

Public Consultation on the EIB Group's Environmental and Social Framework

Webinar on **Standard 2 – Stakeholder Engagement**

Friday 25 June 2021

Summary of discussions

Objective

The European Investment Bank (EIB) is hosting a series of 13 webinars in the context of the public consultation on the EIB Group Environmental and Social Sustainability Framework (ESSF), open from 3 June to 6 August 2021. The overall objective of the webinars is to facilitate dialogue with stakeholders on the EIB Group Environmental and Social Policy (hereinafter “the Policy”) and Standards.

On 25 June 2021, the EIB hosted a webinar on Standard 2: Stakeholder Engagement. The Standard outlines the promoter’s responsibilities for the implementation of transparent and continuous engagement with project stakeholders, with the key objectives of adopting an inclusive approach to stakeholder engagement, ensuring that stakeholders have timely access to information on the project’s risks and impacts, promoting and enabling meaningful participation and input of stakeholders in project-related decision making processes, and providing effective means to raise grievances and access remedies.

Introduction

The EIB welcomed the 68 webinar attendees (51 external, 17 EIB Group staff) and explained the webinar housekeeping rules and arrangements to ensure an effective discussion, noting that participant statements would not be attributed to individuals or organisations in the summary report and any comments made during the discussion would not be considered as formal contributions. The EIB invited participants to submit their written contributions to the public consultation by 6 August 2021 on the public consultation [website](#).

The EIB delivered a [presentation](#) on Standard 2: Stakeholder Engagement. It summarized the background to the public consultation, the ESSF currently in force, and the main changes to the Standard under consideration. The floor then opened for discussion.

Discussion

The first question concerned the language in paragraph 15 of the Standard and the meaning of the required ***proportionate nature of the stakeholder engagement process***. Who determines what proportionality is, the nature and scale of a stakeholder engagement process, and whether there is a need for engagement? The EIB explained that similarly as in other Standards, the intention was to enhance a risk-based approach and to align the Standards with the requirements and spirit of the European Union’s Environmental Impact Assessment (EIA) Directive and the Aarhus Convention. In that sense, the nature and extent of stakeholder engagement will reflect the nature and complexity of the project and its stakeholders, the project environmental and social risks and the potential adverse impacts on individuals, communities and other stakeholders, the sector, and the country context. Stakeholder engagement processes will therefore vary depending on the project and context. The Bank asks its clients to engage with stakeholders during the Environmental and Social Impact Assessment (ESIA) and again in determining the level of engagement regarding nature, scale, and location of the project. The process is continuous. The EIB reviews the process as part of its due diligence and determines whether stakeholder engagement levels are satisfactory.

Several participants raised questions regarding the ***grievance mechanisms***. According to paragraph 22 of the Standard, the promoter should establish a grievance mechanism “as early as possible” while the

existing Standard refers to the promoter establishing the mechanism at the “outset of the project design”. It also does not say whether the process of establishing the mechanism would be free of charge to the promoter. A suggestion was made to include stakeholders in designing grievance mechanisms and to ensure their independence. In paragraph 22, the EIB meant to address scenarios where it engages in projects with different levels of maturity. The EIB confirmed that establishing a grievance mechanism would be free of charge to the promoter. The EIB will consider clarifying this. As grievance mechanism has important problem-solving and institutional learning functions for the promoter, it is considered to be most effective when housed within the project management structures. However, the envisaged guidance note for Standard 2 will highlight good practice for setting up grievance mechanisms outside the project structure (e.g. in a local or community institutions or NGO) for more complex projects in challenging contexts .

On the **Stakeholder Engagement Plan (SEP)**, a participant commented that the language was not clear when it referred to the requirement to carry out a SEP “depending on the nature and scale” and “if deemed necessary by the EIB”. The EIB clarified that the minimum requirement would be stakeholder identification and establishment of the project grievance mechanism commensurate to the nature and scale of the project and its potential environmental and social impacts and risks. The other four steps outlined in the Standard would be implemented or required depending on the specific characteristics of the project, in line with the national legislation requirements and as determined by the promoter and the EIB.

A participant noted that there is no clear reference to **human rights defenders** as stakeholders, especially for projects outside the European Union (EU), in the Standard. The EIB explained that the Bank’s revised Environmental and Social Sustainability Policy emphasises specific risks to human rights defenders and environmental activists in the context of the Bank’s zero tolerance for reprisals, intimidations, threats, harassment, violence or any other abuse of the rights of individuals and in particular of human rights defenders and environmental activists. Whilst these stakeholders are not specifically mentioned in Standard 2, they may be considered as vulnerable in certain contexts. The definition of socioeconomic vulnerabilities in Standard 7 includes “opinion” and “activism”, which would cover human rights defenders and environmental activists in certain contexts.

Participants raised the topic of **the implementation of stakeholder engagement**. The EIB explained that it receives regular updates on the implementation of agreed engagement activities through continuous engagement with the promoter, and receives reports on project implementation, including environmental and social measures. In addition, the Bank also often engages external consultants for monitoring the implementation of environmental and social requirements, and receives supervision reports from the Lenders’ Technical Advisers as relevant. Moreover, if there is involuntary resettlement in the context of the project, the related stakeholder engagement as part of the resettlement process will also be reported to the EIB.

On the same topic, a participant asked whether there could be **full stakeholder engagement** (6 steps), **but no SEP**. The EIB explained that if a project requires all six elements of stakeholder engagements, it would mean that project requires a high level of engagement and would need an SEP.

A participant asked how the EIB explains to **stakeholders about their engagement and participation** regarding project governance, design and decision-making process. The EIB explained that depending on the type of project, there will be different levels of information disclosed by the Promoter and if a higher level of engagement is required, consultation will be involved. The EIB publishes the summary of its environmental and social due diligence as well as the related key documents in the Public Register on its external website.

A participant asked what “relevant” means in this context, who decides what is relevant, and stated that clear criteria and definition of ‘relevant’ should be provided in the Standard. Furthermore, decisions about who is a stakeholder should be for the stakeholder, not the promoter or the financier. The EIB noted that defining “relevant” is not so straightforward as it is very project and context-specific. It would be challenging

to be more prescriptive on that in the Standard. Ultimately, it is the Bank that determines the relevance as part of its due diligence. The term is used in a broad sense, but the EIB remains open to suggestions for an alternative. With regard to the determination of who is a stakeholder, the current definition includes “those who may have interests in a project and/or the ability to influence its outcome, either positively or negatively” and therefore is considered to accommodate also any member of public interested in the project.

A participant noted that the concept of **broad community support** is no longer in the draft Standard. The EIB responded that previous discussions had indicated that civil society was critical of the concept due to its perceived vagueness and difficulty of verification. In addition, to align further with the language of the EU guidance and Standards of other IFIs, the EIB has sought to integrate the notion and concept of meaningful consultation rather than broad community support, and provide a definition of meaningful consultation.

A participant voiced the view that stakeholder engagement should take place at early stage. The EIB explained that it asks promoters to engage with stakeholders early on in the decision-making process, when all options are still open, in line with the principles of the Aarhus Convention. If the Bank considers the process was not meaningful or that some aspects have not been taken on board, it can ask the client to reopen the case. This is EIB practice both inside and outside the EU.

A participant noted recommendations of the EIB Group Complaints Mechanism (EIB-CM), and asked if **lessons have been learned** and recommendations integrated in the Policy and Standards and the procedures. The EIB explained that one of the lessons learned is that careful attention to stakeholder engagement is needed also inside the EU. The EIB assesses the information received and may ask promoters to complement this with any additional engagement deemed necessary based on the EIB’s own analysis. Another recommendation was to complement the Standard with guidance for clients and EIB staff, which will be developed based on the new Standard.

In addition, a participant asked for the rationale for including reference to **free, prior and informed consent (FPIC)** in the Standard on vulnerable groups and Indigenous People, but not in the Standard on stakeholder engagement. The EIB explained that all requirements related to projects affecting Indigenous People are now covered in Standard 7. In terms of extending FPIC beyond indigenous communities, FPIC is currently the right granted to Indigenous Peoples under international human rights law, and extending it may lead to its real or perceived weakening. Furthermore, neither the EU nor national legislations nor Standards of other IFIs currently grant FPIC rights to non-indigenous communities, so the EIB currently does not have a strong basis to do so either. For non-indigenous communities affected by EIB projects, the EIB requires a meaningful consultation, which strongly reflects the FPIC principles.

A participant pointed to the risks and impacts associated with the **Information and Communication Technologies (ICT)** sector and asked, if the EIB has begun contemplating how stakeholder engagement needs to be scoped to consider “small/no footprint” investments that carry such risks. The panel explained that the EIB is aware of the risks of this sector and is working on a report on human rights and the telecom sector, together with Office of the United Nations High Commissioner for Human Rights (OHCHR). The EIB hopes to disclose it after the summer, followed by a public seminar.

A question was raised as to how the EIB ensures that the **safeguards reach subcontracted** workers. They are often the most vulnerable but are not included in audits. Subcontractors are also often community members, and it is very important to engage with them in a multifaceted way. The EIB agreed that this is one of the challenges and pointed to the discussion on Standard 8 on labour rights, which include provisions on supply chain and subcontracted workers. Further, the EIB clarified that its Guide for Procurement includes an Environmental and Social Covenant, which obliges the promoters to include it in contracts with contractors who then need to cascade the related requirements further down to subcontractors.

A participant asked the panel to clarify the **methodology for deciding when the project should be subject to the 6 steps** of the stakeholder engagement process. The EIB explained that as part of the

appraisal of the project, the EIB team looks at the levels of the environmental and social impact and risks in the EU, whether the project is considered Annex I or as Annex II, and the EIB translates the same principles when appraising projects outside the EU. In addition, contextual risk factors, project location and sector are reflected in the levels and requirements for stakeholder engagement. The Standard is flexible and open to accommodate a very wide range of different contexts.

In the context of an ongoing complaint, a participant asked how the Standard would be applied in cases where there is **a group of both indigenous and non-Indigenous People that are affected by the project**. EIB explained that it cannot discuss specific projects, especially considering that the investigation is ongoing. Generally speaking, if a project has impacts on a non-indigenous community, they will also be included in the engagement process through meaningful consultation. Depending on the context, it is considered good practice not to have an indigenous development plan, but a community development plan, or a plan that addresses both impacts on Indigenous Peoples as well as the impacts on the broader community, in order to avoid potential social tensions within the community.

Concluding remarks

The EIB thanked participants for their constructive participation, which allows the review of the ESSF to benefit from the expertise of a wide range of individuals and organisations. The EIB reiterated the invitation to submit written contributions by 6 August 2021 on the public consultation [website](#). After this date, the EIB will start publishing the written contributions received. 15 working days ahead of the Board of Directors meeting during which the revised ESSF will be discussed, a draft revised EIB-ESSF, reasoned responses to the contributions and a draft consultation report will also be published.