

Public consultation on the EIB Group's Environmental and Social Sustainability Framework

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Response 923140567

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Include unanswered questions

Chapter E: Stakeholder engagement (Standard 2)

3. Will this Standard be effective in ensuring transparent and continuous engagement with project stakeholders?

Please select one item

- Not at all effective
- Slightly effective
- Moderately effective
- Very effective
- Extremely effective

Don't know

Please explain your answer:

Effective stakeholder engagement requires all six elements noted in Article 15, namely: (i) stakeholder analysis and identification, (ii) establishment of grievance redress mechanisms, (iii) engagement planning, (iv) information disclosure, (v) meaningful consultation, and (vi) monitoring and reporting. The standard should require promoters to implement each of these elements. Making (iii) through (vi) optional or discretionary weakens the ability to meet the EU requirements for public participation in decision-making throughout the project life cycle.

Effective stakeholder engagement also requires the availability of independent assistance for communities. Legal and technical assistance, including capacity building, is crucial to “empower affected individuals and communities ... to fully and effectively participate in engagement processes” (Art. 36(e)). Such assistance can most effectively respond to community needs and represent their interests when it is independent from the promoter and accountable directly to communities. As opposed to assistance coming directly from the promoter or from promoter-engaged specialists, independent assistance brings less risk of perceived or actual conflicts of interest. Independent assistance can therefore reduce the risk of community-company conflicts or of the erosion of community confidence—in both the assistance and the proposed project. To ensure communities can access independent assistance, the standard should require promoters to earmark a fraction of the project budget to pay for such assistance. Earmarked funds should be collected and managed by an independent third party that provides grants for affected communities to access legal and technical assistance to prepare for and engage in investment-related processes, including participating in consultations, carrying out monitoring and using grievance redress mechanisms when required.

7. Does the concept of “meaningful consultation”, as defined in the Standard, adequately cover all the key elements that are critical for engaging meaningfully with stakeholders?

Please select one item

- Yes, this concept adequately covers all key elements
- No, some elements are missing
- Don't know

Please explain your answer:

The objective of achieving meaningful consultations and engagement between promoters and affected communities is an important one. This objective could be bolstered by reinserting references to the “right to access to information, as well as public consultation and participation” that were included in the 2014 EIB Standard (Standard 10, para. 3). Doing so can encourage approaches that respond to the needs of local communities, rather than unilateral decisions by promoters.

The removal of the concept of “broad community support” risks undermining the standard’s ability to encourage meaningful consultation, and instead reduce it to a passive information sharing or box-checking exercise. The standard should require promoters to obtain the FPIC of all project-affected communities, not only Indigenous communities. Doing so will enhance the promoter’s capacity to manage operational risk, understand community priorities and concerns, and obtain social license to operate.

Meaningful consultation also entails community access to independent legal and technical support. As mentioned in response to Ch. E, Q. 3, the standard should therefore require promoters to earmark a fraction of the project budget to pay for independent legal and technical assistance for communities. Earmarked funds should be collected and managed by an independent third party that provides grants for affected communities to access legal and technical assistance to prepare for and engage in investment-related processes, including consultations.

Chapter I: Involuntary resettlement (Standard 6)

1. Are the Standard's requirements sufficient to satisfy the need to avoid and mitigate social and economic impacts from unavoidable involuntary resettlement?

Please select one item

- Insufficient
- Somewhat insufficient
- Neither sufficient nor insufficient
- Somewhat sufficient
- Sufficient
- Don't know

Please explain your answer:

It is encouraging to see mention of legal assistance included in eligible resettlement assistance (Arts. 28(d) and 29(e)). To deepen the potential of this provision, the standard should:

- Change “legal assistance” to “legal and technical assistance,” to enable those being resettled to access other types of assistance they may need to protect their rights and interests during the resettlement process.
- Clarify that such legal and technical assistance can be used in relation to consultations, negotiations, and grievances regarding the terms and conditions of resettlement.
- Require that such assistance, while financed by the promoter, be administered in a way that ensures independence. As mentioned in response to Ch. E, Q. 3, to ensure the independence of promoter-funded legal and technical assistance for communities, the standard should require promoters to earmark a fraction of the project budget to pay for such assistance. Earmarked funds should be collected and managed by an independent third party that provides grants for affected communities to access legal and technical assistance to prepare for and engage in investment-related processes, including resettlement processes.

Chapter J: Vulnerable groups and Indigenous Peoples (Standard 7)

3. Will this Standard be effective in protecting the rights and interests of project-affected vulnerable persons and groups and Indigenous Peoples?

Please select one item

- Not at all effective
- Slightly effective
- Moderately effective
- Very effective
- Extremely effective
- Don't know

Please explain your answer:

Achieving the standard's requirement for promoters to obtain Indigenous communities' FPIC and for good-faith negotiations (Arts. 45-46) will require more than engagement of specialists and capacity building. Article 49 should be amended to require promoters to pay for independent legal and technical assistance for Indigenous communities in order for them to prepare and participate in meaningful consultation processes, FPIC processes, impact assessments, and other company-community negotiations. As mentioned in response to Ch. E, Q. 3, to ensure the independence of promoter-funded assistance for communities, the standard should require promoters to earmark a fraction of the project budget to pay for such assistance. Earmarked funds should be collected and managed by an independent third party that provides grants for affected communities to access legal and technical assistance to prepare for and engage in investment-related processes, including consultations and negotiations.

The final sentence in Art. 47 should also be amended or deleted. It risks diluting the FPIC requirement to a requirement for nothing more than "meaningful engagement"

(undefined in the standard), without any degree of consent being provided by the community. Undermining the consent requirement reduces the promoter's capacity to manage operational risk and obtain social license to operate.

Chapter O: Additional comments

If you would like to add anything that is not already covered by the questions above, you may do so in the box below.

Additional comments:

This is a joint submission, made by the Columbia Center on Sustainable Investment and Namati.

Chapter P: About you - personal information of the respondent(s)

I am responding as:

Please select one item

(Required)

An individual in my personal capacity

The representative of an organisation

First Name*

Please enter your first name here: (Required)

Sam

Surname*

Please enter your surname here: (Required)

Szoke-Burke

Organisation name

Please write organisation name here:

Columbia Center on Sustainable Investment

Country

Please write country here: (Required)

USA

Chapter Q: Consent

Please confirm what you authorise the EIB to publish:

Please select one item

(Required)

- Publish my full contribution, including my personal details, my responses to Chapter B (human rights) and to Question 2 in Chapters D-N (Standards 1-11), and my responses to the rest of the consultation
- Do not publish my personal details, but do publish my responses to Chapter B (human rights) and to Question 2 in Chapters D-N (Standards 1-11), and my responses to the rest of the consultation
- Do not publish my responses to Chapter B (human rights) and to Question 2 in Chapters D-N (Standards 1-11) but do publish my personal details and my responses to the rest of the consultation
- Do not publish my personal details or my responses to Chapter B (human rights) and to Question 2 in Chapters D-N (Standards 1-11), but do publish my responses to the rest of the consultation

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