceptability determination did not allow them to apply UCS to the entire portfolio. One point the IEG report did not make (due to the information not being available at the time) is that some lessons were learned from the first phase of the OP 4.00 pilot program and applied to the post-2008 scaled-up phase. For example, country-level pilots were undertaken and incentive funds were made available in the second scaled-up phase of the program, resulting in pilots in regions that were previously not receptive to OP 4.00 and its UCS approach. See Box 1 for further UCS funding details.

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3 There is some truth in this, thought this has not been the case in all pilots. Many of the equivalence tests, including in Romania and Tunisia for example, started from the country’s own legal system and did accept alternative systems and compromises arising from complementary policies outside of EIA legislation. Nevertheless, UCS on the whole, as currently designed, appears to be falling short of the harmonization aims.

4 Even in one of the most successful cases, in which little gap filling was required, an interviewee noted that the initial part of the UCS process lasted three months and cost $120,000. In some cases, UCS determinations were done over the course of more than a year. This adds perspective to the costs issue and the IEG finding that UCS costs were not being reduced for subsequent operations. Based on the seven projects in the initial phase of the pilot program, the average cost of UCS work additional to regular preparation expenditures has been estimated to be about $104,000 (OPCS, 2008, p. 22). Project preparation time increases compared to the Bank average are reported in OPCS 2008, p.22.
2.2 Valuable insights from the OP 4.00 UCS pilot experience

9. **OP 4.00 broke ground and has had positive value.** OP 4.00 sprang from intentions to respond to emerging needs and its goals remain sound. It broke ground by attempting to open space for more flexibility with borrowers whose systems for environmental management were well developed and working. Interviews and closer investigation revealed the practicality and care with which the pilots were carried out. Despite mixed results, the successes demonstrate that transference of the prerogative to use one’s own systems does make sense in certain cases and that the gaps are not insurmountable. Governments and institutions with a strong culture of implementation need and appreciate that space. In the India Power Grid project for instance, the electric utility already had ISO 9000 and ISO 14000 certification, so there were only small gaps to fill. The analytical work done to establish equivalence and acceptability in these projects has also proved valuable in identifying issues and systems that need strengthening and in elaborating procedures for assessing legislation and capacity that are not arbitrary.

10. **Most importantly, valuable lessons have been learned from the pilot experience that can be carried forward in an amended approach to UCS.** These include: (1) how to determine whether or not the client’s system/capacity is acceptable; (2) which circumstances are appropriate for use of country systems; (3) the importance of using borrower systems rather than insisting on Bank systems in the country, and, (4) the fact that the Bank is often already using country systems without stating it explicitly. These lessons are further developed under various headings in Section 3 “Key Recommendations.”

2.3 Limited acceptance and challenges of the OP/BP 4.00 approach to UCS

11. **Reports and anecdotal evidence overwhelmingly indicate that the pilot program of OP 4.00 has had limited success and low acceptance among both Bank staff and borrowers (OPCS, 2007b; IEG, 2010).** The reasons for UCS’s limited uptake are diverse. Consultations reported in OPCS (2007b, p. 14) indicated that acceptance of the OP 4.00 UCS approach was hampered by “staff’s uncertainty as to whether this remained a priority for the Bank, and the additional initial costs associated with the pilot projects.” More broadly, limited uptake was attributed to: the significant additional costs of preparation of the pilot projects, staff concerns about the level of internal and external scrutiny the projects might generate, mixed management signals (e.g. the pilots sometimes not mentioned in the country assistance or country partnership strategy), and country
concerns that “equivalence” is a very high standard for everything other than EA, for which there are broadly agreed international approaches. Furthermore, “many partner countries appear reluctant to borrow money for the technical assistance and capacity-building work they need to address the weaknesses identified through SDRs [Safeguard Diagnostic Reviews].” The IEG (2010) attributes limited uptake to: a perception that UCS’s costs outweigh its benefits; concerns about cost and time of project preparation and supervision creating increased reputational risk; and borrowers not perceiving significant benefits from UCS.

12. The OPCS evaluation report (2008, p. 33) on the initial phase of the pilots provided further specific reasons for limited uptake, stating:

For country and sector managers, costs were clear, benefits were not. Delivery schedules were perceived to be at risk and there was no dedicated funding for the diagnostic work, capacity building, or follow-on activities. There was also concern that projects would be subject to extra scrutiny and require extra reviews. Some borrowers were suspicious of the Bank’s motives and feared the results of the diagnostic study would be as prescriptive as the Bank’s safeguard policies. In addition, some country and sector managers and task team leaders preferred to avoid the risk of engaging in a new approach to addressing safeguard policies.

13. Implementation of the pilots proved difficult on practical grounds. A TTL quoted in the report reviewing the initial pilots stated: “The reason for low uptake is the difficulty in aligning the necessary parts: the right country, the right sector, the right project timing, the right team. Low uptake is not so much caused by a philosophical problem as a practical one. In addition, the Issues Paper was correct that the diagnostic work had to be conducted by Bank staff—the one attempt to have a local consultant conduct a portion of the equivalence analysis failed—and there are not many staff available with the right qualifications” (OPCS, 2008, p. 24).

14. There are perceived barriers to the scaling up of UCS on the current model. The IEG report has argued that UCS is unlikely to be able to be scaled up in the present form (under OP/BP 4.00) because it is not fulfilling its aims (e.g. of being cost effective), filling gaps to meet Bank standards faces serious limitations, and this form of UCS has mostly lost the support of Bank staff and borrowers.

15. OP 4.00 is also difficult to scale up, because for each new safeguard triggered for each sector, the list of OP 4.00 due diligence elements (Table 1) needs to be undertaken. Different considerations must also be made for different lending instruments. Furthermore, Bank effort and intensive monitoring/supervision needs to be ongoing over the course of the project preparation and implementation, and the whole approach presumes no change in laws or implementation of them. In one example, after one year of equivalence and acceptability determination, a change in laws did occur in the Lao PDR pilot, and the team was required to start over in assessing the OP 4.00 elements. As one focus group participant noted, while OP 4.00

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5 The IEG report (2010, p. 99) observes: “unless there is a change in the UCS policy, there will be a continued need for intensive Bank supervision to ensure compliance with the UCS policy.”
was intended to simplify safeguards, in most cases it essentially added a layer to what is done already while creating more points of potential exposure for non-compliance.

Table 1: Picturing the level of due diligence under OP 4.00

<table>
<thead>
<tr>
<th>Type of operation</th>
<th>Safeguard Policies</th>
<th>Sectors</th>
<th>Due diligence 4.00</th>
</tr>
</thead>
</table>
| 1. Development Policy Lending (Not Applicable, NA) | 1. Environmental Assessment  
2. Natural Habitats  
3. Forests  
4. Pest Management  
5. Physical Cultural Resources  
6. Involuntary Resettlement  
7. Indigenous Peoples  
8. Safety of Dams  
9. Projects involving International Waters (NA)  
10. Projects in Disputed Areas (NA)  
2. Education  
3. Transport  
4. Water and Sanitation  
5. Urban infrastructure  
6. Energy and mining  
7. Agriculture  
8. Environment  
9. Social development  
10. Private sector  
11. Tourism  
12. Etc. | 1. Equivalence  
2. Acceptability  
3. Borrower implementation practices  
4. Track record  
5. Capacity  
6. A description of the applicable borrower systems and of actions that would achieve and sustain equivalence and acceptability  
7. Disclosed report  
8. Loan Agreements  
9. Supervision |
| 2. Poverty Reduction Strategy Credits (NA) |                                                                                       |                                |                                        |
| 3. Guarantees                                                                  |                                                                                       |                                |                                        |
| 4. Investment Loans                                                            |                                                                                       |                                |                                        |
| 5. Financial Intermediary Operations                                          |                                                                                       |                                |                                        |
| 6. Community Driven Development                                                 |                                                                                       |                                |                                        |
| 7. Social Funds                                                                |                                                                                       |                                |                                        |
| 8. Rapid Response                                                              |                                                                                       |                                |                                        |
| 9. Global Environment Facility (GEF)                                           |                                                                                       |                                |                                        |
| 10. Carbon Finance/ Climate Change                                             |                                                                                       |                                |                                        |

16. Though there are multiple challenges with the OP 4.00 approach to UCS, this does not mean that the idea of using country systems is flawed. Many Bank clients and staff argue that relying more on Bank client countries’ own systems is an idea whose time has come. But it will be necessary to pursue a more pragmatic approach to make this program successful. A UCS approach holds significant promise, particularly in countries where the legal framework is relatively solidified and implementation consistent. A non-Safeguards-based approach to country systems, which is instead based on more widely held, internationally agreed principles, may be a key to facilitating greater development effectiveness both under ILR and in general. The directions advocated for a more effective approach to UCS are outlined in the next section.

3. Key Recommendations

3.1 Broaden the definition of country systems

17. One of the most important issues to emerge from review and discussions was the need to broaden the definition of country systems. Currently, country systems are defined as “a country’s own environmental and social safeguard systems (that is, its national, sub-national, or sectoral implementing institutions and applicable laws, regulations, rules and procedures)”. This definition is suitable in principle, but it needs to be expanded in the context of the country systems approach to explicitly include regulatory mechanisms such as engineering codes, zoning,
audits, land use planning, licensing systems, and compliance practices. Boxes 2 and 3 illustrate the importance of non-EIA (environmental impact assessment, EIA) instruments in implementing projects and works in an environmentally and socially sustainable way and enforcing compliance in borrower countries. Alternative systems that are already institutionalized and working are a powerful asset in achieving sustainability. Systems—such as the two described in boxes 2 and 3 below—are achieving good practice environmental outcomes that far outpace what could be achieved using only an EIA or the EIA system in those countries. Examples like these can be cited for a handful of middle-income countries. If the process and outcomes are successful, does it make sense to ask the borrower to create an EIA that replicates these features or makes a parallel system that adds little or no further value?

Box 2: An admirable and effective ‘country system’ for highways in China

Engineering codes for highways in China: Highway construction in China yields outstanding results on the ground in terms of mitigating environmental impacts. The success of this is not directly related to the EIA system, but to a complete set of mandatory engineering codes that highway planners, designers, and contractors must follow. These codes specify erosion control and water conservation programs, landscape and greening requirements, environmental management of construction activities, and environmental supervision and monitoring requirements. Perhaps even more importantly the codes specify the need to include all the mitigation measures in the budget of the highway. An EIA addresses only a few additional issues like noise and air pollution, since the codes are extremely comprehensive. Accepting these kinds of engineering codes could simplify and reduce the need for more detailed EIAs and environmental management plans for road construction in China, without any sacrifice in quality.

Box 3: EU accession countries systems not structured along Bank requirements, but effective

Environmental assessment process in the European Union: “In some countries, such as EU accession countries, the Environmental Assessment process, although highly prescriptive and rigorous, is structured in a very different way than the World Bank Operational Policy on Environmental Assessment (per OP 4.01/4.00). In such cases, it relies to a greater extent than does the Bank on physical plans, location and construction permits, with these fulfilling many of the functions that would be conducted in the Bank’s Environmental Assessment-Environmental Management Plan process. To determine equivalence, there is a need for the Bank to be flexible and look for equivalence of objectives and functions, rather than focusing narrowly on processes and outputs.”

– Text extracted from OPCS, 2009b, p. 8

18. Countries are looking to UCS to be a more flexible instrument that acknowledges that their environmental management systems are acceptable and produce similar outcomes to the Safeguard Policy requirements. For example, in South Africa, “The interest of the borrower, the iSimangaliso Wetland Park Authority (the Authority), is to simplify the safeguard procedures needed to work with the Bank, which have been perceived in South Africa as unduly cumbersome and of limited added value, given South Africa’s highly developed regulations…” (OPCS, 2009b, p. 15).

19. The Bank is already using country systems within OP 4.01, but not calling it that. Non-pilot use of country systems is happening in a number of countries, such as the Czech Republic (meeting OP 4.01 with their laws), Mexico, and China. It is a natural evolution of the Bank-
borrower relationship, where capacity has been built. Bank policy already allows for use of country systems (for some cases) in its OP 4.01 Footnote 13, which reads:

For Category B projects that are not in environmentally sensitive areas and that present well-defined and well-understood issues of narrow scope, the Bank may accept alternative approaches for meeting EA requirements: for example, environmentally sound design criteria, siting criteria, or pollution standards for small-scale industrial plants or rural works; environmentally sound siting criteria, construction standards, or inspection procedures for housing projects; or environmentally sound operating procedures for road rehabilitation projects.

20. OP 4.01 Paragraph 6 also gives a window for flexibility to use country systems in any project, but only on the issue of pollution.

The Pollution Prevention and Abatement Handbook describes pollution prevention and abatement measures and emission levels that are normally acceptable to the Bank. However, taking into account borrower country legislation and local conditions, the EA may recommend alternative emission levels and approaches to pollution prevention and abatement for the project. The EA report must provide full and detailed justification for the levels and approaches chosen for the particular project or site.

3.2 Consider expansion of UCS to country-level and/or sector-level approach

21. There is broad support for expanding UCS from a project-based approach to a country-level and/or sector-level approach, targeting client capacity to implement their own systems and to raise environmental and social standards. The 2007b OPCS pilot status report (pp. 15-16) suggested that a “new kind of pilot program” could include: (a) the creation of a trust fund to support country systems assessments and related capacity building; and (b) the launch of a country-based pilot program in the use of country systems, to supplement the project-by-project pilots. The IEG report (2010, p. 99) further developed this approach:

The piecemeal approach currently being pursued focused on individual projects and policies appears unworkable and needs a major redesign for it to be successfully scaled up. National systems can and should be used, where possible, in some countries, in some sectors, and for some safeguards, particularly environmental assessment.

22. This was largely echoed in the evaluation report on the initial phase of the pilots (OPCS, 2008, p. 34), whose first recommendation was to “Scale up … the SDR to the country or sub-national level as a free-standing exercise distinct from the preparation of any specific project.” The rationale for this was explained:

Staff from OPCQC (formerly ESDQC) and LEGEN, and various of the task team leaders and environmental specialists in the project and UCS teams worry that project preparation schedules impose time constraints on equivalence analysis and suggest that it be carried out at the national rather than sectoral level, free-standing with an independent funding source,
and through longer-term engagements with the borrower’s institutions. The same can be said for acceptability assessment—at least those elements such as overall governance capacity and performance with respect to environmental and social impact management, which can be conducted without knowing the specific project that will be the pilot and thus the sectoral agencies for which detailed information is needed (OPCS, 2008, p. 24).

23. A focus on the country, sub-national, or sector level is already being attempted under the 2008 incremental scaled-up version (Phase 2) of the UCS pilot program. Currently, there are three country-level UCS pilots in progress (Mauritius, Bhutan, Croatia), one in the scoping stage in Botswana, and a sub-national pilot being planned for India. In the Second Water Sector Investment Project (PISEAU II) in Tunisia, a sector-level Safeguard Diagnostic Review has been completed and disclosed. The first-year review of implementation report on the scaled up UCS pilots (OPCS, 2009b, pp. 8-9) argues that:

The benefits of scaling up from the project to the country level were evident in the case of Bhutan, Croatia and Mauritius where the broader scope of the SDR work accommodated a greater number of safeguards than would typically be triggered at the project level.

Country-level and sector level SDRs provide greater opportunity for cross-support with other Bank analytical work, in particular, Country Environmental Analysis (CEAs) and Strategic Environmental Assessments (SEAS), as well as for multi-donor and borrower-driven input such as CEAs prepared by the Asian Development Bank, EC Environmental Profiles, OECD Environmental Policy Reviews, and National Capacity Self-Assessments for Implementation of Multilateral Environmental Agreements conducted under the guidance of UNDP and GEF.

... As SDR becomes more of a country-level diagnostic tool … there will be a corresponding need for coordination and harmonization among donor agencies involved in these activities.

3.3 Use internationally agreed principles, outcomes, and benchmarking

24. The use of country systems—oriented toward international principles or standards—may be more effective than a UCS approach based on Bank safeguard procedures. Participant feedback indicated that UCS and associated capacity building efforts and technical assistance—for improved preparation, implementation, compliance and enforcement—should be based on performance-based outcomes and benchmarking of internationally agreed principles and procedures, rather than an equivalence/acceptability/gap-filling approach. Examples of other international standards include the MFI Working group on the Environment (MFI-WGE) Common Framework for Environmental Assessment and the IFC Performance Standards, which are a vetted set of up-to-date internationally agreed good practice principles and standards. If Common Framework principles were used, which could be promising, the Safeguard Diagnostic Reviews could become Common Framework Reviews that could be used and harmonized among donors.

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6 The IFC’s Performance Standards pertain to: social and environmental assessment and management systems; labor and working conditions; pollution prevention and abatement; community, health, safety and security; land acquisition and involuntary resettlement; biodiversity conservation and sustainable natural resource management; indigenous peoples; and cultural heritage.
beyond the World Bank. Supervision would then ensure the relevant principles were being upheld in projects, subject to legal remedies.

25. **The current Safeguards Policies may not be the most appropriate basis for a UCS approach.** Participants in feedback sessions noted several problems with using Safeguard Policies (or operational principles derived from them) as the underlying basis for UCS. Most notably, the Safeguard Policies were developed in an era when the Bank was helping develop projects from scratch before national EIA systems were in place. This is far from the norm today, and it may not make sense to try to accord a client or country’s procedures with current Safeguard Policies. First, these policies must be updated to be aligned with the variety of ways that projects are currently developed—sometimes being prepared prior to being submitted for financing or co-financed with the Bank coming in later. There is also diversity in how countries design their environmental management systems. Focusing on the EA process may not be the most effective means of achieving environmental management and sustainability in some countries.

26. **The MFI-WGE Common Framework for EIA (2005) principles can add value to the World Bank’s Safeguard Policies and existing UCS safeguards-based approach.** The Bank is out of step with other MFIs and parts of the World Bank Group in some areas. For example, both the MFI-WGE Common Framework and IFC Performance Standards include a policy on worker health and safety (Figure 2). Attention to such areas is necessary to implement the IEG’s (2010, p. xix) first major monitorable recommendation: “Revise the policy frameworks to harmonize thematic coverage and guidance across the Bank Group and enhance the relevance of those frameworks to client needs.”

![Figure 2: MFI-WGE common principles for vulnerable groups and worker health and safety](image)

**H. Worker Health and Safety**

**Objectives**

To ensure that those employed under internationally financed projects are fairly treated and have a safe working environment.

**Principles**

1. Employment practices should be, at a minimum, consistent with the laws of the country.
2. Children and youth should not be formally employed in any capacity which could cause them harm or detract from educational requirements reflected in national laws.
3. Internationally financed projects should not use involuntary, forced, or coerced labor.
4. EIA screening should consider occupational health and safety. Where there are significant risks or the danger of injury (from noise, pollution, or accidents, etc.) or from disease transmission, risk management measures should be included in the management plan.

27. **Feedback from those involved in the OP 4.00 approach stressed that there is a need to start with the country systems in applying UCS, rather than insisting on applying the Bank system to the country.** Following the experience with UCS pilots, there is greater awareness that country counterparts may feel misinformed if the Bank insists on Bank systems in the country rather than
starting from the country systems themselves. Some aspects of the OP 4.00 that may be perceived as Bank procedures, rather than principles, that can cause conflicts in applying UCS to country systems include:

a. OP 4.00’s Principle A5 of Table A1, which requires that the country apply or justify deviations from the *Pollution Prevention Abatement Handbook*.

b. OP 4.00’s Principle A3 of Table A1, which states that the Bank must “Assess the adequacy of the applicable legal and institutional framework, including applicable international environmental agreements, and confirm that they provide that the cooperating government does not finance project activities that would contravene such international obligations.” If the country has ratified an international environmental agreement, it would be safe to assume that the content of such agreement is part of the country’s legal framework.

c. OP 4.00 footnote 4 which reads “Pilot projects will be subject to all other applicable policies and procedures.” This presumably refers to the Bank’s policies and procedures, but which ones is not clear: the remaining Safeguard policies or all policies? What are the criteria for a policy being non-applicable? If all policies still apply in the same way, including supervision, how is UCS any different from the status quo?

d. Mention in Table A1 about disclosure “before appraisal.” Appraisal is the Bank’s system, not related to the countries’, and such a requirement is not applicable to countries improving their own systems. This is a procedure not a principle.

28. The OPCS evaluation report on the initial phase of the pilots implied that not all principles should be seen as of equal importance and should be treated with greater flexibility taking the client into account. Specifically OPCS (2008, p. 35) highlighted the need to:

   Clarify for staff that gap-filling can be seen as a continuum: some gaps in equivalence need to be filled in the country system to make it consistent with the objectives in Table A1 of OP 4.00, but others (for instance, those that are specific to the Bank, such as the critical habitat conversion prohibition in OP 4.04) may be better addressed in project-specific arrangements that are then incorporated in the legal agreements.

29. Not regarding all principles or gaps as of equal importance is easier said than done, and neither UCS teams nor task teams were reported to have seen OP 4.00 “as encouraging flexibility in determining equivalence” (OPCS, 2008, p. 23). Since OP 4.00 is a policy, issues to do with equivalence need to be evaluated legally. How does one determine which of the principles must be addressed up front and which can be addressed in project legal agreements? This leads to the conclusion that the operational principles of the policy need to be re-examined along with the policy as a whole.

30. An approach to country systems oriented toward up-to-date internationally agreed principles rather than Bank Safeguard-based Table A1 is likely to be closer to the original intent of the Paris Declaration and would be more likely to strengthen aid effectiveness, donor harmonization, and alignment for strengthening of environmental and social country capacity
toward common standards—rather than only those of the Bank. The Paris Declaration commitments focus on harmonization between donors and strengthening borrower capacity in the areas of public financial management and procurement,7 not explicitly safeguards (Duncan and Wathne, 2008). In looking to use and strengthen country systems based on common standards or principles (such as the MFI-WGE Common Framework principles), the Bank would facilitate donor harmonization on environmental and social management and performance. Other principles of the Paris Declaration and Accra Accord are shown in Figure 3.

Figure 3: Paris Declaration Principles and Accra Agenda for Action Pillars

31. There is keen interest among some Bank borrowers to meet various other high standards of environmental and social performance. The Bank should help them achieve these goals and perhaps provide a revised form of UCS as an incentive for working towards them. There is a strong desire, for example, to meet European Union (EU) standards among new and aspiring EU member states. Some countries want to meet WTO and other standards so they can trade with certain countries. The Bank should remain open to being a partner in these efforts to improve standards, even if they are not specifically Bank standards. This position was advocated in the review of the initial phase of the pilots (OPCS, 2008, p. 33):

It [The Bank] also needs to find a way of moving more directly to the use of country systems in countries where the systems have already been upgraded to international standards, albeit not the Bank’s own, for example, by the EU accession process or participation in a regional trade agreement. In other cases, parastatals may have operational safeguards systems that are

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7 The Paris Declaration on Aid Effectiveness was adopted in 2005 by over 100 countries and aid agencies. As reported in Duncan and Wathne (2008), it “defines the principles and commitments by which donors and partner governments intend to ensure that aid is as effective as possible in contributing to the Millennium Development Goals and other internationally agreed objectives. It builds on lessons learned over many years about what works, committing donors and partners to adopt best principles and practices in aid management and to avoid weaknesses, some of which have persisted for decades. The Declaration itself takes forward a great deal of prior work, including agreements reached at Monterrey (2002), Rome (2003) and Marrakech (2004) (OECD and World Bank, 2005).”
or could easily be fully acceptable under OP 4.00, even in countries in which the pertinent legislation and regulations are not equally rigorous. Insisting that the first step be a pilot project in these cases is inefficient and should be replaced by a modified approach that allows for examination of the systems in use at the country, sub-national, sectoral or parastatal enterprise level to allow for broader application of the principles of OP 4.00.

32. There is a growing consensus that the Bank needs to allow staff and borrowers to exercise greater flexibility and judgment in meeting policies and agreed principles regarding outcomes and benchmarks. It was widely noted in focus groups and interviews that the Bank’s expectation of 100 percent compliance with Safeguard Policies at all points in time is hampering its work, morale, and productivity. One interviewee commented that with current application of Safeguard Policies, Bank staff “don’t have space and time to cure things.” Task team leaders say they cannot be in compliance at every point in time. They need time to take things from the current situation to something that is acceptable and space to guide the process and make corrections. Greater flexibility is necessary to make incremental and lasting improvements on a solid foundation and to benchmark progress toward agreed outcomes over a longer time period.

3.4 Adopt a risk-based and differentiated approach

33. Focus group participants and interviewees supported a risk-based and differentiated approach to country systems, due to the different and wide-ranging circumstances of today’s borrowers. World Bank Staff (2010, p. 28), reported to the Development Committee: “As the world changes, so must institutions. Increased interdependencies require modern, flexible institutions that reach across low-income, middle-income and advanced economies to help identify common interests, broker solutions and manage differences.” This outlook also applies to the Bank’s approach to country systems. Flexibility to use country systems in borrowing countries needs to be based on country capacity and calculated risks, and this depends on the judgment of knowledgeable staff. A risk-based approach would rely on the Bank’s system for highly risky projects, as was done in the first phase of the UCS pilots themselves, by limiting the program to projects of moderate risk level. But it also means taking calculated risks by giving greater flexibility to certain borrowers for employing their own systems where they meet agreed principles. More discussion is still needed to determine risk thresholds and criteria for which countries/operations should be included or excluded from consideration for UCS.

3.5 Articulate clear criteria and procedures for determining acceptability

34. The most important issue for a modified or reformed country systems approach is to figure out what would be the principle (if not equivalence) for accepting the country system. They key question to ask is: Would the existing government policies and system ensure appropriate/acceptable standards of environmental and social performance? Originally, according to interviews, the UCS approach was intended only for sophisticated borrowers. But then the pool was expanded to borrowers who would be willing to be assessed for equivalence, acceptability, and gap filling. The Bank needs to define even more clearly the parameters for applying the use of country systems. From the feedback sessions, it has become clear that a
A successful approach to UCS must be based on client capacity rather than on a categorical distinction like IBRD/IDA or UCS for a particular region. The Bank must devise a way to assess capacity that is sound and involves credible, replicable analyses, criteria, or review processes. Some of the points which should be taken into consideration in determining acceptability are:

a. Based on experience of OP 4.00, the Bank needs to build jurisprudence of how cases were resolved and acceptability determinations made.

b. Robust systems like South Africa’s, and those of some graduated borrowers who have returned due to the financial crisis, do not require the use of a parallel system. This is a prime example of where using country systems should be seriously considered.

c. Countries with a third party certification that requires environmental and social safeguards, such as Romania as an EU member, should receive due consideration and more flexible treatment with regard to using their existing systems.

d. Some procedures for determining acceptability have already been piloted in the context of OP 4.00. These should be built upon (Table 2).

### Table 2: Procedures already piloted for determining acceptability

<table>
<thead>
<tr>
<th><strong>Project pilots</strong></th>
<th><strong>National systems assessment</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>In determining acceptability look at:</td>
<td>Talk to people who work in the area (e.g. FAO for forestry)</td>
</tr>
<tr>
<td>1. <strong>Institutions</strong>: Who is in charge? Who makes the decisions and legislation? Who implements, monitors, and supervises?</td>
<td>Do media searches</td>
</tr>
<tr>
<td>2. <strong>Track record</strong>: Looking beyond the project to those financed by the private sector, another donor, and/or by government, examine 2-4 EIAs and see how they are executed and monitored.</td>
<td>Search for any contested EIA process</td>
</tr>
<tr>
<td>3. <strong>Outcomes</strong>: Examine projects implemented back to 1992. Did they have sound environmental management? Is there a non-technical summary presented for the lay person?</td>
<td>Ask NGOs who care about the area</td>
</tr>
<tr>
<td></td>
<td>Listen to people who live there</td>
</tr>
<tr>
<td></td>
<td>Construct a complete picture of the aggregate.</td>
</tr>
</tbody>
</table>

Source: Bank staff

35. **There are a number of reasons why the use of country systems, as a package approach, should perhaps be limited at the present time to countries with sophisticated systems and capacity:**

a. Sophisticated countries (often middle-income countries) were OP 4.00’s original target. It is often these countries that already have effective systems in place that do find the Bank’s safeguard policy procedures duplicative. Some attention should also be given to anticipating what may happen when UCS is successful in these countries, and the need to manage expectations about how widely it can be applied. Attention must also be paid to the fact that

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8 In OP/BP 4.00, it is quite clear how equivalence would be determined, but there is no real procedural explanation of how acceptability would be assessed other than to assert the need for “Assessment (e.g. through discussion with experts, field visits, or interviews, as appropriate) of borrower implementation practices, track record, and institutional capacity.” Part of demonstrating credibility in a new approach would be to determine basic procedures for assessing acceptability and/or outlining robust review requirements. This would help alleviate external fears about UCS.
the Bank still has to undertake supervision of projects it finances under OP 13.05 Project Supervision.

b. In countries where equivalence appears adequate, but acceptability on the ground turns out to be doubtful, borrowers can become quite upset to have gone through an equivalence/acceptability process and then be rejected, especially if their immediate neighbors were accepted. This has already occurred with pilots in one Bank region. Naturally, such an occurrence is not favorable to the relationship with the borrower.

c. Major gap filling is almost the same as just applying Bank systems in the country. As observed in the IEG report (2010), UCS does not make sense where gap filling is too extensive. As one lawyer remarked, “The challenge is where we have weak law and weak capacity; including these cases has confused the whole situation.”

36. Finally, the evaluation report on the initial phase of the pilots (OPCS, 2008) encourages attention to ‘promising countries’ as central to a more rational approach to UCS. The report states (OPCS, 2008, p. 31, italics in original):

The lesson learned from the first seven pilots is that project selection depended more on finding a combination of: a country and a sector with reasonable potential, based on whatever knowledge the Bank staff had available; a project at the right stage in the pipeline; willing sector manager and country director; funding; and a qualified team with time to do the work. A more rational approach would be possible if equivalence analysis and substantial portions of acceptability assessment were undertaken independently of project preparation schedules and budgets, in promising countries. This would allow sufficient time for more in-depth analysis and would provide sector managers and task team leaders advance information on what policy areas were ripe for UCS. It would also eliminate any stigma of “unfunded mandate” from the program.

3.6 Coordinate changes to UCS with ILR and other related efforts

37. The Bank will need to reconcile ILR’s “backloading” emphasis with the Safeguard Policies “frontloading” one. In light of its commitment to Investment Lending Reform, the Bank no longer has the luxury of a piecemeal approach but must address many issues simultaneously in a coordinated way. These issues include: Investment Lending Reform, risk assessment/management (new ORAF tool and procedures), Safeguard Policies, conflict resolution and grievance redress mechanisms, and use of country systems. Investment Lending Reform is the trigger. ILR cannot proceed as envisioned without amendment to or reform of the Bank’s Safeguard Policies, and in particular the BP aspect of some of the OP/BPs. ILR’s central position is that the Bank should go from frontloading to backloading, that is placing greater emphasis on support for implementation and project supervision and spending less time and investment on project preparation. The Safeguard Policies do not really permit this. They explicitly state that all requirements must be met “by appraisal.” The IEG report is arguing that the Safeguard Policies themselves demand renewed consideration and adjustment to catch up with other MFIs and meet changing needs and changing contexts.
38. **Investment Lending Reform needs to directly address issues with UCS and the Safeguard Policies.** On the positive side, opportunities and synergies need to be harnessed, such as how aspects of UCS could work with the new risk-based approach and ORAF. Some of the conflicts of the current UCS approach with ILR relate to project processing procedures (e.g. fast tracking) and project cycle timing. UCS on the current design does not appear to be well aligned with ILR’s aims of speeding up project processing. Some quotes from the first year review of the incremental scaled-up pilot program illustrate this (underlining added by authors).

- According to OPCS (2009b, p. 14), “POWERGRID and the Bank agreed to include the Corporation’s anticipated fourth loan request under the UCS program. However, the loan request was processed as additional financing on an accelerated schedule that was not conducive to the in-depth review required for SDR purposes. The SDR process was therefore applied to POWERGRID’s next loan request, the Fifth Power Sector Development Project.” In the Lao PDR Transport Sector Project, “Gap-filling measures related to these safeguards would require enactment of new laws by Parliament, which is not deemed feasible during the project cycle (OPCS, 2009b, p. 4).” Gap-filling measures were anticipated to be approved as part of an Environmental and Social Operations Manual endorsed by Ministerial Decision.

- The time and cost associated with UCS’s Safeguards Diagnostic Review stems from, according to OPCS (2009b, p. 14): OP 4.00’s “innovative approach to safeguards, which requires initial costs for analytical work that would not normally be undertaken under a traditional safeguards approach. This includes desk and field work to conduct a full inventory and analysis of borrower country policies, laws, regulatory and, in many cases, judicial decisions, corresponding to the Objectives and Operational Principles of applicable and corresponding Bank safeguards as articulated in OP 4.00 Table AI. Extensive fieldwork, including site visits to Bank and non-donor funded projects, is also necessary in order to conduct a thorough and credible assessment of the Acceptability of borrower institutional capacity, processes, outputs and outcomes.”

- The Safeguards Diagnostic Review is actually a much bigger and more timely process than readily appreciated. Further to the description above, among the lessons learned were that: “During the SDR process, there is a need to work closely with national and local authorities, rather than focusing exclusively on the borrower, as well as with other donors and stakeholders (OPCS, 2009b, p. 8).” This entails significantly more time commitment than working only with the borrower. Additionally, there must be “full agreement on gap-filling measures prior to the completion of the SDR,” and such agreements may not always happen quickly.

3.7 **Refocus UCS from ‘using’ to ‘using and strengthening’ country systems**

39. As recommended in the 2010 IEG report and 2007b OPCS Status Report, greater focus of UCS efforts should be placed on strengthening country systems. In its ‘major, monitorable … recommendations’ matrix, the IEG (2010, p. xix) advised the World Bank to “Revise the current approach to safeguards pilots on “use of country systems” to focus on strengthening country institutions and systems to manage environmental and social risks through analytical work,
technical assistance, and lending operations.” This report supports this. Toward this, the OPCS report (2007b) suggested creating a trust fund to support country systems assessments and related capacity building, and the evaluation report of the initial phase of the UCS pilot program (OPCS, 2008, p. 35) recommended:

Consider[ing] provision of dedicated funds for the UCS program, from start to finish, not only for equivalence analysis and acceptability assessment at the national level, but also for immediate gap-filling, project supervision, and for quick response to borrower requests for longer-term capacity building assistance.

4. Next Steps

4.1 Considerations

40. This report finds that amendments and options to the UCS approach as defined in OP 4.00 are necessary, but any major changes must be informed by the Bank’s global review of good practices in environmental management that will be completed within the next two years. It appears likely that OP 4.00 will be extended for two more years while this review is ongoing. Over a period of 18 to 24 months, the Bank will conduct a series of in-depth studies and consultations in order to ascertain good practices, and it will identify what the Bank’s stakeholders are looking for in the way of environmental management systems at the Bank. This review will focus on studying the environmental management systems of: other multilateral, bilateral, and private-sector banks; Part I countries; client countries; implementing agencies; and large private-sector corporations. The global review of good practices will be deliberative, transparent, and highly consultative, involving a diversity of shareholders and stakeholders. It is intended to form the basis for a comprehensive updating, and, as appropriate, consolidation of the Bank’s Safeguard Policies. It will also address the issue of use of country systems for environmental management.

41. In anticipation of the completion of the best practices review, this paper offers two sets of recommendations. First, building from focus group and interviewee feedback, it identifies actions that can be taken immediately. Secondly, it highlights ideas and strategic issues for consideration during the global review of good practices.

4.2 Recommendations suitable for immediate implementation

42. First, it is already possible to use country systems for environmental safeguards in Category B projects; the Bank needs to encourage this practice where appropriate. OP 4.01 EA, Footnote 13 stipulates that use of country systems is permissible for Category B projects not in sensitive areas and with well-defined and understood issues narrow in scope.

43. Second, the Bank should expand its pool of UCS lessons learned by drawing on past and present experience using OP 4.01, Footnote 13, in addition to experience gained from OP 4.00 pilots. Furthermore, more lessons can be shared by discussing challenges and insights with other
colleagues undertaking country systems work in the areas of financial management and procurement.

44. **Third, the Bank should take better advantage of the various report types that assess country systems in relation to Safeguards to facilitate country systems strengthening.** Within the UCS framework, equivalency is analyzed through the Safeguards Diagnostic Review. However, this is not the only way to identify shortcomings or weaknesses in a country’s system or to open dialogue about environmental and social strengthening. Other analytical work that performs a similar function includes: country environmental analyses, EIA reviews, environmental and social development discussion papers, certain AAA and ESWs, and environmental capacity building efforts by other partners (see OECD, 2007). These additional tools for identifying and understanding a country’s environmental and social needs should continue to be tapped and used to their fullest.

45. **Fourth, the Bank needs to push the envelope on policy reform and take advantage of ILR to look at underlying and persistent issues.** Under the existing policies, there is nothing to stop the Bank from putting B and C projects on a fast track. ILR needs to take advantage of the IEG report and push the envelope on policy reform without delay. The 2009a OPCS report on ILR stated: “While the Bank’s main procurement, safeguards, and financial management policies have not been examined as part of the IL exercise, various teams have indicated the need for future attention to these areas for reform and simplification.” Further delay in examining these issues may present unnecessary confusion, unwittingly placing projects out of policy compliance.

46. **Fifth, it would be productive to undertake a Bank-wide exercise to streamline application of the Safeguard Policies and evaluate if they are being applied beyond what is required.** There are opportunities within the existing policy framework to trim some of the excess infrastructure—i.e. practices that add more requirements than the policies actually specify—that has accumulated over the years. This includes the criteria for categorization and lack of consistency in categorization across the regions. Other examples include the fact that technical assistance loans are categorized, that environmental management plans are seen as required for Category B projects, and the relatively infrequent use of OP 4.01 Footnote 13. There are also instances of redundancy and duplication of efforts for environmental and social information. For example, for an A project there are three documents—usually prepared by different people—that replicate each other: the EA summary to the Board, the ISDS, and the PAD 10 Annex. Under the ILR reform, an Operational Risk Assessment Framework (ORAF) will also be produced. It should be considered whether these three items could be combined into a single document to report the environmental and social situation.

### 4.3 Recommendations for the global review of good practices

47. **There are a range of strategic choices to make in deciding how to go forward with UCS after the global review of good practices.** One important decision is whether a country systems approach needs a policy or a program to achieve its goals most effectively, or whether the combination of policy and program is best. This choice will require more consultation. However,
it seems sensible that at least one of the two (policy or program) be continued so as to capitalize on opportunities for the creation of an amended system, maintain the momentum and resources for valuable elements of UCS, and ensure a way to keep track of UCS efforts and learning.

48. **At present, OP 4.00 is most likely going to be renewed for two more years. However, other options exist.** For example, greater use of country systems could happen under OP 4.01 (and others as appropriate), once minor modifications were made to OP 4.01 and the disclosure policy. These minor modifications would be: (1) modifying Footnote 13 to apply to a wider array of project types and to certain countries subscribing to third party international standards (e.g. EU accession, regional trade agreements, ISO 14000) and (2) modifying the disclosure policy from requiring EA reports to requiring Environmental Reports. This would allow the reports to be formal environmental assessments as well as statements about the systems being used to achieve safeguard or common framework objectives. This is just one possible alternative to the current system under OP 4.00. Others can be envisioned.

49. **It is recommended that the global review of good practices take into consideration the following questions:**

   a. What are the real issues OP 4.00 was trying to address? Was it the lack of procedural flexibility perceived in the Safeguard Policies? How can the Bank use this knowledge to zero in on core problems and devise solutions that are both efficient and effective?

   b. What does the Bank know about the pilots and their successes, rather than what does the Bank want from them and the program? For example, the evaluation report on the first phase of pilots says it can be reasonably concluded that country safeguards systems can help achieve the objectives of Bank policy in two areas, OP 4.01 Environmental Assessment and OP 4.11 Physical Cultural Resources [OPCS, 2008, p. 29]. Based on available evidence, are there other areas that show particular promise?

   c. What do borrowers really want and which of these needs can the Bank fulfill? Though many borrowers would like it, the Bank cannot give their systems ‘certification’ or sign off outside of some other framework. Borrowers would also like reduced supervision, but to what extent is the need for supervision reduced under UCS?

   d. What are benefits to the borrower of the OP 4.00 approach? How can these benefits be demonstrated and communicated convincingly?

   e. What do stakeholders say and how can their concerns be addressed (see for example BIC, 2004; UST, 2008)?

   f. Is there a point at which the conditionalities, caveats, and transaction costs make OP 4.00 undesirable as a policy? How could these issues be minimized in an amended approach?

   g. What would be the basis for the credibility of an amended UCS approach? For example, would establishing a more robust review/decision making process for approving UCS candidates make this approach more viable?
h. What support structures (i.e. funding, training, staffing, incentives, etc.) will be put in place for an amended UCS approach after the global review of good practices?

50. **On the Safeguard Policies which currently underpin the UCS approach, it is advised that the global review of good practices strive to eliminate requirements that are outdated or no longer relevant to many cases.** These items can be resolved through deletion or clauses that state, “if necessary”, or “as needed”. Within the Safeguard Policies, there is a need to avoid requiring unnecessary actions and be open to cases where a country has an equally good system or one that accomplishes the same ends with a reasonable process. One of the best ways to simplify the policies is to carefully determine for the current context what is required and what is enhancement or good practice, and to be clearer about what is policy, procedure, instruction, and best practice.

51. **Attention needs to be given to a communication strategy in relation to UCS and the global review of good practices.** A communication strategy would need to consider many different audiences including client countries, Bank staff, the Banks’ board and executive directors, and the NGO community. The Bank must become thoroughly versed in NGO and stakeholder concerns and fears about the reforms (e.g. BIC, 2004) so that it can justify Bank positions in a credible, convincing, well-thought-out way. Within each audience, it will be necessary to work on building coalitions of support, so that changes that make sense can be well presented, justified, supported, and successful. Senior management needs to take a strong stand on whatever position is taken or the approach is unlikely to be successful.

52. **Decisions should be designed to result in coordinated action among ILR, UCS, Safeguards, and conflict resolution and grievance redress mechanisms.** This would be an enormous step toward realizing the World Bank’s stated goal of embracing the “new world” and “multipolar economy” (Zoellick, 2010).

53. **Lastly, issues pertaining to budget, incentives, training, and staffing must be given close attention.** It needs to be clear that UCS interventions would require budget and staff trained in assessing borrower capacity and system acceptability. Incentives must be considered, for staff using country systems, for staff supporting country system strengthening, and for borrowers who are strengthening their systems for improved performance, compliance, and enforcement. A cadre of specialists (on staff or contracted as needed and including legal specialists) trained in UCS-related tasks, and with language skills and expertise in the legislation and systems of the borrower country will be play a critical role in increasing the effectiveness of UCS. Designating a staff member to consolidate lessons learned under UCS, to compile analytical work that assesses a country’s environmental and social systems, and to share that information, could also significantly aid the UCS agenda.

54. **Many hopes are resting on UCS, including for facilitating harmonization, Investment Lending Reform (2009a, 2009c) and even the Governance and Anti-Corruption agenda (OPCS, 2007b, p. 2).** We hope that some of the ideas in this paper, summarized in Table 3, will stimulate thought and discussion among Bank Management, staff, and other stakeholders so that changes
in UCS and related pursuits can be planned and pursued successfully, consistent with the general direction of current reforms and to the greatest possible benefit of WBG client countries and their citizens.

Table 3: Summary of proposed directions for an amended UCS approach

| Within the wider context of a changing multipolar world and the Bank reform agenda, move toward: |
| 1. Promotion of a broader understanding of country systems that extends beyond environmental assessment and takes into account other environmental instruments and practices (e.g. engineering codes, zoning, audits, land use planning, licensing systems, and compliance practices). |
| 2. Expansion from a project level approach to a country-level or sector-based approach to UCS. |
| 3. Focus on outcomes and internationally agreed principles and benchmarking, rather than an equivalence/acceptability, gap-filling approach. |
| 4. Risk-based decisions on using country systems and differentiated approaches to countries based on capacity and implementation record. |
| 5. Clear criteria and credible procedures for determining the acceptability of a country’s environmental and social systems under a UCS approach. |
| 6. Coordination of changes to UCS with ILR and other associated changes and reforms. |
| 7. Greater effort and support for strengthening client capacity in general (not only around Safeguards) to implement their own systems and raise environmental and social standards of performance. |
References


OP 4.00 (2005) OP/BP 4.00 – Piloting the Use of Borrower Systems to Address Environmental and Social Safeguard Issues in Bank-supported Projects. World Bank Policy.


OPCS (2009b, Jul 14) First Year Review of Implementation of Incremental Scaled-Up Program to Pilot Use of Country Systems to Address Environmental and Social Safeguard Issues in Bank-Supported Projects. Report to the Executive Directors from Vice President and Corporate Secretary.


## Appendix 1: Safeguards Pilot Project Portfolio as of June 1, 2010

Safeguard Diagnostic Reviews and Related Activities Initiated under the Pilot Program for Use of Borrower Systems to Address Environmental and Social Issues in Bank-Supported Projects

(First phase projects are shaded.)

<table>
<thead>
<tr>
<th>COUNTRY</th>
<th>ACTIVIT(IES) AND/OR PROJECT(S)</th>
<th>INCENTIVE FUNDING</th>
<th>SAFEGUARDS</th>
<th>MILESTONES</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>AFRICA REGION</strong></td>
<td></td>
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<tr>
<td></td>
<td></td>
<td></td>
<td>• Environmental Assessment</td>
<td>• Stakeholder Consultation on Draft SDR: August 2006</td>
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<td></td>
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<td></td>
<td>• Physical Cultural Resources</td>
<td>• Final SDR Disclosed: December 1, 2006</td>
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<td>• Board Approval: July 26, 2007</td>
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<td>• Project Effectiveness: December 6, 2007</td>
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<tr>
<td>MAURITIUS</td>
<td>Country–Level SDR with application to Bank portfolio in the following sectors:</td>
<td>$50,000</td>
<td>• Environmental Assessment</td>
<td>• Equivalence/Acceptability Mission: Feb. 2-13, 2009</td>
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<tr>
<td></td>
<td>• Tourism</td>
<td></td>
<td>• Natural Habitats</td>
<td>• Stakeholder Consultation: June 2009</td>
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<td></td>
<td>• Agriculture</td>
<td></td>
<td>• Pest Management</td>
<td>• Final SDR Disclosed: TBD</td>
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<td></td>
<td>• Water</td>
<td></td>
<td>• Physical Cultural Resources</td>
<td>• Board Approval: TBD</td>
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<td></td>
<td>• Urban Infrastructure</td>
<td></td>
<td>• Involuntary Resettlement Safety</td>
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<td></td>
<td>• Scoping Mission: March 2010</td>
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<tr>
<td>SOUTH AFRICA</td>
<td>Development, Empowerment and Conservation in the iSimangaliso Wetland Park and Surrounding Region</td>
<td>N/A</td>
<td>• Category B</td>
<td>• Equivalence/Acceptability Missions: April and Nov. 2008</td>
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<td>• Environmental Assessment</td>
<td>• Stakeholder Consultation: December 2008</td>
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<td>• Natural Habitats</td>
<td>• Final SDR Disclosed: March 26, 2009</td>
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<td>• Physical Cultural Resources</td>
<td>• Board Approval: December 3, 2009</td>
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<td>• Project Effectiveness: March 24, 2010</td>
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<td>SOUTH AFRICA</td>
<td>Eskom Investment Support Project</td>
<td>N/A</td>
<td>• Category A</td>
<td>• Equivalence and Acceptability Missions: January 23-30 and May 25-June 1, 2009</td>
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<td>• Environmental Assessment</td>
<td>• Disclosure of Draft SDR November 2009</td>
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<td>• Natural Habitats</td>
<td>• Stakeholder Consultation: on Draft SDR, December 9-10, 2009 (comment period extended to January 11)</td>
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<td>• Physical Cultural Resources</td>
<td>• Final SDR Disclosed: March 11, 2010</td>
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<td>• Board Approval: April 8, 2010</td>
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<tr>
<td>SOUTH AFRICA</td>
<td>Second Africa Stockpiles Project</td>
<td>$24,000</td>
<td>• Category A: restructuring</td>
<td>• Equivalence/Acceptability Mission: March 2010</td>
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<td></td>
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<td>• Environmental Assessment</td>
<td>• Stakeholder Consultation: Scheduled: September 2010</td>
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<td>• Pest Management</td>
<td>• Final SDR Disclosed: Est. September 2010</td>
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<td>• Involuntary Resettlement</td>
<td>• Board Approval: Est. October 2010</td>
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<td>BOTSWANA</td>
<td>Country-level SDR as component of non-lending TA on &quot;Enhancing Environmental Sustainability in the Implementation of the Tenth National Development Plan (NDP10)</td>
<td>TBD</td>
<td>• Category: TBD</td>
<td>• Scoping Mission: March 2010</td>
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<td>• Other environmental safeguards</td>
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<td>INCENTIVE FUNDING</td>
<td>SAFEGUARDS</td>
<td>MILESTONES</td>
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<td>CROATIA</td>
<td>Country-Level SDR; capacity review and capacity building for application to certain sectors</td>
<td>$50,000</td>
<td>• Category: N/A</td>
<td>• Equivalence/Acceptability Missions: February 2-10, 2009</td>
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<td>• Stakeholder Consultation: TBD</td>
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<td>• Safety of Dams</td>
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<td>ROMANIA</td>
<td>Municipal Services</td>
<td>N/A</td>
<td>• Category B</td>
<td>• Equivalence/Acceptability Missions: September 2005</td>
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<td>• Stakeholder Consultation on Draft SDR: December 2005</td>
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<td>• Final SDR Disclosed: May 1, 2006</td>
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<td>ROMANIA</td>
<td>Transport Sector Support Project</td>
<td>N/A</td>
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<td>POLAND</td>
<td>Country Level Assessment (Decision Pending)</td>
<td>$50,000</td>
<td>• Environmental Assessment</td>
<td>• Concept Mission: May 2010</td>
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<td>• Physical Cultural Resources</td>
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<td>EAST ASIA AND PACIFIC REGION</td>
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<tr>
<td>LAOS</td>
<td>SDR for Transport Sector SWAp</td>
<td>$50,000</td>
<td>• Category B</td>
<td>• Equivalence/Acceptability Missions: May and November 2008</td>
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<td>• Stakeholder Consultation: December 15, 2008</td>
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<td>• Natural Habitats</td>
<td>• Disclosure of SDR: June 2009</td>
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<td>• Physical Cultural Resources</td>
<td>• Board Approval: March 25, 2010</td>
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<td>LATIN AMERICA AND CARIBBEAN REGION</td>
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<td>BRAZIL, CAIXA ECONOMICA</td>
<td>Integrated Solid Waste Management and Carbon Finance</td>
<td>$25,000</td>
<td>• Category: FI</td>
<td>• Equivalence and Acceptability Missions: March 23-31, 2009</td>
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<td>• Environmental Assessment</td>
<td>• Stakeholder Consultation on Draft SDR: June 10, 2009</td>
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<td>• Final SDR Disclosed: August 3, 2010</td>
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<td>• Appraisal: August 2009</td>
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<td>• Board Approval: Scheduled July 13, 2010</td>
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<td>JAMAICA</td>
<td>Inner City Basic Services for the Poor</td>
<td>N/A</td>
<td>• Category B</td>
<td>• Equivalence/Acceptability Missions: May and Nov 2005</td>
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<tr>
<td></td>
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<td></td>
<td>• Environmental Assessment</td>
<td>• Stakeholder Consultations on Draft SDR: November 1, 2005 (environmental assessment) and Jan 13, 2006 (resettlement)</td>
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<td>• Involuntary Resettlement</td>
<td>• Final SDR Disclosed: March 1, 2006</td>
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<td>• Board Approval: March 29, 2006</td>
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<td>• Project Effectiveness: June 27, 2006</td>
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<td>COUNTRY</td>
<td>ACTIVIT(IES) AND/OR PROJECT(S)</td>
<td>INCENTIVE FUNDING</td>
<td>SAFEGUARDS</td>
<td>MILESTONES</td>
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</table>
| EGYPT     | Second Pollution Abatement Project                                                            | N/A               | • Category: Fi  
• Environmental Assessment                                           | • Equivalence/Acceptability Missions: May-June and August-September 2005  
• Public Consultation on Draft SDR: December 4, 2005  
• Final SDR Disclosed: December 1, 2005  
• Board Approval: March 23, 2006  
• Project Effectiveness: October 12, 2006 |
| TUNISIA   | Sustainable Management of Municipal Solid Waste                                              | N/A               | • Category A  
• Environmental Assessment                                                 | • Equivalence/Acceptability Missions: June and October 2006  
• Public Consultation on Draft SDR: February 2006  
• Final SDR Disclosed: March 1, 2006  
• Board Approval: March 13, 2007  
• Project Effectiveness: July 20, 2007 |
| TUNISIA   | Second Water Sector Investment (PISEAU II)                                                    | $53,000           | • Category B  
• Environmental Assessment                                                 | • Equivalence/Acceptability Missions: September 1-10, 2008  
• Stakeholder Consultation on Draft SDR: October 10-13, 2008  
• Final SDR Disclosed: December 19, 2008  
• Board Approval: May 19, 2009  
• Project Effectiveness: November 10, 2009 |
| TUNISIA   | Second Natural Resources Management Project (PGRN 2)                                          | $25,000           | • Category B  
• Environmental Assessment  
• Forests                                                                   | • Equivalence/Acceptability Missions: July 15-31 and October 18-23, 2009  
• Stakeholder Consultation on Draft SDR: November 23, 2009  
• Final SDR Disclosed: December 2009  
• Appraisal: March 1, 2010  
• Board Approval: Scheduled June 17, 2010 |
| TUNISIA   | Northwest Mountainous & Forested Areas Development Project (PNO4)                            | $25,000           | • Category B  
• Environmental Assessment  
• Forests                                                                   | • Equivalence/Acceptability Missions: April 2010  
• Stakeholder Consultation on Draft SDR: TBD  
• Final SDR Disclosed: TBD  
• Board Approval: Scheduled November 30, 2010 |
| MOROCCO   | Ma-Oum Er Rbia Sanitation                                                                     | $55,000 ($25,000 in FY09, balance in FY10) | • Category A  
• Environmental Assessment                                                 | • Equivalence/Acceptability Missions: June 2009  
• Stakeholder Consultation on Draft SDR: March 22, 2010  
• Disclosure of Final SDR: April 30, 2010  
• Appraisal: April 9, 2010  
• Board Approval: Scheduled June 15, 2010 |
<table>
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<tr>
<th>Country</th>
<th>Project Description</th>
<th>Category</th>
<th>Environmental Aspects</th>
<th>Additional Details</th>
</tr>
</thead>
</table>
| BHUTAN  | - Country Environmental Safeguard Assessment, stakeholder consultation, publication, dissemination  
  - Technical Assistance for of enactment of National Environmental Policy Act revision of Environmental Assessment Act (EAA) and Sector Guidelines (SGs) and related capacity building for National Environmental Commission and line agencies | N/A      | Category NA, Environment Assessment, Natural Habitats, Forests, Pest Management, Physical Cultural Resources, Safety of Dams | Equivalence/Acceptability Missions: April 2007, Stakeholder Consultation on Draft CESA, Disclosure of Final CESA, Enactment of NEPA, Revision of EAA (ongoing), TA for SGs (ongoing), TA for capacity building (ongoing) |
| INDIA   | Regional and state level workshops to finalize legal, policy and institutional recommendations that are based on the completed thematic and case studies in support of consensus on the recommendations for state governments to approve state wide uniform approach to implementing national Resettlement and Rehabilitation Policy and pending legislation | $40,000  | Category N/A, Involuntary Resettlement                     | N/A |

1 Applicable to second phase projects only
Appendix 2: Sample Discussion Questions Posed in Sessions

Effectiveness
(1) What, in your understanding, was the purpose of UCS?
(2) The UCS aims were to: scale up development impact, increase country ownership, build capacity, facilitate harmonization, and increase cost effectiveness. To what extent do you see that these are being realized under the current approach?

Experience with UCS and OP 4.00
(3) What, in your experience, are the human and financial resource and time implications of UCS (per OP 4.00) in Bank-supported operations?
(4) What do you see as the major concerns with UCS?
(5) Are you concerned there could be additional vulnerability of the Bank to Inspection Panel cases around UCS?
(6) In your experience, how do TTLs respond to the UCS pilot experience?
(7) How do clients feel about UCS as currently implemented?

Way Forward
(8) What do you think of the key messages and proposed measures that have so far come out of the background paper?
(9) What parts of existing UCS pilot program are good or successful and should be carried over into a revised approach to country systems?
(10) Do we need a new Country Systems policy or an extension of the existing one? Or no policy at all, instead a targeted program of support to country systems?
(11) Could a Bank-wide country-focused program to increase country environmental and social capacity around Safeguard Policies proceed without an explicit policy?

Advice
(12) Please share any other thoughts, concerns, and insights on UCS under 4.00 in general.

Other
(13) Invite him/her to share general perspectives and sentiments about UCS, what he/she sees as important issues.
(14) Invite him/her to give what he/she thinks are the major lessons learned.
(15) Ask him/her about things that are good from the approach that can be taken forward; share what we have identified to promote discussion.
(16) What changes do you see as being needed going forward – with SP, UCS, IP, ILR?
(17) What do you think of the ideas we are proposing?