

Appreciation of Draft Environmental and Social Framework (ESF) for the Asian Infrastructure Investment Bank (AIIB)

THE NETHERLANDS



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Advisory Report by the Dutch Sustainability Unit

Subject: Appreciation of Draft Environmental and Social Framework (ESF) for the Asian Infrastructure Investment Bank (AIIB)

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1. Introduction

1.1 The initiative

The Asian Infrastructure Investment Bank has been established in 2015. Before the bank can begin lending operations it needs to develop and get approved its proposed policies, internal processes and procedures and standards. One of the fields in which the bank proposes such policies etc. is environment and social safeguards. On June 12th 2015, the bank circulated a second draft of its Environmental and Social Framework (ESF).

The Netherlands, being one of the 57 candidate member states to this bank and having signed the treaty that founds the bank (29th of June 2015), has to give its appreciation of the bank's proposed policies, internal processes and procedures and standards. The Ministry of Foreign Affairs (DGIS/IGG) is involved in the appreciation of this ESF.

1.2 The request

DGIS/IGG requested the Dutch Sustainability Unit (DSU) to provide an expert judgement on

- the broader framework and the level of ambition of this framework;
- on the scope of this ESF (investment lending vs policy lending and P4R);
- on the integration of "emerging issues" such as those touched on in the new WB ESF;
- on the balance between ex ante/during and post-intervention;
- the relation with country systems / ownership of the ESF process;
- on operationalization of the ESF (capacity [development] within the AIIB and in the client countries and the resources necessary to build this capacity).

In addition IGG asked the DSU how does this ESF compares to the old and new version of the WB ESF and to the Safeguard Policy Statement of the AsDB?

DGIS/IGG requested the DSU to handle the request confidentially.

1.3 DSU approach

In formulating this advice, the DSU secretariat, next to its own input, has used the services of an external expert. This advice first presents an appreciation of the ESF per se. In addition, it compares the ESF to other ESFs (a.o. WB and AsDB). Subsequently it mirrors the proposed ESF against the CSO-critics on the WB ESF.

2. Appreciation of the draft ESF

2.1 General overview

The second draft of the AIIB ESF is in general of good quality. Some important components of the final ESF, however, are yet to be completed. As discussed in the Cover Note, these include:

- a description of the methodology to be used for the use of country and corporate systems in Operations;
- further information on the environmental and social management of financial intermediary operations;
- an Environmental and Social Procedure that contains more detailed mandatory requirements applicable to AIIB or the Client for implementation of the Policy and Standards than the one that is part of the present draft;
- non-mandatory guidance and information tools.

As a consequence, on the basis of this draft it is not possible to provide a definitive evaluation of the efficacy of the ESF.

2.2 Appreciation of the 2nd draft of the ESF on the basis of the ToR

2.2.1 Broader framework and ambition

The ESF is quite ambitious in its vision, and touches on most of the relevant issues. Most of these issues materialize in concrete policy and standards. In addition the ESF is ambitious with regard to establishing effective Environmental and Social Frameworks and institutions in client constituencies (management plans and budgets of operations need to include institutional development for plan implementation) and with regard to ESMP-compliant implementation of operations.

2.2.2 Scope

The scope of the proposed ESF is comprehensive. It will apply to all operations the AIIB will finance.

The exclusion list, which is understandable and logical, though in DSUs view not fully complete, provides clarity on what operations the AIIB will not fund. Paragraphs 2.3.5 and 2.3.9. make some amendments to the list.

2.2.3 Emerging issues

“emerging issues” such as human rights, climate change, gender equality, and LGBT rights are mentioned in the AIIB ESF, both in the “Vision” component of Part 1 and in ESS1.

2.2.4 Ex ante, during and post

The ESF covers the life cycle of operations (until completion). The ESF is not specific though whether the life cycle of operations include their operational and decommissioning stages.

2.2.5 country and corporate systems and ownership

The AIIB makes it clear (in Part 2, Section G) that it may “afford the Client the option to use its own safeguard system”, and the Bank clearly specifies the conditions under which this authorization will be given. In cases where the AIIB judges that the country or corporate system does not match the AIIB ESF, the latter will be applicable.

2.2.6 Operationalisation

- Within the AIIB:
The proposed ESF attributes to the AIIB a host of ex-ante, during and post-loan granting appraisal, assessment and control functions, requiring a massive institutional capacity. Understandably, the ESF does not go into how this capacity will be developed. This should be clarified as the statement in the cover-note that the AIIB plans to have a lean approach to staffing seems contradictory to this (unless the AIIB plans to out-contract a considerable part of these functions).
- Within client countries:
It is the intention of AIIB ESF to promote and help establish effective ESF systems in client constituencies. The ESF suggests it might use incentives (but does not specify these, para 18) and will provide capacity development grants (para 10). The ESF forces clients to make development and functioning of institutional capacity for ESMP implementation part and parcel of the operation and the operation’s budget. The ESF proposes to keep a close eye on institutional functioning and ESMP compliance.

2.3 Specific points of attention

2.3.1 Equity

The AIIB voices a vision on ‘equity of opportunity’ but does not voice a vision of equity with regard to sharing of benefits of operations. The fact that the AIIB refrains from voicing such a vision makes ambivalent the references to benefit sharing that are made later in the ESF.

2.3.2 Opt- outs

The proposed ESF presents a few options for substituting environmental and social assessment or postponing it until after AIIB loan granting:

- Section F of the environmental and social policy allows clients to propose to do environmental and social assessments and prepare environmental and social management plans well after loan approval in case the operation consist of a series of not yet defined activities (sub-operations). It requires the client to make planning frameworks, which are then considered as commitments of the client to do the assessments at the stage that the sub-operations are planned;
- Para 58 of Part 2 states that the AIIB may put off full environmental and social appraisal of selected activities under an Operation until after approval. It describes this as being a “phased approach”.

The ESF:

- does not specify criteria, requirements and conditions on the basis of which the AIIB will agree to those options. These would need to be clarified in a future draft of the ESF;
- makes mention of ‘contractual remedies’ to leverage compliance after loan granting (para 59) but does not specify these remedies. This needs to be done in order to appraise their assumed effectiveness.

The proposed ESF also presents an option to substitute environmental and social assessment for other instruments:

- Para 30 of Part 2 specifies that the AIIB may determine that it is appropriate for the Client to use “physical, spatial and environmental planning as tools for integration of environmental and social measures into the Operation in lieu of an environmental and social assessment or an ESMP”.

The ESF:

- as was the case in relation to the “phased approach”, the criteria and requirements for the making of this determination are not clear, and would need to be clarified in a future draft of the ESF.

2.3.3 Access to redress mechanism

Grievance redress only receives brief mention in Section K of Part 2. This will require further elaboration in the mandatory requirements section of the ESF.

2.3.4 Emerging issues

A better indication of how emerging issues would be dealt with in the Environmental Safeguards Procedure will be needed, either in the ESP itself (specific standards), or in non-mandatory guidance notes.

2.3.5 Use of country and corporate systems

- Before allowing a client to use its own safeguard system, the AIIB will review that system. The NCEA analysis of more than 20 country ESIA systems has learned that in assessing and appreciating the client system it is not enough to look at the texts and that the operationality of the system must be part and parcel of the assessment. This holds specifically true for the aspects monitoring, inspection, enforcement and redress mechanisms.
- If the client is a private company and AIIB agrees that the client applies its own ESF system, the client will, next to AIIB funding, also need licenses of national government(s) of the country (countries) where operation(s) will take place. There are proponents, sometimes even country governments, that propose and get approved operations that violate the laws, regulations and/or standards of the country and/or international agreements and conventions to which that country is party.
- Para 54 makes the client responsible for compliance with national laws, regulations, standards and international agreements and conventions to which the country is party. It must, however, not be so that the AIIB declines all responsibility for such cases. Apart from their moral aspect, these can lead to conflict and loss of reputation. It is therefore suggested to modify point (ix) of the exclusion list in the sense that the AIIB will not fund

operations that are prohibited by or do not comply with the national legal and regulatory framework and policies in the country (countries) where the operation takes place etcetera.

- Some countries have not yet translated into national legislation International Agreement and Conventions to which the country is party. From the ESF (para 43) one can deduct that this is a reason for the AIIB not to allow application of the client system and make the AIIB ESF applicable. In case the AIIB ESF or a corporate ESF system is applicable, which International Agreements and Conventions will then be applicable for the operation, how will the interest they intend to protect be protected and which standards will be adhered to? The AIIB ESF does not provide information thereon.

2.3.6 Strategic Environmental Assessment

The ESF encourages the use of Strategic Environmental and Social Impact Assessment (SESIA) at the policy, plan, or programme level “where appropriate” (Part 2 para 30, and in para 3 of ESS1). No other direction is provided. It should be assumed that this will follow in “non-mandatory” guidance.

2.3.7 Independent expertise and oversight

In various paragraphs (21, 49, footnote 12) the AIIB ESF refers to independent oversight and expertise. The word ‘Independent’ is only meaningful if it implies ‘no financial ties’ with any of the parties, including the AIIB. Any financial ties will affect the credibility of the word ‘independent’. In reviewing the mechanism the AIIB is going to propose, founding members are advised to attentively look into the ways in which the ‘independent’ mechanism is financed.

2.3.8 Free Prior and informed consent

- The fact that no unanimity is needed for FPIC (ESS3 5th bullet point under d) will in practice may prove to provoke corruption as at various occasions leaders of indigenous groups have shown sensitive for favours and fail to represent group majority opinions.
- This point needs to be transparently regulated.
- ‘If the AIIB determines that it is unable to ascertain that FPIC is obtained from the affected indigenous peoples’(last para 6th bullet point ESS3) is a strong ‘opt-out’ for the requirement to obtain FPIC and threatens to make FPIC meaningless. The standard needs detailed clarification on the basis of which criteria the AIIB is allowed to use this opt-out.

2.3.9 Exclusion: commercial logging

The AIIB excludes funding of commercial logging or purchase of logging equipment for use in tropical moist forests or old-grown forests. This exclusion has no meaning if the AIIB does not also exclude funding of establishment of plantations (e.g. oil palm) in those forests.

2.3.10 Forced eviction

Forced eviction (footnote para 60): avoidance of unnecessary, disproportional or excessive force: The AIIB allows for the use of a little bit of force? Who judges whether the force is necessary, proportionate and non-excessive? Can the AIIB give some more explanation?

3. Appreciation in comparison with safeguard policies of other institutions

These comments are structured in two parts. The first provides a general overview and summary of salient points. The second part consists of a comparison of the AIIB ESF against the main criticisms levelled at the World Bank's draft ESF.

3.1 General overview

The AIIB ESF exhibits something of a hybrid administrative architecture. It follows the framework structure of the new systems developed by agencies such as UNDP, UNIDO, and the World Bank's proposed ESF, where an overarching policy statement/vision sits above a set of standards which, in turn, are implemented by "procedures". However, it only establishes three "standards" (environmental and social assessment, involuntary resettlement, and indigenous peoples). In this regard, it follows the Asian Development Bank's three-pronged 2009 Safeguard Policy Statement. The other new systems mentioned above tend to have a wider range of standards, covering issues such as cultural heritage, biodiversity, information disclosure, and accountability/grievance mechanisms. With the UN agencies, this extended range of standards is due to pressure from donors such as the GEF and the Green Climate Fund.

The AIIB ESF structure is also hybrid when compared to the World Bank's proposed ESF, in that it appears to keep firm control over the approval process, but has a more limited approach to use of country systems.

Other noteworthy aspects include:

- unlike other recent new safeguard systems developed by EBRD and the Green Climate Fund, AIIB clearly does not follow the IFC performance principle approach, even though it recognizes that some portion of its investments will be in private sector-led projects;
- at various points, AIIB makes a very clear delineation of responsibilities between itself and its clients. To this extent, it implicitly addresses some of the criticisms levelled at the World Bank's ESF;
- clients can propose Operations where activities are not identified in detail as the time of approval (Part 2, para 37). In these cases, the AIIB requires the Client to use an Environmental and Social Planning Framework (ESMPF). This appears to be very similar to the World Bank's use of Environmental and Social Planning Frameworks (ESMF).

3.2 Comparison of the AIIB ESF against the main criticism levelled at the World Bank's draft ESF and its second draft (June 2015)

There have been many criticisms of the World Bank's July 2014 draft ESF, and many of these appear to have been addressed to some extent in the June 9, 2015 Second Draft. Annex 1 presents a comparison in tabular form of the AIIB ESF against both versions of the WB ESF. Below we present an assessment of the AIIB ESF against this criticism.

CSO criticism: Open-ended application and lax due diligence

Possibly the most contentious aspect of the draft WB ESF has been the proposed shift from compliance with safeguard requirements at project approval, to agreeing on a framework for fulfilling standards during project development and implementation ... with the responsibility for implementation resting on client countries.

It does not appear that CSO-criticism could be levelled at the AIIB ESF. Para 52 of Part 2 makes it very clear that AIIB has tight due diligence control. The only exception to this could be Para 58 of Part 2 (see above).

Inadequate integration of “emerging issues”

The WB ESF received considerable CSO-criticism due to its light treatment of “emerging issues” such as human rights, climate change, gender equality, and LGBT rights.

All of these issues are mentioned in the AIIB ESF, but could be worked out more conclusively (see 2.3.4).

Use of country systems

CSOs criticized the draft WB ESF because of the perception that a greater reliance on borrower systems would effectively mean “outsourcing” of safeguards implementation and monitoring to weak and/or corrupt borrowers.

The AIIB makes it clear (in Part 2, Section G) that it may “afford the Client the option to use its own safeguard system”, the Bank clearly specifies the conditions under which this authorization will be given.

Lack of binding client agreement

The draft of World Bank’s ESF came under some criticism from CSOs for relying too heavily on the “promise” of a country-led Environmental and Social Compliance Plan (ESCP) for eventual safeguards implementation. The ESCP remains an important component of the ESF. Paragraph 39 of the First Draft made it clear that the ESCP will form part of the legal agreement. The paragraph indicates that:

“The legal agreement will include, as necessary, obligations of the Borrower to support the implementation of the ESCP. The Bank will require the Borrower to implement the measures and actions identified in the ESCP diligently, in accordance with the timeframes specified in the ESCP, and to review the status of implementation of the ESCP as part of its monitoring and reporting”.

No such approach appears to be proposed in the AIIB ESF. Part 2, para 59 specifies the content of a “Client Agreement”, but this is a legal contract with between the Bank and a Client, and would appear to be based on the outcomes of the Environmental Safeguards Procedure.

Lack of disclosure provisions

Throughout the draft World Bank’s ESF there are various commitments to disclosing the ESCP “early and often” during the project cycle. However, CSOs showed concern that the ESCPs did not appear to include specific disclosure plans.

Overall, the AIIB ESF requirements for Information Disclosure are quite comprehensive. It would be good to know how "timely manner" is to be defined, but DSU has the opinion that this is best placed in yet-to-be developed Guidance and Information Notes.

Uncertainty about resettlement planning

Much concern was raised by CSOs about the lack of specificity with regard to resettlement planning in the first draft WB ESF.

The criticism on the first draft WB ESS could not be made for the AIIB ESF, where an entire ESS (ESS2) is dedicated to resettlement planning.

Biodiversity offsets

Offsets can be a cause for concern when they take precedence over impact avoidance or mitigation.

There are only two mentions of the term in the June version of the AIIB ESF. Like in the Second Draft of the WB ESF, in both cases, offsets are proposed as a "last resort". In the August version of the AIIB ESF, offset or compensation is only proposed for residual impacts.

"Opt-out" clause for definition of indigenous groups

CSOs have been critical of paragraph 9 of ESS 7 (Indigenous Peoples) that states:

"Where the Borrower is concerned that the process of identifying groups for purposes of applying this ESS would create a serious risk of exacerbating ethnic tension or civil strife, or where the identification of culturally-distinct groups as envisioned in this ESS is inconsistent with the provisions of the national constitution, the Borrower may request the Bank to agree on an alternative approach, in which risks and impacts of the project on Indigenous Peoples will be addressed through the application of the ESSs other than ESS7". This has become known as the "opt-out" clause.

This clause is not evident in the AIIB ESF.

Access to redress mechanisms

Some critics of the Draft WB ESF were concerned that there was no mention as to whether Inspection Panel redress applies if borrowers violate national laws.

Grievance redress only receives brief mention in Section K of Part 2 of the AIIB ESF. This will require further elaboration in the mandatory requirements section of the ESF.

Annex 1

Table 1: Comparison of the AIIB Environmental and Social Framework and the Second Draft World Bank Environmental and Social Framework against the Main Concerns of Civil Society Organizations

CSO Concerns with First Draft of the WB ESF	AIIB ESF	Second Draft WB ESF
<p><u>Open-ended application and lax due diligence</u></p> <p>Possibly the most contentious aspect of the WB ESF has been the proposed shift from compliance with safeguard requirements at project approval, to agreeing on a framework for fulfilling standards during project development and implementation ... with the responsibility for implementation resting on client countries.</p>	<p>It does not appear that this criticism could be levelled at the AIIB ESF. Para 52 of Part 2 makes it very clear that AIIB has tight due diligence control. The only exception to this could be Para 58 of Part 2 which states that the AIIB may put off full environmental and social appraisal of selected activities under an Operation until after approval. It describes this as being a “phased approach”. The criteria and requirements for this kind of approach are not clear, and would need to be clarified in a future draft of the ESF.</p>	<p>No new conditionality requirements have been added to Section C of the ESP. However, new language throughout the ESF does provide more evidence that the Bank is committed to oversight. For example, paragraph 5 of the ESP now “requires” projects to meet the Environmental and Social Standards, rather than merely “expecting” them to.</p> <p>Another example can be found in the new paragraph 34 of the ESP. The old version (paragraph 33) used to make the Borrower responsible for classifying sub-projects and carrying out environmental and social assessment. The new paragraph makes it clear that the Bank is now responsible for classifying each sub-project, and conducting due diligence. Further, if a sub-project is classified as “high risk”, then the Borrower must carry out environmental and social assessment in accordance with the Bank’s ESSs.</p>
<p><u>Inadequate integration of “emerging issues”</u></p> <p>The WB ESF received considerable criticism due to its light treatment of “emerging issues” such as human rights, climate change, gender equality, and LGBT rights.</p>	<p>All of these issues are mentioned in the AIIB ESF, but only really in the “Vision” component of Part 1. A better indication of how these issues would be dealt with in the Environmental Safeguards Procedure will be needed, either in the ESP itself, or in non-mandatory guidance notes.</p>	<p>Some of the “emerging issue” concerns have been acted on to some extent. For example, there is an amended commitment to the Universal Declaration on Human Rights; a new Annex to ESS 5 dealing with Involuntary Resettlement Instruments; an indication that biodiversity offsets will only be applied as a “last resort”; and, new text at various points that signifies greater attention to climate change issues. However, the changes do not appear to fundamentally alter the way in which the ESP or the ESSs are applied.</p>

CSO Concerns with First Draft of the WB ESF	AIIB ESF	Second Draft WB ESF
<p><u>Use of country systems</u></p> <p>CSOs criticized the first draft WB ESF because of the perception that a greater reliance on borrower systems would effectively mean “outsourcing” of safeguards implementation and monitoring to weak and/or corrupt borrowers.</p>	<p>While the AIIB makes it clear (in Part 2, Section G) that it may “afford the Client the option to use its own safeguard system”, the Bank clearly specifies the conditions under which this authorization will be given.</p>	<p>New text goes some way towards addressing this issue. For example, a new paragraph (24) of the ESP makes it clear that use of a Borrower’s ES framework will be determined at the discretion of the Bank. A clear statement such as this was not included in the First Draft, and so significantly clarifies this situation.</p> <p>In addition, new wording and additions in ESS 1 clarify the issue of use of Borrower safeguard systems. The new paragraph 18 (amendment to old paragraph 17) changes the emphasis on how Borrower safeguard systems will be applied. In the new paragraph 18, the Borrower <i>may request</i> the Bank to consider use of its ES Framework, provided that it (the Borrower) is likely to be able to address the risks and impacts of the project, and enable the project to achieve objectives materially consistent with the ESSs. This amendment goes some way towards addressing CSO concerns about use of Borrower systems, especially when it is clear that the ... “Borrower will provide information to the Bank in connection with the Bank’s review of the Borrower’s existing environmental and social framework relevant for the proposed project”.</p>
<p><u>Lack of binding client agreement</u></p> <p>The World Bank’s ESF came under some criticism from CSOs for relying too heavily on the “promise” of a country-led Environmental and Social Compliance Plan (ESCP) for eventual safeguards implementation.</p>	<p>No such approach appears to be proposed in the AIIB ESF. Part 2, para 59 specifies the content of a “Client Agreement”, but this is a legal contract with between the Bank and a Client, and would appear to be based on the outcomes of the Environmental Safeguards Procedure.</p>	<p>The ESCP is still an important component of the ESF. Paragraph 39 of the First Draft made it clear that the ESCP will form part of the legal agreement. The paragraph indicates that:</p> <p>“The legal agreement will include, as necessary, obligations of the Borrower to support the implementation of the ESCP. The Bank will require the Borrower to implement the measures and actions identified in the ESCP diligently, in accordance with the timeframes specified in the ESCP, and to review the status of implementation of the ESCP as part of its monitoring and reporting”.</p>

CSO Concerns with First Draft of the WB ESF	AIIB ESF	Second Draft WB ESF
		<p>In the Second Draft, a new paragraph 15 clarifies the relationship between actions required by the ESCP, and the implementation of specific projects:</p> <p>“Where the ESCP requires the Borrower to plan or take specific measures and actions over a specified timeframe to avoid, minimize, reduce or mitigate specific risks and impacts of the project, the Borrower will not carry out any activities in relation to the project that may cause material adverse environmental or social risks or impacts until the relevant plans, measures or actions have been completed in accordance with the ESCP”.</p> <p>In addition, it is now clear that the ESCP will be disclosed (paragraph 36).</p>
<p><u>Lack of disclosure provisions</u></p> <p>Throughout the World Bank’s ESF there are various commitments to disclosing the ESCP “early and often” during the project cycle. However, CSOs showed concern that the ESCPs did not appear to include specific disclosure plans.</p>	<p>Because there is no equivalent of the ESCP in the AIIB ESF, this specific concern is not relevant.</p>	<p>A new sentence added to ESP paragraph 34, makes it clear that the ESCP will now be disclosed. This commitment did not exist in the First Draft.</p>
<p><u>Uncertainty about resettlement planning</u></p> <p>Much concern was raised by CSOs about the lack of specificity with regard to resettlement planning in the WB ESF.</p>	<p>The same criticism could not be made for the AIIB ESF, where an entire ESS (ESS2) is dedicated to resettlement planning.</p>	<p>The ESS includes two new Objective points that strengthen resettlement planning and stress that resettlement should be conceived of as a development opportunity:</p> <p>(i) To conceive and execute resettlement as a development opportunity, including measures enabling displaced persons to benefit directly from the project as the nature of the project may warrant.</p> <p>(ii) To ensure that resettlement activities are planned and implemented with appropriate disclosure of information, meaningful consultation, and the informed participation of those affected.</p>

CSO Concerns with First Draft of the WB ESF	AIB ESF	Second Draft WB ESF
		<p>In addition, the Second Draft includes a whole new Annex dealing with Involuntary Resettlement Instruments, including eight pages outlining the minimum elements of a resettlement plan. This did not exist in the First Draft.</p>
<p><u>Biodiversity offsets</u> Offsets can be a cause for concern when they take precedence over impact avoidance or mitigation.</p>	<p>There are only two mentions of the term in the AIB ESF. In both cases, offsets are proposed as a “last resort”. However, defining the meaning of this concept may require further elaboration, and in the mandatory requirements part of the ESF.</p>	<p>An important addition to paragraph 18 in ESS 6 indicates that biodiversity offsets will only be considered as a “last resort”;</p>
<p><u>“Opt-out” clause for definition of indigenous groups</u> CSOs have been critical of paragraph 9 of ESS 7 (Indigenous Peoples) that states: “Where the Borrower is concerned that the process of identifying groups for purposes of applying this ESS would create a serious risk of exacerbating ethnic tension or civil strife, or where the identification of culturally-distinct groups as envisioned in this ESS is inconsistent with the provisions of the national constitution, the Borrower may request the Bank to agree on an alternative approach, in which risks and impacts of the project on Indigenous Peoples will be addressed through the application of the ESSs other than ESS7”. This has become known as the “opt-out” clause.</p>	<p>There is no equivalent of the opt-out clause on the AIB ESF.</p>	<p>The “opt-out” clause has been dropped from the Second Draft.</p>

CSO Concerns with First Draft of the WB ESF	AIIB ESF	Second Draft WB ESF
<p><u>Access to redress mechanisms</u></p> <p>Some critics of the First Draft were concerned that there was no mention as to whether Inspection Panel redress applies if borrowers violate national laws.</p>	<p>Grievance redress only receives brief mention in Section G of Part 2. This will require further elaboration in the mandatory requirements section of the ESF.</p>	<p>The Second Draft still does not indicate that Inspection Panel redress applies if borrowers violate national laws. However, paragraph 11 of the Overview section of the ESF makes it clear that Inspection Panel redress is available as a final independent compliance audit step for project-affected parties.</p>