Piloting the Use of Borrower Environmental and Social Safeguard Policies, Procedures, and Practices in Bank-Supported Projects

Note: OP/BP xx apply to projects that pilot the use of country environmental and social safeguard systems in Bank-supported projects that are approved by the Board, as part of the pilot program, on or after XXX.

1. **Roles and Responsibilities.** The country director, supported by the technical teams, consults with the borrower and proposes the use of country safeguard systems. The country director also consults with the head of the Sector Board when contemplating such a proposal for a given country in the policy area under the Sector Board’s purview. Potential pilots are agreed with the Operations Policy and Country Services Vice Presidency in conjunction with the Quality Assurance and Compliance Unit in Environmentally and Socially Sustainable Development (ESSD) and the ESSD and International Law Practice Group. These units provide broad corporate oversight of the development, implementation, supervision, and evaluation of the pilot operations.

2. **Assessing Equivalence.** A proposal to use country safeguard systems is based on (a) borrower agreement on the safeguards procedures proposed for the operation, and (b) upstream analysis carried out by Bank staff or others (e.g., development partners or the government)\(^1\) as part of the ongoing country work program\(^2\) or as part of preparing for the Country Assistance Strategy (CAS) or for the operation itself.\(^3\) The scope of such analysis is as follows:

- Review of the requirements—and, specifically, of their intent and application—of the borrower-identified national or subnational legislation and regulation relevant to the operation;\(^4\)

- Assessment (e.g., through discussion with experts, field visits, or interviews, as appropriate) of country institutional capacity and the quality of implementation;

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\(^1\) All such analysis carried out by third parties must be of appropriate quality in the Bank’s judgment.

\(^2\) In some cases, this upstream analysis is completed as part of the Bank’s core economic and sector work.

\(^3\) Instruments for such analysis include Country Procurement Assessment Reports, Country Financial Accountability Assessments, country environmental analyses, and country social analyses.

\(^4\) The applicable laws and regulations are explicitly cited in the project documentation.
• Identification of aspects of the proposed country systems that would need to be strengthened for them to satisfy the objectives and operational principles set out in Table A1, and the time needed to put them in place successfully; and

• Specification of any actions required to address such aspects that would need to be taken by the borrower and/or the Bank during preparation or implementation to ensure that the proposed requirements satisfy the objectives and operational principles set out in Table A1.

The Bank’s decision on the use of country safeguard systems is based on this analysis.

3. **Early Notification and Disclosure.** To the extent possible, the proposal to pilot the use of country safeguard systems, together with its justification, is presented in the CAS or CAS Progress Report. If the subject is not discussed in the country’s current CAS, the country director notifies Executive Directors of the proposal to use country systems by circulating to them the Project Information Document (PID)—the initial version and all substantive updates—for the first project in a sector in which such use is being considered. The PID is also made publicly available in accordance with the disclosure policy.

4. **Further Documentation and Disclosure.** Staff discuss the proposal to use country systems in the PID, Project Appraisal Document (PAD), and legal agreement.

• **PID.** Because the PID is prepared and disclosed early in the project cycle (after concept review), details on the proposal to use country systems may not be available at first. However, the PID signals and justifies the Bank’s intention to use such an approach. As staff update the PID during project preparation, they elaborate on the proposal to use country systems.

• **Environmental and Social Safeguard Documents.** As part of due diligence, the Bank confirms that these documents are acceptable to it before appraisal.

• **PAD.** The main text of the PAD contains the principal findings of the upstream analysis, justifies the proposal for using country systems in the operation, clarifies any differences between Bank policy and the proposed framework, and indicates any actions the borrower or the Bank must take to ensure that the proposed requirements meet the objectives and satisfy the operational principles laid out in Table A1. An annex to the PAD provides additional details, including (a) the process followed in arriving at the findings, (b) the findings themselves, (c) a description of the main elements of the framework that has been or will be applied in the project as well as any supplemental actions that the borrower needs to take, (d) the criteria against which compliance will be judged, (e) risks and risk mitigation measures, (f) project supervision modalities, and (g) the arrangements for monitoring and evaluation.
• **Legal Agreement.** The legal agreement\(^5\) reflects, as appropriate, the key requirements of the country systems, as described in the PAD, that the borrower would be required to follow during project implementation. Because one of the objectives of the use of country systems is to assist borrowers in improving their legal frameworks, the borrower also undertakes to inform the Bank of any developments in relevant legislation or regulations. The legal agreement sets out the remedies available to the Bank if the provisions of the agreement are not followed. If during project implementation the borrower amends applicable national laws but they continue to satisfy the policy framework for the project, the Bank and the borrower may agree to amend the legal agreements to reflect these changes.

5. **Supervision.** As for any Bank-financed operation, the project results framework provides the basis for monitoring implementation and for project supervision, and Bank staff document their findings in aide-mémoire and Project Status Reports.\(^6\)

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\(^5\) The Loan Agreement sets forth the amount of the loan and the terms and conditions on which it is being made. It includes undertakings of the borrower to carry out the project and to take other actions necessary to ensure project implementation in accordance with requirements under Bank policies, including procurement and safeguards actions, as appropriate.

\(^6\) See OP/BP 13.05, *Project Supervision.*