African Development Bank’s Integrated Safeguard System

Summary Report of the Regional Consultations

23 SEPTEMBER 2012

QUALITY ASSURANCE AND RESULTS DEPARTMENT (ORQR)
Introduction

The AfDB organized regional consultations with civil society, representatives of member countries (RMC), specialized and university institutions, as well as with the regional development banks and private sector for its new Integrated Safeguards System (ISS), which is a key instrument for the sustainability and conformity of African development operations financed by the Bank.

The system will cover lending operations for both the private and public sectors while designating the use of the Strategic Environmental and Social Assessment (SESA) for policy lending and the use of the Environmental and Social Impact Assessment (ESIA) for program lending.

The regional consultations were chaired by the countries’ respective ministers and national directors in charge of the economy, the environment and/or climate change of member countries, and took place in the following schedule:

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<tr>
<th>Regions</th>
<th>Location</th>
<th>Date</th>
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<tr>
<td>East Africa</td>
<td>Nairobi, Kenya</td>
<td>April 11-13</td>
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<tr>
<td>Southern Africa</td>
<td>Lusaka, Zambia</td>
<td>April 18-20</td>
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<td>Central Africa</td>
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<td>West Africa</td>
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<td>North Africa</td>
<td>Rabat, Morocco</td>
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For the Bank, these regional consultations have a triple objective:

(i) to improve the overall quality and relevance of the ISS;
(ii) to promote a common understanding of the objectives, principles, and requirements of the safeguards;
(iii) to guide the formulation of the safeguard policy statement.

Indeed, during the reconstitution of the African Development Fund (ADF XII) and the General Capital Increase (GCI) of AfDB in 2010 – upon request from shareholders – the Bank committed to the revision and modernisation of its processes and social and environmental protection system. The Bank envisioned doing so by elaborating and adopting an ISS, and supporting the integration of climate change considerations into the process of revising and conforming its protection measures.

The system resulting from the revision of existing transverse policies and procedures will incorporate new additional safeguards in order to standardize and simplify the policy base and reduce transaction costs (one-stop service), ensure the strong and efficient management of the risks and impacts of the project, integrate emerging issues such as ecosystem services and climate change, and harmonize the safeguards with the Bank’s strategies, national systems, and other Multilateral Development Banks (MDBs).
The Bank has thus been able to promote the participation of various stakeholders to the finalization of the concept in order to encourage the appropriation of sustainable development issues and to highlight the economic, social, and ecological opportunities that a strong project preparation could offer to states and stakeholders in the long term.

1. Organizational Considerations and Representation

The Bank has mobilized substantial technical and financial resources to ensure the success of the regional consultations favouring a strong, efficient, and balanced representation of a variety of partners in African development. Subsequently, the representation was overall satisfying as exemplified by the inaugural consultation held in Nairobi, Kenya with a participation constituting of the following:

- 35% public officials mainly consisting of environment, economy, and climate change ministers
- 31% representatives from civil society organizations established and operating in the region
- 25% representatives from the private sector with emphasis on chambers of commerce and regional banks
- 9% international organizations (predominantly international NGOs working in Africa or collaborating closely on a local level in projects that interest AfDB).

The regional offices were impressive in their contribution not only with logistics and equipment, but also through their support to communication with national partners – particularly with civil society organizations, supervisory ministries, and national environment institutions.

For operational efficiency and to prevent eventual delay in the acquisition of necessary services for the smooth progression of the regional consultations, the funds allocated to each session were transferred to the respective external regional office ahead of time. These funds are managed and disbursed by the administrative and financial managers of the local offices, under the direct supervision of the director and upon request from the expert in charge of the consultation’s organization.

The involvement of these external AfDB offices has also facilitated a strong presence and the appropriation of the consultation process by high government authorities. The official opening and closing of the regional sessions were held by the respective ministries, general secretaries, and national directors, and in the presence of the regional directors, experts, and resident representatives of the AfDB.

2. Content and Importance of Regional Consultations

These consultations complement efforts for bilateral consultation and the examination of preliminary propositions both at an internal level as well as with international partners, and have enabled the Bank to gather opinions on essential issues related to the following:
- The alignment of national systems particularly in regards to the convergence or divergence between the ISS that will govern Bank interventions and the country systems, in regards to the requirements and management of the environmental assessment process;
- The assessment of social development issues including resettlement, gender, indigenous people, labour standards, human rights, consultation and disclosure – particularly in regards to the question of adopting them as mandatory policies, and weighing the constraints and benefits of the decision-making process as to the appropriate and adequate level of due diligence for Bank-financed operations;
- The treatment of environment and biodiversity issues including critical habitats, and the mainstreaming of climate change into the entire ISS versus the adoption of a standalone safeguard on climate change.

3. Recommendations

i. **On the Relevance of the Integrated Safeguards System**

Stakeholders were unanimous in their appreciation of the incitement created for countries and experts in operational departments by the establishment of the Independent Review Mechanism (IRM) to improve the preparation and quality of Bank-financed operations and to promote transparency and the participation of stakeholders. The aim for proper execution of operations and for the reinforcement of the supervision of projects, particularly on environmental and social aspects, should be reinforced by the improvement of procedures and the strengthening of the presence of environmental and social experts in the planning and implementation teams of projects.

ii. **Transparency and Efficiency of Access to Information and Consultation**

There has been significant progress since the Bank’s adoption of a revised policy on disclosure and access to information aiming for a full disclosure principle. Nevertheless, it remains important that the Bank apply and optimize these principles in a systematic manner in the social and environmental assessment process through the Integrated Safeguards Tracking System (ISTS). Beyond the Bank’s existing efforts to clarify the content of the new policy on dissemination and access to information – especially in regards to environmental and social issues – certain stakeholders have asked the Bank to consider the implementation of the Prior Informed Consent (PIC) principle elaborated in the Convention on Biological Diversity and titled the Free, Prior, and Informed Consent (FPIC) to conform the consultations to the needs of local populations and to the Bank’s principles in regards to the preparation of projects involving a limitation to natural resources access in the land of indigenous people.

iii. **Harmonization with National Systems**

The regional consultations have demonstrated that it’s important to ensure that the ISS aligns with the legislation and standards in the local jurisdiction or host government, and harnesses the many best practices in the RMCs – for instance, the creation of a national account to
coordinate environmental and social research in Mali. Also, the ISS is seen as an opportunity to strengthen the national environment institutions, which are very weak in Africa. The Bank must invest in the analysis and reinforcement of country systems that are often present legislatively and institutionally but suffer from difficulties in implementation, and must insert financial programming elements aiming to reinforce the control of quality and to strengthen national environmental systems in the process of establishing Country Assistance Strategy (CAS), policy loans and budgetary support programs. The Bank’s support should incorporate a capacity building component given that most of the African countries have inadequate capacities. Capacity building programmes should further have adequate financial resources. This is why the strengthening of national/country systems is a commendable commitment.

iv. The Importance of Resettlement and Related Social Issues

The Bank’s initiation of a global study of resettlement issues in projects – aimed at assessing the conformity of the preparation of projects with policies and procedures, and at measuring the efficiency of the implementation and monitoring of resettlement plans – was perceived as a pledge of good-will and an opportunity to improve the implementation of related measures. The participants also emphasized the importance of adopting a global, holistic, and concerted approach to adequately address land and involuntary resettlement issues, framed in an African context where land is often state property.

Stakeholders have indicated that where compensation is applicable, the ISS should ensure fairness at all times. Participants noted that there is a need to define the minimum requirements for stakeholder participation and consultation. The guiding principle should be that stakeholder participation and consultations should be inclusive and based on effective communication. They also insisted on the need to provide support to PAPs in order to ensure the responsible and proper utilization of compensation and to avoid families being impoverished as a result of resettlement.

v. Bank’s Responsibility for Resettlement

Though resettlement issues are often treated under RMC’s regulations, the Bank has an important role to play and should see the design of the ISS as an opportunity for the Bank’s full involvement in resettlement. The Bank can do so by putting in place appropriate mechanisms and dedicated staff to ensure implementation, in line with the following suggestions:

- Make information regarding resettlement available to project affected persons in an appropriate manner such as through community leaders. Implementation of the Resettlement Action Plans (RAPs) should fully involve local communities in specifying the compensation benefit of tenants occupying project-affected properties that they do not own.

- Ensure that the borrower fully implements the resettlement plan before the beginning of projects. A better treatment of OS 2 with appropriate mechanisms in place will also
make sure ensure that project beneficiaries and local communities do not suffer from Bank-financed projects.

- Improve the compensation and resettlement assistance process for persons affected by Bank-financed projects. To that end, the resettlement and compensation conditions require the free and prior consent of populations affected by the project. Also, the compensations must be evaluated in relation to the full cost of replacement and not at market cost.

vi. Promoting the rights of indigenous peoples

The Indigenous Peoples representatives and NGOs have actively pushed for a standalone policy on Indigenous Peoples, as part of the issue of human rights. Many participants expressed concerns over the sensitivity of the issue, which is potentially divisive if not handled properly. There were suggestions that indigenous people should be treated as a category of vulnerable people, recognizing that African countries have distinct and varying vulnerable groups. Preparing a standalone policy would be over-emphasizing the issue of indigenous people, and a misplacement of the priorities for poverty reduction and the promotion of well-being for all vulnerable people. The Bank was encouraged to develop and implement policies that promote inclusive growth. It is urged that the treatment of the issue of indigenous peoples should reflect the views of the RMCs. The Bank has therefore encouraged the group to engage and dialogue more with the Bank to arrive at an optimal solution in the interest of the continent.

The Bank has also taken good note of the fact that the African Union seeks to operationalize the exercise of rights within the context of the implementation of Human Rights – including those of indigenous people – and to safeguards lands, natural assets and other cultural heritage. The African Development Bank reiterated its commitment to promoting respect of human rights in the African continent and within the context of national institutions and regulations.

vii. Improvement of the Financing of Environmental and Social Management

While all of these 5 OSs are relevant for Africa, the cost implications of their implementation are to be thoroughly considered, as well as the need to reduce the transaction costs of ISS requirements. The debates revealed the need to establish financing mechanisms directed towards states through grants or advances of Funding for Project Preparation (FPP) for the implementation of environmental and social safeguards – including the completion of studies – and the financing of the implementation and monitoring of overall mitigation measures (i.e. Environmental and Social Management Plan and the Resettlement Action Plan). The opportunities that would be established through the widespread use of FPP on environmental and social issues should address the capacity building needs of stakeholders (states, OSC, private sector, local communities) for a better appropriation of AfDB-financed projects.

viii. The Reinforcement of Quality Control
Participants recommended the reinforcement of internal control for AfDB’s operational units’ greater adherence to the safeguards requirements (mainly categorization) in order to ensure sustainability in the field and realize results that meet development and social and economic improvement objectives. The need to ensure an independent review of strategic papers and to develop strategies to inform the entire process of implementation was also emphasized, along with the need to establish independent mechanisms to identify affected people, settle grievances, and undertake an independent monitoring and evaluation process.

ix. **Expansion of the definition of Area of Influence**

The project areas and their impact areas should not be looked at in isolation. For instance, for ecological habitats, the ISS should encourage the consideration of ecological networks that sometimes could cover areas across boundaries. There is a need to take a broader catchment view, or consider the entire biodiversity hotspot, or entire protected area. For riverine projects, the ISS should encourage the consideration of upstream and downstream issues including environmental flows.

x. **Technical Support for Countries and Operations**

In order to make the operational safeguard effective, the Bank is required to provide definitions of terms – such as environment, indigenous people, ESMF, and hazardous material – as an integral part of the compendium on policies and procedures, and to develop generic and specific methodologies/guidelines (application instruments) such as Cost Benefit Analysis, GIS, etc. The Bank has indicated that these elements are built into the terms of reference for the revision of the Integrated Environment and Social Impact Assessment Guidance Notes, which aim at providing technical guidance to member countries and Bank operational staff on specific methodological approaches or standards and management measures relevant to meeting the Operational Safeguards.

xi. **Stakeholder Consultation and Participation**

A description of the dialogue and of the participation of impacted communities, including a summary of the opinions expressed, and the ways in which these exchanges were factored into the process should be provided, along with a description of the procedures to address the populations’ points of contention. In addition, the following recommendations were proposed:

- To systematically involve local communities, the private sector, civil society organizations, and public administration in the environmental and social impact assessment (ESA) process through the creation of an inclusive and participative process. The recommended inclusiveness should take into account the cultural and social values of the populations impacted by the project. To this effect, the ESA should measure the project’s potential impact on the cultural heritage and introduce measures to mitigate these effects.
- To train qualified personnel for the monitoring and evaluation of the Environmental and Social Management Plan (ESMP) in Central Africa countries. This training is a necessary condition for the sustainability of Bank-financed projects. The formation of
a critical mass is essential to enable the various stakeholders to successfully employ
the ISS recommendations.

- To put in place a transparent information disclosure process. There has certainly been
  substantial progress since the adoption of the Bank’s revised policy on disclosure and
  access to information with the aim to attain full disclosure. Nevertheless, it remains
desirable that the Bank systematically and optimally apply these principles in the
environmental and social assessment process through the Integrated Safeguards
Tracker System (ISTS).

dii. Integration of Biodiversity in Projects and their Management

An observation has been made, in regards to current Bank projects, that biodiversity factors
are taken into account in an ad-hoc manner in lieu of being integrated in the projects’
decision-making and management processes. The participants have thus recommended the
following solutions:

- The Bank should support national governments with capacity building on biodiversity
  assessments so as to ensure meaningful assessments of quality and to have a baseline
  on existing animal and human diseases before projects begin. They must also set up a
  surveillance system (including human and animal) in each project as a part of the
  monitoring and evaluation, as well as include an environment component at the
  conception stage to assist decision-makers in finding alternative solutions where
  biodiversity has not been respected.
- The Bank should insert biodiversity recommendations from international conventions
  in the document, such as the Nairobi Convention on Marine Ecosystems.
- The need to cover marine biodiversity and coastal erosion is relevant to this
  operational safeguard and should be clearly stated in the documentation. Such related
  factors are: the non-recognition of the mangroves on which many projects have a
  negative impact, non-specific aspects related to the marine coast, invasive species,
critical habitats, desertification, problems related to the availability and pollution of
  surface and ground waters (Nigeria).
- Deforestation and land degradation as well as natural resource management are critical
  issues that need to be included in this OS. Other relevant aspects are the
  implementation of regional and international conventions, threatened flagship species
  that present an opportunity for ecotourism, potential environmental pollution by
  Genetically Modified Organisms (GMOs), and dangerous products.
- In regards to the required conditions for borrowers, clients, and other beneficiaries:
  natural catastrophes, impacts on the political front, cross-border waters, marine and
  coastal waters and areas, the loss of marine resources, and capacity building for impact
  evaluation are not well considered.

diii. Institutional Support for the Prevention of Cross-border Pollution

The Bank will need to strengthen its position and dialogue with borrower countries to
promote transparency, political stability and consistency, as they are important factors for a
strong project implementation and the resolution of pollution damages. Institutional support in
African countries to governments, civil society, private companies, and competent academic
institutions in order to address these issues should be among the Bank’s priorities; especially
when cross-border consideration of pollution is vital along with the need for pollution prevention policies for coastal areas, and surface and ground water.

xiv. State Responsibility for Work Conforming to Legislation

Suggestions were made by participants to place emphasis on encouraging private sector companies that are involved in project implementation to respect the host country’s regulations, and to provide – where appropriate – external medical care for local workers severely injured while working for a Bank-financed project. These Bank provisions should ensure that both local and foreign workers are treated equally and include penalties for non-compliance regarding health and safety provisions.

Conclusion: Implications for the Bank and Final Steps for ISS

The opinions expressed by the various stakeholders throughout the consultations have been overall positive and will facilitate the completion of the Integrated Safeguards System with the appropriation and inclusion of experts and institutions that will be involved in its future implementation.

Global trends highlight converging stakes and interests for the principle of proportionality with the underlining aim to promote sustainable development that would establish an equilibrium between the necessities of investment and growth with the support of economic interests on natural resources, those of the project and physical integrity, project resources and well-being, economic and social interests of the populations and that of their living conditions. Thus, the major observations are in regards to the following:

- The Integral Safeguards System should cover all public, private, and political operations of the Bank’s portfolio and replace the transversal policy elements that dealt specifically with environmental and social assessments, in accordance with the operational safeguard principles and with the conformity of project safeguard policies and procedures;
- The integrity of the environment and of the ecological and economic functions of ecosystems in the projects’ impact areas should be maintained during the preparation of the project and should be monitored and assessed throughout the project’s duration so that the project can continuously adjust its resolution tools in regards to social and environmental issues;
- The Bank’s community responsibility in terms of involuntary resettlement must be established through the integration of compensation and resettlement financing in the logical framework and cost of the project and through a more systematic control of the preparation and implementation of mitigation measures;
- The Bank recognizes the standards in international laws, favors the operationalization of the concept of vulnerability, and encourages African states to ensure that special measures of protection for vulnerable groups are included in country systems and investment decisions.