

CSO's Recommendations & Comments on the IDB Environmental & Social Policy Framework (ESPF) Second Draft

Submission to the Special Group responsible for the Modernization of the Environmental & Social Policies, Inter-American Development Bank

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Introduction

Encouraged by changes in the second Environmental and Social Policy Framework (ESPF) draft, we appreciate the fact that many of the [recommendations and comments that civil society organizations \(CSOs\)](#) provided to the first ESPF draft were taken into consideration. We welcome the inclusion of critical elements that should be retained in the final version of the ESPF while also highlighting the following recommendations that are critical for IDB to build an integrated and comprehensive safeguards system that benefits people and the environment. To be effective, a robust safeguards system should be comprised of three major components: a) E&S regulations aligned with the highest international standards; b) strong mainstreaming tools (programming, planning, and training activities to strategically address issues); and c) an enabling environment (budget, institutional incentives, institutional capacity, and a robust implementation plan to effectively operationalize the ESPF).

We want to note that this process lacked opportunities for constructive consultation and dialogue with stakeholders and project affected communities. From the beginning, the ESPF consultation process has been weak, and this second phase is not even technically a consultation. The IDB just opened a window of only 30 days for stakeholders to submit comments with no real opportunities to engage in effective and meaningful dialogue¹ with project-affected people and other stakeholders. For more information on the first phase of the IDB ESPF consultation process and concerns raised by civil society organizations, see this recent [article](#).

A. Overarching Comments & Recommendations

1. Mainstreaming & implementation plan: We recommend maintaining and including all the provisions on mainstreaming that are in the [current Operational Policies](#).² Better planning serves to reduce risks. Paragraph 2.4 is not clear about the inclusion of the mainstreaming elements in the ESPF. We urge the IDB to consult civil society on the implementation plan; a robust ESPF implementation plan is needed to secure effective safeguards implementation within the IDB and in Borrowing countries.

2. Do good beyond do no harm principle: We welcome the inclusion of point 1.4 that incorporates the principle of maximizing sustainable development in accordance with the “do good

¹ The undersigning CSOs requested to the IDB to have a real consultation process for the second phase with the hope that the IDB would not only host virtual regional consultations but would also expand the period to submit comments to at least 60 days.

² The following mainstreaming elements included in the Environment and Safeguard Compliance Policy have been left out the ESPF: OP-703 (Directive A about environmental mainstreaming), OP-765 (Support to development with indigenous people’s identity), OP- 704 (programming, management of exposition to natural threats, and operations after disasters), OP-761 (Section A about proactive action to foster gender equality).

beyond the do no harm principle.” We recommend establishing a clear and transparent procedure that involves stakeholder engagement to support Borrowers in identifying, reporting, and implementing so that project design and implementation can enhance not only the public social and environmental good but also equal access to project benefits, especially among the most marginalized groups.

3. Exclusion list: We welcome the addition of Annex I- Environmental and Social Exclusion List, which both reduces risks to the Bank and makes future decision-making clear and transparent. It puts IDB on par with peer institutions and corrects a notable gap from the first draft. We celebrate the addition of coal and upstream oil & gas development and exploration on this exclusion list, in line with the IDB’s mission of promoting development in a climate-friendly way. We also recommend adding the following activities to the exclusion list:

- Activities resulting in the destruction of High Conservation Value (HCV) areas.
- Production forestry in intact primary/old-growth forests.
- Fracking.
- Large hydroelectric dams.
- Any activities involving harmful or exploitative forms of forced labor or child labor.
- Large-scale agricultural activities using pesticide products according to the criteria of the World Health Organization and health surveillance agencies of the respective countries.

4. No dilution: We recommend the IDB continue to strengthen the “no dilution” commitment by not diluting the current operational policies, particularly, OP-765 on Indigenous Peoples, OP-703 on Environment and Safeguard Compliance, OP-704 on Natural Disaster Risk Management, and OP-761 on Gender Equality.

5. Strengthening supervision during implementation: We welcome the inclusion of provision 3.23 on project closure, and the additions in provisions 3.21 & 3.22, on how the IDB will address non-compliance, and ex-post third-party monitoring. Also, we take note that provision 3.13 further specifies IDB’s responsibilities.

As a policy, the ESPF should avoid discretionary action which can lead to non-compliance. Thus, we recommend further critical additions to eliminate flexibility, discretionary action, and weakening language:

- Establish clear requirements and strengthen language in all the provisions related to supervision during implementation: For example, the expression “*in a manner and timeframe acceptable to the IDB,*” will not allow the IDB to do a systematic follow up of the project. The timeframe and manner should be pre-established in the ESPF by clarifying specific criteria and requirements.
- Define minimum requirements for high risk projects: For example, large infrastructure and extractive projects in places where violations of the rights of indigenous peoples and

other local communities have occurred, or are likely to occur, including, inter alia, territorial rights and/or the right to free, prior and informed consent (FPIC).

- Strengthen reporting requirements in para. 3.9 to align it with best standards set by peer institutions. For example, establish as a requirement that the draft Environmental and Social Management Plan (ESMP) should be disclosed before project appraisal.
- Require independent, third-party monitoring using participatory methods that engage affected populations, addressing key E&S impacts and risks from project design, to complement and assess in supervision and monitoring *for all Category A projects and projects that require resettlement, biodiversity offsets, and FPIC*.
- Establish automatic reporting criteria to project-affected people: For example, when a project risk changes, when there is an IDB mission or field visit to the project site, etc.
- Disclosure during implementation: Develop comprehensive and accessible project monitoring reports in accessible and culturally appropriate formats so that project-affected people can follow project implementation and effectively engage in the process. Create automatic requirements to disclose information on project implementation, which should be integrated as a supervision requirement.
- Establish a clear and predictable system to monitor and report on safeguards performance, with due attention to their effectiveness in the mitigation and prevention of E&S impacts and risks.
- Define requirements for when and under which specific conditions the IDB will apply corrective measures to a Borrower that does not comply with safeguards.
- Define minimum requirements for when and under which specific conditions the IDB will refrain from financing a project on E&S grounds. Para. 1.6 should be more specific and change “may refrain” to “will refrain.”

6. Grievance Mechanism and Accountability: We commend the inclusion of language instructing Borrowers to provide project-affected people with information about MICI, in addition to the project grievance mechanism (in para. 39, and in ESPS 10, footnote to para.19 and 28). By utilizing Borrowers' logistical advantages for stakeholder engagement, the ESPF will enhance awareness of the full accountability framework for IDB-supported projects. This will increase access for project-affected people, ultimately bolstering accountability and fostering continuous institutional improvement. We also praise the clarification that access to MICI is not contingent upon exhausting use of the project grievance mechanism.

However, we recommend further critical additions to strengthen the role of grievance mechanisms at the project level and enhance accountability:

- The ESPF should provide concrete guidance on how to structure or operate an effective grievance mechanism at the project-level. The ESPF should require the Borrower to design and implement the Borrower Grievance Mechanisms based on [Principle 31](#) of UN

Guiding Principles.³ Adherence to these principles is key to creating an effective grievance mechanism.

- Project-level grievance mechanisms should use accessible and culturally appropriate formats for the different physical, sensory, cultural, and/or cognitive needs of project affected people and local communities.

7. Human Rights & Reprisals: We welcome the explicit commitment to respect human rights and the reference to the Escazú Agreement to actively promote access to information, stakeholder engagement, and environmental justice (para. 1.3). Also, we celebrate the commitment not to tolerate retaliation, such as threats, intimidation, harassment, or violence against those who voice their opinion or opposition to an IDB-financed project or to the Borrower, and the requirement to complete a contextual risk assessment as part of the project due diligence process in para. 3.19.

However, we recommend further key additions to narrow flexibility in the application of the ESPF:

- IDB should ensure that the commitment not to tolerate reprisals is communicated from the outset of a project with the Borrower, and it must be backed up with guidelines for concrete actions that should be taken in response to reprisals, if and when they materialize.⁴
- Eliminate weakening language in ESPS 1 footnote 51 to para. 9. Human rights due diligence should be always required by the Borrower “where the nature of the project or its operating contexts pose a significant risk to human rights, such as in investments in security provision, in contexts where internally displaced people exist, and in contexts of post or on-going conflict, among other.”
- Add the commitment not to tolerate retaliation upfront, in the IDB’s Environmental and Social Commitment’s section, para. 9 under stakeholder engagement.

B. Key comments on the main improvements & recommendations about the shortcomings in the existing Draft that should be addressed in the final ESPF

Policy Statement

IDB Commitments

- **Fostering gender equality.** We recommend adding a clear reference on this commitment to promote and abide by the provisions of all current international treaties, agreements, and conventions on girls, adolescents, women, and LGBTQI people. Also, we recommend adopting a gender definition that incorporates the large diversity of sex-generic identities. For example, this ESPF draft does not explicitly mention LGBTQI people.

³ “Effectiveness criteria for non-judicial grievance mechanisms”

⁴ See for example the [Practical Toolkit for Independent Accountability Mechanisms](#) developed by MICI which provides guidance and measures to address the risk of reprisals.

- **Promoting non-discrimination and the inclusion of vulnerable groups.** The IDB's and Borrowers' responsibility should be to ensure accessible formats for the different physical, sensory, and/or cognitive needs and in open data formats during project preparation and implementation. Strengthening requirements on accessibility will not only prevent adverse impacts but will also guarantee the engagement of persons with disabilities throughout the project cycle.

IDB's Role & Responsibilities

Screening and Environmental and Social Classification

- There needs to be special attention on socio-environmental risks in the territories of Indigenous Peoples and other vulnerable populations, including Indigenous groups in situations of voluntary isolation. The IDB needs to analyze socio-environmental risks in the context of territorial governance at the appraisal stage, including risks related to cumulative and synergistic impacts with other existing and proposed projects.

Risk Classification

- While we welcome the introduction of flexibility to increase risk classification when assessing throughout the project cycle, we also recommend that the risk classification include the concept of associated potential damage. With this methodology, it should be possible to identify and measure, in detail, what may be low, moderate, substantial and high risk. For each level of risk, the IDB must indicate the potential damage associated.

Due Diligence

- In order to be effective, the provision in para. 3.20 should consider the Borrower's capacity and stipulate minimum requirements. In cases where the Borrowers have no E&S capacity and coordination, only requiring an Environmental and Social Plan (ESAP) will not be enough unless it stipulates the minimum requirements. Also, the ESAP should be always part of the legal agreement and not "as applicable."

Operations involving Financial Intermediaries (FIs)

- We recommend expanding and strengthening requirements for FI Environmental and Social Management System (ESMS), so that FIs apply ESPs that are equivalent to those of the IDB. Lending through an FI should not lower standards for financing provided by IDB. The FI's ESMS should incorporate all relevant principles and requirements of all the relevant ESPs, not only ESP 1 (para. 4.2.a). An FI's ESMS should include:
 - Environmental and Social Policy that incorporates all relevant principles and requirements of all the relevant ESPs.
 - Clearly defined procedures for the identification, assessment, and management of the E&S risks and impacts of subprojects, including roles and responsibilities of the FI's ESG specialists and staff.

- Organizational capacity and competency within an ESG unit, its specialists, and staff.
- Supervision, monitoring and review procedures of E&S risks of subprojects and the FI's portfolio.
- Transparency and disclosure policy of project level information including clients/projects names, sector, location, E&S risk and impacts documentation and measures plans, and all safeguard related information of those higher risk subprojects.
- Appropriate internal mechanisms and systems for the disclosure of information including project level information in the FI's website.
- A Grievance Mechanism.
- The ESPF should include a requirement that if the risk profile of the FI's portfolio and/or an FI subproject increases, then IDB requires the FI to notify the Bank immediately, apply all relevant ESPSs, implement all necessary measures, and report back regularly. Also, under these circumstances, it should be required to the IDB to increase its oversight and supervisory role.
- The ESPF should be clearer and more transparent in terms of the scope of application of the FI portfolio and their subprojects. The requirements of the ESPSs should apply to all FIs that receive support from the IDB, either from the Bank or the Borrower, or through the Borrower or other FIs, as follows:
 - Where the Bank support is provided to the FI to fund clearly defined FI subprojects, the requirements of the ESPSs will apply to each of the FIs subprojects.
 - Where the support is provided to the FI for a general purpose, the requirements of the ESPSs will apply to the entire portfolio of the FI's future subprojects.
 - Where the FI receiving support from the Bank provides financing or guarantees to other FIs, that FI will require the other FIs to apply the requirements of the ESPSs (as specified in points i and ii), and will require each subsequent FI to apply the requirements of the ESPSs (as specified in points i and ii).
- We also recommend to clearly specify that if the FI client fails to reestablish compliance, the IDB will exercise remedies, as applicable in accordance with the Bank's policies, procedures, and regulations including (i) suspend disbursements and (ii) declare the entire loan, or a portion of it, immediately due and payable with interest, fees, and other charges accrued up to the date of payment, and may cancel the undisbursed portion of the loan.

Multiple Works Operations

- We recommend clarifying the E&S requirements for multiple works projects, including that those individual works with moderate to significant E&S impacts are required to comply with the ESPSs.

Policy Based Loans (PBLs):

- Given the growing importance of these types of instruments for the IDB in the context of the COVID-19 response and recovery, early public participation and disclosure of documentation should also apply to PBLs. We emphasize the importance of disclosure in relation to assessments of adverse social impacts, even when there is not a related environmental impact, along with meaningful consultations on proposed policy changes with relevant stakeholders and project-affected people.

Technical Cooperation (TC) & pre-investment operations

- We welcome the inclusion of pre-investment operations under the scope of the ESPF. However, we recommend expanding the scope of application of TC without initial restrictions so that the expected results of TCs, such as improving capacities or the implementation of a facilitated program, are also consistent with the ESPF. As with PBLs, early public participation and disclosure of documentation should apply to TCs and pre-investment operations.

Use of Borrowers' Frameworks

- The IDB should disclose the intention to conduct a Borrower's Assessment as early as possible and specify the aspects of the Borrower's framework that are being considered for assessment and potential use. Also, to perform such an assessment, the IDB should engage with relevant stakeholders, including civil society and project-affected people, so their views can be included and inform the assessment and gap filling measures.
- The functional equivalence assessment, to be a meaningful task, should include an acceptability assessment and an organizational capacity assessment as an explicit part of the assessment. Also, this process assessment needs to be ongoing throughout the entire project cycle.
- An evaluation of the Borrower's regulatory framework, institutional capacities, and governance arrangements (addressing needs to strengthen and mainstream human rights and E&S standards) should be carried out in the design of Country Strategies (as well as PBLs and TC operations) as an essential underpinning of project-level activities. Through robust E&S standards, and active support for governments and other relevant stakeholders, the IDB should strengthen Borrowers' Frameworks or systems, strictly avoiding tendencies of a 'race to the bottom', especially in countries where significant backsliding has been observed recently.
- The Borrower should inform the IDB of any changes in their frameworks that may impact the functional equivalence with the ESPF.
- This point should specify that the IDB will: a) require public input into IDB determination of the Borrower's Framework equivalence; b) prohibit the use of Borrower systems for highly complex and sensitive projects such as Category A projects that involve resettlement, FPIC, biodiversity offsets; c) underscore the Bank's responsibility for due

diligence; d) provide detailed equivalency requirements; and e) emphasize the borrower's implementation practices and track record.

Glossary

- We recommend the inclusion of, or changes to, a number of definitions, including disability, reasonable adjustments, accessible technologies, universal design, involuntary resettlement, critical habitat, forced eviction, security of tenure, etc. See suggestions in the attached document with track changes.

Environmental and Social Performance Standards (ESPSs)

ESPS 1: Environmental Assessment & Management of Risks and Impacts

- We welcome additions of para. 6 & 9: The additions will help ensure that Borrowers address ongoing and emergent issues and provide a more comprehensive assessment of risks (e.g., climate change, gender, etc.). Also, we commend the addition to cover monitoring processes throughout the project's lifecycle, as well as the inclusion and application of a "precautionary approach," and fuller description and emphasis on the mitigation hierarchy in the Objectives. In addition, we celebrate that ESPS 1 has significantly strengthened language on meaningful consultation.
- Scope of application should be to *all* projects under the scope of the ESPF (not only to investment finance projects). Restricting this only to investment financing would be a step backward and is inconsistent with text in the Policy Statement. A uniform standard for all projects, on the other hand, will simplify application and reduce risk.
- Provide detailed screening criteria and process for the selection of projects, including: expected impacts, the phases of the projects, the ways in which the communities will participate in the whole process, assessment of the ecosystem services and the risks of the projects, and prioritizing the improvement of territorial and sectoral planning instruments, from a public interest perspective. Project identification and impact avoidance should be undertaken in parallel with the identification of all potentially impacted stakeholders and genuine consultation from the beginning of the project planning and continued throughout the implementation, monitoring and evaluation of the project lifecycle in a participatory manner.
- With a view to further improving the IDB work on Climate Change and alignment with the Paris Agreement, we recommend including in ESPS1 a Climate Change Assessment Annex (see the attached document in track changes).
- Avoid dilution in the lack of detail of minimum requirements and procedures of the Environmental and Social Impact Assessment (ESIA) included in point 4.19 of the current Environment and Safeguard Compliance Policy. We recommend incorporating point B.5 "Requirements of environmental assessment" in the ESPF. Also, add a definition of ESIA.

- Clear deadlines, timeframes, and requirements should be included in para. 15, 16, 17, and 18.
- In order for projects to be implemented with due respect for human rights, the IDB should request the Borrower conduct human rights assessments as part of the ESMS. A Human Rights impact assessment, including the healthy environment, carried out by the Borrower can provide the Bank with more information on pre-existing situations and allow it to carry out an assessment of the development contribution of said project and thus better consider its financing.
- The obligation of the Borrower to inform the Bank of any change in the design and implementation of the project should be included as a requirement (para. 24). Any changes made by the borrowers to the project design or management plans should be reported to the Bank, so that the Bank can evaluate social and environmental implications according to the ESPF.
- The commitment to support and assist in stakeholders and project-affected people in participatory monitoring activities should be explicit (para. 24). For example: provide guidance and training as necessary to improve participatory monitoring capacity, and ensure that community monitoring reports are effectively incorporated into the overall project monitoring mechanism. Clarify what the IDB's expectations are in terms of community monitoring; it is only mentioned in passing and should be something that the IDB actively promotes among borrowers.
- As with para. 13, the commitment to incorporating input of stakeholders and project-affected people in the risks and impacts identification process should be clear and explicit. We recommend deleting, as appropriate.

ESPS 2: Labor and working conditions

- We welcome the incorporation of the ILO Convention 190 on Violence and Harassment and Convention 100 on Equal Remuneration.
- We celebrate that the scope of application considers temporary, seasonal, and migrant workers. Also, ESPS2 strengthens requirements on non-discrimination and equal opportunity for people with diverse sexual orientation and gender identities, people with disabilities, and migrant workers. In addition, it improves requirements for occupational health and safety.
- Under requirements, we recommend strengthening language and the adoption of procedures and policies for workers with disabilities, which may involve communication in alternative formats such as large text fonts, Braille system, audio tapes, etc. Include accessibility measures and other types of adjustments. Similarly, the ESPF should ensure the inclusion of accessibility measures in both infrastructure and communications including information in plain and simple language. Policies for reasonable accommodation should also be included when these are required. Also, it should incorporate universal design in all workspaces.

ESPS 3: Resource Efficiency and Pollution Prevention

- We welcome the clearer, stronger language in the Objectives section.
- In para. 8, we recommend that beyond requiring reporting on these large projects, there should be criteria in place in ESPS 3 for deciding on whether or not to approve financing. We suggest adding the following: "For projects not covered by the exclusion list, but that are expected to or currently produce more than 25,000 tons of carbon dioxide (CO₂)-equivalent annually, Borrowers should be required to show whether their project is aligned with climate goals or not based on whether they are compatible with the transition pathway of the P1 1.5C scenario of the IPCC. The IDB should then independently verify these findings and reject finance for projects that cannot be modified to be aligned."
- We recommend the proactive inclusion of just transition from oil, gas, and coal in ESPS 3, and setting targets and criteria to measure progress on this.
- ESPS 3 should explicitly mention marginalized populations, who may be more likely to be impacted by pollution as they lack resources to mitigate impacts, particularly women, children, LGBTQI people, persons with disabilities, and more specially Indigenous Peoples and Afro-descendants, as people who tend to rely more directly on their natural environment for livelihoods.

ESPS 4: Community, Health, Safety, and Security

- We commend the strengthened requirements for community health and safety.
- We recommend the inclusion of an Annex on Dams, based on the World Bank's ESF Annex on Dam Safety and the World Commission on Dams' (WCD) Guidelines for Good Practice, which incorporates additional recommendations and provisions.
- We recommend prohibiting the "preventive" use of force and other abuses by security personnel to mitigate and prevent risks related to use of security forces (para. 15). ESPS 4 allows the use of force "*for preventive and defensive purposes*", which is in contradiction with international norms, and is extremely worrying given the rates of violence and improper use of force in the region and in association with development activities. The use of force should be limited to strict necessity and proportional to the threat, or that is "*in self-defense or defense of others against the imminent threat of death or serious injury, or to avoid the perpetration of a particularly serious crime involving a serious threat to life.*"⁵
- We recommend in situations of high risk of retaliation and abuse perpetrated by security personnel, especially in projects with social conflict, the IDB establish a robust mechanism to monitor the Borrower. Such monitoring should be done by an independent third party (convened by the IDB). Monitoring should include, among other aspects, evaluating that security personnel are acting and have the knowledge and capabilities to proceed in line with international best practices on the subject.
- ESPS 4 should include mentions of protecting child rights (as defined by the UNCRC) and should include information on how to promote child safety/protection and the mitigation

⁵ [OHCHR Basic Principles on the Use of Force and Firearms by Law Enforcement Officials](#)

of child sexual exploitation and abuse (SEA). Additionally, it does not mention SGBV prevention.

- ESPS 4 should acknowledge women’s disproportionate vulnerability to health impacts caused by pollution, and women’s and sexual minorities’ disproportionate vulnerability to violence in instances of communal conflict and influxes of outside workers.

ESPS 5: Land Acquisition and Involuntary Resettlement

- ESPS 5 should improve the definition of Involuntary Resettlement. The definition of this concept (para. 1) implies approval or acquiescence of project-affected communities not having the right to negotiate resettlements. The sentence “*Resettlement is considered involuntary when project-affected people do not have the right to refuse land acquisition or restrictions on land use*” is also overly narrow in defining “involuntary” since it ignores the reality that rights often exist on paper, but may not be able to be exercised, due to lack of knowledge of such rights, language barriers, and time and resource constraints that limit peoples’ ability to effectively advocate or negotiate for their interests. We strongly suggest correcting this by changing this sentence to read: “*Resettlement is considered involuntary when project-affected people are not able to exercise the right to refuse, or are coerced to accept, land acquisition or restrictions on land use that result in physical or economic displacement.*”
- ESPS 5 should ensure that documentation of property, provision of compensation, and other livelihood measures (paras. 9 and 12-29) should take into account and provide accommodations for women, persons with disabilities, LGBTQI people, and other marginalized groups, so that they are not further disadvantaged by differences in the outcomes of or compensation for resettlement or displacement.

ESPS 6: Conservation of biodiversity and sustainable management of living natural resources

- We welcome the specificity in the Objectives, consistent with what we had requested. We also appreciate that biodiversity offsets continue to be an unacceptable mitigation measure in instances of critical habitat, in accordance with the Policy Statement.
- Improve requirements for protection and conservation of biodiversity as offsets: Most critical here is strengthening disclosure, reporting and consultation requirements on offsets. When offsets are used, they should provide a key mechanism in assuring fairness and overall sustainability of project outcomes. We need to ensure identification and design of all offset programs, budgeted and funded as part of the project. Particulars should be detailed in guidance notes. See suggested language in the attached document.
- Add definition of critical habitat as per the definition in Glossary. ESPS 6 must have a definition of critical habitat to include Protected Areas at a minimum. Para. 17 should clarify that conversion of critical natural habitat is not allowed. Given the unique values in

such habitats, such conversion can rarely be offset to truly achieve no net loss, much less net gain. Therefore, avoidance of such habitat should always be prioritized.

- Given the importance of natural forests in LAC, both economically and ecologically, it is worthwhile to provide a specific standard to address issues that can be expected to arise. This will reduce risk and enhance sustainability of any such operations. See the suggested language in the attached document para. 29.

ESPS 7: Indigenous Peoples

- We welcome the inclusion of a requirement to respect and take into account the rights of Indigenous Peoples (IPs) as contained in national legislation, applicable international law, or in IPs legal systems. Also, we commend the inclusion of a requirement for transborder IPs and IPs in initial contact.
- We adhere to, support and recommend the [recommendations developed and submitted by Asociación Interétnica de Desarrollo de la Selva Peruana \(AIDSESP\) and the Indian Law Resource Center \(ILRC\) to strengthen ESPS 7:](#)
 - a) Improvement of FPIC requirements, particularly the revision of para.17 under “Impacts on Lands and Natural Resources Subject to Traditional Ownership or Under Customary Use” which supports the conversion of indigenous peoples’ (IP) collective property rights to individual ownership rights. This provision was not included in the first ESPF draft and would allow the Borrower to divide collective IP lands located within the project area, thus, negatively impacting their cultural identity and attachment to their lands and threatening their existence. For these reasons, we recommend the IDB eliminate this provision.
 - b) No dilution of the current IDB OP-765 on Indigenous Peoples, particularly in promoting indigenous development. By leaving this element aside, the 2nd ESPF draft does not respect the role of Indigenous peoples and women in self-determining their communities’ development needs and priorities. The ESPF should incorporate the Strategy to Indigenous Development as currently included in OP-765.
 - c) For circumstances requiring FPIC, and in cases in which affected IP groups developed their own indigenous consultation protocols, Borrowers should be required to use those consultations protocols. The ESPF should encourage and require the use of indigenous consultation protocols in circumstances requiring FPIC.
- No project should be financed in a context where there are violations of territorial rights and prior consultation of indigenous peoples and other traditional populations (including respect for their consultation protocols).
- We also recommend the inclusion of tribal peoples, who are protected under the ILO Convention 169 and have the right to self-determination and FPIC.

- The definition of indigenous identity in ESPS 7 should refer to the concepts and norms of international law and international sources of human rights, such as the ILO Convention 169 and the United Nations Declaration on the Rights of Indigenous Peoples. All of these international standards establish a broad consensus on this issue.

ESPS 9: Gender Equality

- We welcome the inclusion of the concept of sexual and gender-based violence (SGBV) instead of GBV, the incorporation of the ILO Convention 190 against violence and harassment in the workplace, and the provision that strengthens the mandate for gender inclusion in consultations.
- IDB projects should be required to not only prevent gendered harm but also promote and work towards greater gender equality throughout all projects. ESPS 9 should apply to all Bank-financed projects, regardless of the identified environmental and social risks and impacts. IDB should mainstream the gender throughout the ESPF.
- Make the Gender Assessment (GA) a requirement for all IDB projects without exception and expand the GA priorities to include identification of mechanisms to promote gender equity, such as quotas for hiring of women and sexual minorities for project activities including leadership opportunities.
- Mandate gender-equity training for all project staff, create and mandate hiring quotas for women and LGBTQI workers, and require reporting on gender composition of staffing.
- Mandate the collection of baseline and follow-up gender-disaggregated data for all project indicators and ensure that information is collected on the wellbeing of LGBTQI people throughout the project cycle.
- Strengthen requirements to include LGBTQI people in consultations as this group, like women, is often disregarded and excluded in consultation processes.
- ESPS 9 should incorporate the criterion of positive action according to the UN Committee on the Elimination of Discrimination against Women, [Recommendation 25](#) in order to promote measures to prevent gender-based violence, in all IDB-financed projects.
- ESPS 9 should attempt to overcome the gender burden of unpaid care work by investing in paying for unpaid care economy activities and preventing the privatization of basic services.

ESPS 10: Stakeholder Engagement and Information Disclosure

- We welcome that this ESPS now applies to all investment financing projects, strengthening its scope of application. However, the scope of application should be to *all* projects under the scope of the ESPF.
- We celebrate improved language and requirements for information disclosure and meaningful consultation and appreciate the express mention of Escazú Agreement provisions.

- We welcome the inclusion of a provision stating that the Borrower will address allegations of retaliation, abuse, or discrimination and take appropriate remedial measures, but it requires a higher level of accuracy and detail, especially in relation to the “appropriate remedial measures.”
- It is still necessary to remove weak and ambiguous language in ESPS 10. The idea of an ESPF is to establish clear ground rules. This weakening language can lead to discretionary action on the side of the Borrowers who are responsible for implementing ESPS 10. Many provisions of ESPS 10 are stated in an ambiguous and imprecise manner, which can generate problems to ensure their correct interpretation and implementation. It is important to establish measurable deadlines and expectations.
- The principle of proportionality is still applied in many sections of ESPS 10. It should be clarified how and in what way the process to commensurate the risks and impacts of the project and the degree and scope of required participation will be determined.
- There is still no clear and explicit link and alignment between ESPS 10 and the Bank’s Access to Information Policy.