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Thank you.





**THE WORLD BANK**  
IBRD • IDA | WORLD BANK GROUP

# The World Bank and Transboundary Resources.

IBRU Training Workshop No. 72  
25-27 October 2023

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# Outline



## World Bank's Articles

- Article III 4 (v) and Article IV 10 of the IBRD Articles of Agreement.
- Political neutrality and political prohibitions

## Projects in Disputed Areas

- Text of OP 7.60
- Procedure and notification

## Transboundary resources management

- Environmental and Social Framework (ESF)
- ESS 1, Transboundary impacts
- Regional Integration



# Bank's Articles of Agreement

# Bank's Articles of Agreement

- ✓ Each World Bank Group (IBRD, IDA, IFC, MIGA, ICSID) organization operates according to procedures established by its articles of agreement, or an equivalent governing document.



**IBRD**

The International Bank  
for Reconstruction and  
Development

**IDA**

The International  
Development  
Association

**IFC**

The International  
Finance Corporation

**MIGA**

The Multilateral  
Investment Guarantee  
Agency

**ICSID**

The International  
Centre for Settlement  
of Investment Disputes

# Bank's Articles of Agreement

- ✓ World Bank refers to both IBRD and IDA.
- ✓ Article III 4 (v) and Article IV 10 of the IBRD Articles of Agreement (Political Activity Prohibitions reflected in IDA Article V, Section 6) :

## **SECTION 4. Conditions on which the Bank may Guarantee or Make Loans**

(v) In making or guaranteeing a loan, the Bank shall pay due regard to the prospects that the borrower, and, if the borrower is not a member, that the guarantor, will be in position to meet its obligations under the loan; and the Bank shall act prudently in the interests both of the particular member in whose territories the project is located and of the members as a whole.

## **SECTION 10. Political Activity Prohibited**

The Bank and its officers shall not interfere in the political affairs of any member; nor shall they be influenced in their decisions by the political character of the member or members concerned. Only economic considerations shall be relevant to their decisions, and these considerations shall be weighed impartially in order to achieve the purposes stated in Article I.



# Projects in Disputed Areas and Projects in International Waterways



# OP 7.60 Projects in Disputed Areas

- ✓ The Bank does not make any judgment on the legal status of any territory.
- ✓ Triangular relationship between the Bank, Borrower, and Neighboring Countries.
- ✓ Case by case determination based on proposed activities, geographic scope, etc.

## Operational Manual

### OP 7.60 - Projects in Disputed Areas

These policies were prepared for use by World Bank staff and are not necessarily a complete treatment of the subject.

OP 7.60  
June, 2001

This Operational Policy statement was revised in March 2012 to take into account the provisions of [OP/ BP 9.00](#), issued in February 2012; and previously revised in August 2004 to reflect the term "development policy lending" (formerly adjustment lending), in accordance with [OP/BP 8.60](#), issued in August 2004.

Note: OP and BP 7.60 replace OP and BP 7.60, dated November 1994. Questions may be addressed to the Chief Counsel, Environmentally and Socially Sustainable Development and International Law.

Revised March 2012

1. Projects<sup>1</sup> in disputed areas may raise a number of delicate problems affecting relations not only between the Bank and its member countries, but also between the country in which the project is carried out and one or more neighboring countries. In order not to prejudice the position of either the Bank or the countries concerned, any dispute over an area in which a proposed project is located is dealt with at the earliest possible stage.
2. The Bank may support a project in a disputed area if the governments concerned agree that, pending the settlement of the dispute, the project proposed for country A should go forward without prejudice to the claims of country B.

#### Presentation of Loans to the Executive Directors

3. For every project in a disputed area, Bank staff consider the nature of the dispute. The Project/Program Appraisal Document (PAD) for a project in a disputed area discusses the nature of the dispute and affirms that Bank staff have considered it and are satisfied that either
  - (a) the other claimants to the disputed area have no objection to the project; or
  - (b) in all other instances, the special circumstances of the case warrant the Bank's support of the project notwithstanding any objection or lack of approval by the other claimants. Such special circumstances include the following
    - (i) that the project is not harmful to the interest of other claimants, or
    - (ii) that a conflicting claim has not won international recognition or been actively pursued. In all cases, the project documentation bears a disclaimer stating that, by supporting the project, the Bank does not intend to make any judgment on the legal or other status of the territories concerned or to prejudice the final determination of the parties' claims. The Legal Vice Presidency prepares the relevant portions of the project documentation.

1. "Bank" includes IBRD and IDA; "loans" include IDA credits and IDA grants; and "projects" includes all projects/programs financed under Bank loans or IDA credits, but does not include development policy lending programs supported under Bank loans and IDA credits.

# OP 7.50 Projects in International waterways

- ✓ Types of international waterways: (a) body of water; (b) any tributary or other body of surface water; and (c) any bay, gulf, strait, or channel bounded, if within one state, recognized as a necessary channel of communication between the open sea and other states-- and any river flowing into such waters.
- ✓ Types of Projects: (a) hydroelectric, irrigation, flood control, navigation, drainage, water and sewerage, industrial, and similar projects that involve the use or potential pollution of international waterways as described; (b) detailed design and engineering studies of projects.
- ✓ Case by case determination based on proposed activities, geographic scope, etc.

## Operational Manual

### OP 7.50 - Projects on International Waterways

These policies were prepared for use by World Bank staff and are not necessarily a complete treatment of the subject.

OP 7.50  
June, 2001

This Operational Policy statement was revised in March 2012 to take into account the provisions of OP/BP 9.00, issued in February 2012; and previously revised in August 2004 to reflect the term "development policy lending" (formerly adjustment lending), in accordance with OP/BP 8.60, issued in August 2004.

Note: OP and BP 7.50 replace OP and BP 7.50, dated October 1994. Questions may be addressed to the Chief Counsel, Environmentally and Socially Sustainable Development and International Law.

#### Applicability of Policy

##### Revised March 2012

1. This policy applies to the following types of international waterways:

- (a) any river, canal, lake, or similar body of water that forms a boundary between, or any river or body of surface water that flows through, two or more states, whether Bank members or not;
- (b) any tributary or other body of surface water that is a component of any waterway described in (a) above; and
- (c) any bay, gulf, strait, or channel bounded by two or more states or, if within one state, recognized as a necessary channel of communication between the open sea and other states-- and any river flowing into such waters.

2. This policy applies to the following types of projects:

- (a) hydroelectric, irrigation, flood control, navigation, drainage, water and sewerage, industrial, and similar projects that involve the use or potential pollution of international waterways as described in para. 1 above; and
- (b) detailed design and engineering studies of projects under para. 2(a) above, including those to be carried out by the Bank as executing agency or in any other capacity.

#### Agreements/Arrangements

3. Projects on international waterways may affect relations between the Bank and its borrowers and between states (whether members of the Bank or not). The Bank recognizes that the cooperation and goodwill of riparians is essential for the efficient use and protection of the waterway. Therefore, it attaches great importance to riparians' making appropriate agreements or arrangements for these purposes for the entire waterway or any part thereof. The Bank stands ready to assist riparians in achieving this end. In cases where differences remain unresolved between the state proposing the project (beneficiary state) and the other riparians, prior to financing the project the Bank normally urges the beneficiary state to offer to negotiate in good faith with the other riparians to reach appropriate agreements or arrangements.

#### Notification

4. The Bank ensures that the international aspects of a project on an international waterway are dealt with at the earliest possible opportunity. If such a project is proposed, the Bank requires the beneficiary state, if it has not already done so, formally to notify the other riparians of the proposed project and its Project/Program Details (see BP 7.50, para. 3). If the prospective borrower indicates to the Bank that it

A faint, light blue globe graphic is positioned on the left side of the slide, partially overlapping the text. It features a grid of latitude and longitude lines.

Transboundary resources:  
Environmental and Social Framework  
(ESF) and Regional Integration.

# Environmental Social Framework (ESF)

- ✓ Applies to projects supported through project investment lending IPF financed through IBRD/IDA.
- ✓ World Bank environmental and social “Safeguard Policies” progressively developed and used from 1980’s through today. ESF became effective in October 2018
- ✓ No change to policies on International Waters and Disputed Territories





## What is the ESF?

- The ESF offers a comprehensive set of tools that enable the World Bank and its Borrower's to identify and assess **environmental** and **social risks**.
- The focus on both the environmental and social risks associated with the Bank's Investment Project Financing (IPF) is guided by a **Vision for Sustainable Development**
- ESF applies to country-specific projects as well as **Regional Integration** operations including multiple countries.

# A Vision for Sustainable Development

“Securing the long-term future of the planet, its people and its resources, ensuring social inclusion, and limiting the economic burdens on future generations will underpin these efforts.

The **two goals** emphasize the importance of economic growth, inclusion and sustainability— including strong concerns for equity”



The ESF incorporates current environmental and social issues that are relevant to investment projects. These include:



**Climate Change**



**Gender**



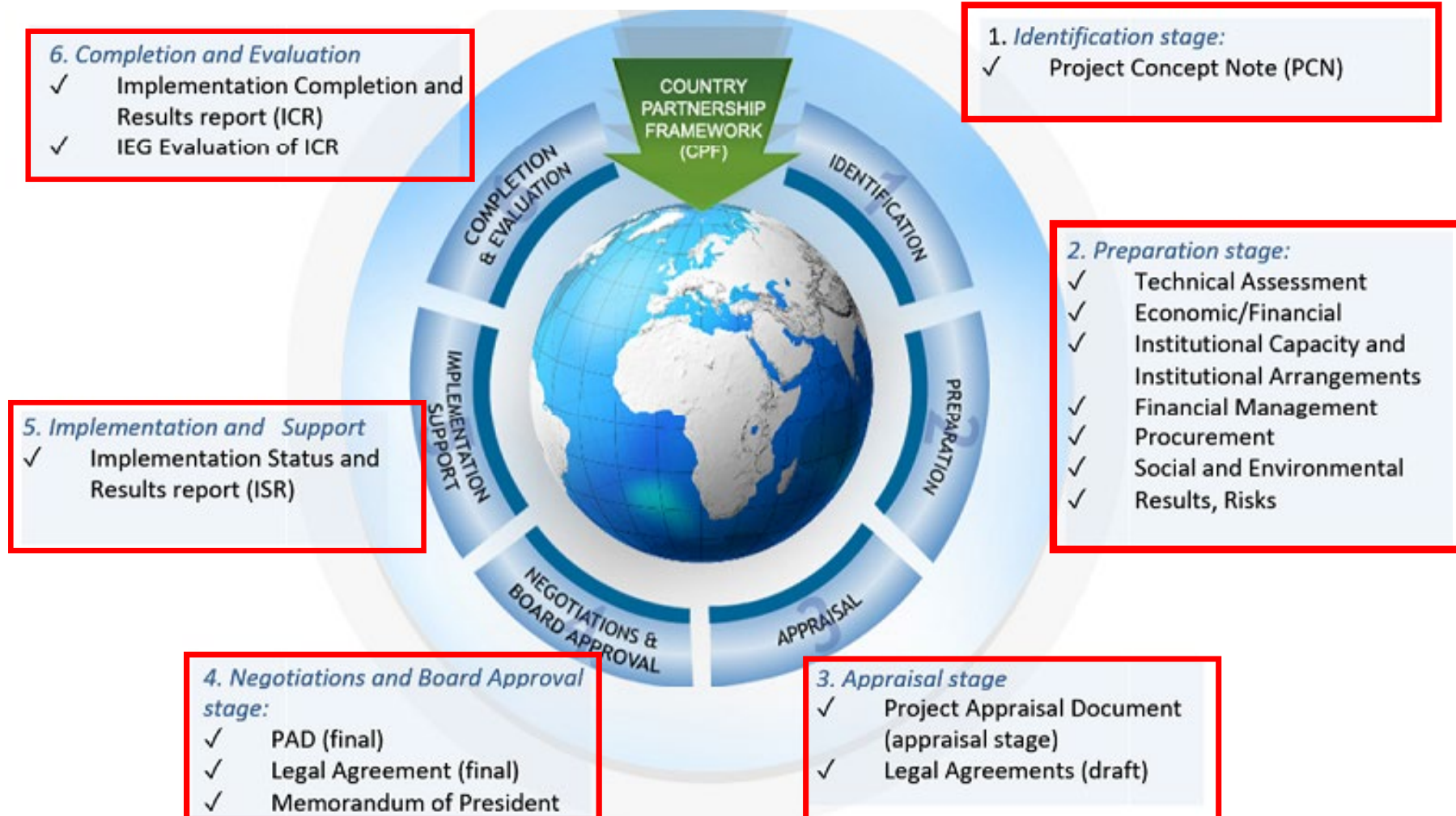
**Non-discrimination**



**Disability**



# Bank's Project Cycle



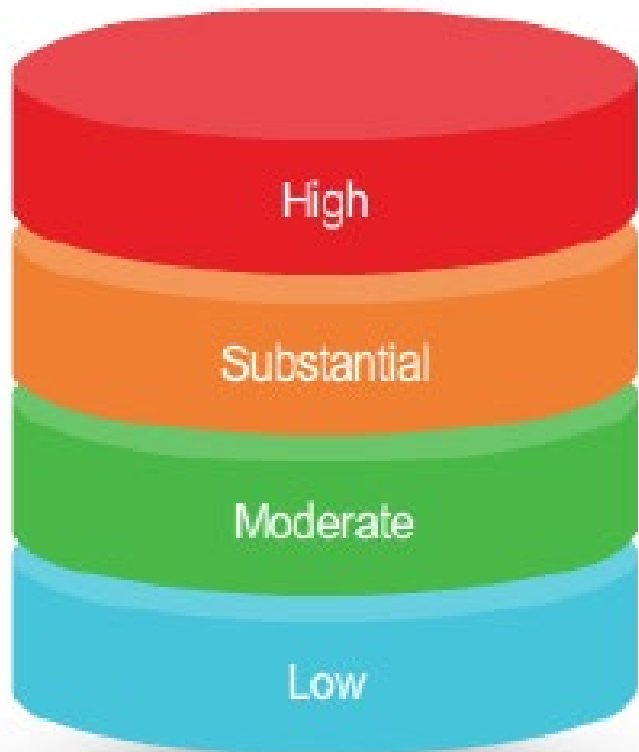


# ESF Architecture



# Classifying E&S Risks

## *Environmental and Social Risk Classification (ESRC)*



- ✓ The type, location, sensitivity, and scale of the project
- ✓ The nature and magnitude of the potential E&S risks and impacts
- ✓ Capacity and commitments of the Borrower
- ✓ Other areas of risk that may be relevant

World Bank  
Responsibilities

Environmental and Social  
Policy

Environmental and Social  
Directive

Directive on  
Disadvantaged or Vulnerable  
Individuals  
or Groups

Good Practice Notes

# ESF Architecture

## *Environmental and Social Policy*

- ✓ ESP sets out mandatory requirements of the Bank for IPF projects
- ✓ Due diligence on all IPF projects proposed
- ✓ Support the Borrower in early and continuing engagement with stakeholders
- ✓ Support identification of E&S risk management methods, agree with Borrower on conditions as set out in the Environmental Social Commitment Plan (ESCP)

World Bank  
Responsibilities

Environmental and Social  
Policy

Environmental and Social  
Directive

Directive on  
Disadvantaged or Vulnerable  
Individuals  
or Groups

Good Practice Notes

# ESF Architecture

## *Environmental and Social Policy*

4. The environmental and social risks and impacts which the Bank will take into account in its due diligence are project-related and include the following:

- (a) Environmental risks and impacts, including:
  - (i) those identified in the World Bank Group Environmental, Health, and Safety Guidelines (EHSGs);<sup>10</sup>
  - (ii) those related to community safety (including dam safety and safe use of pesticides);
  - (iii) those related to climate change and other transboundary or global risks and impacts;
  - (iv) any material threat to the protection, conservation, maintenance and restoration of natural habitats and biodiversity; and
  - (v) those related to ecosystem services and the use of living natural resources, such as fisheries and forests; and

Borrower  
Responsibilities

Environmental and Social  
Standards  
1 - 10

Environmental, Health, and  
Safety Guidelines (EHSG)

Guidance Notes

# ESF Architecture

*Environmental and Social Standards (ESSs)*

✓ There are 10 ESSs



ESS1

Assessment and  
Management of E&S  
Risks and Impacts



ESS2

Labour and Working  
Conditions



ESS3

Resource Efficiency and  
Pollution Prevention  
and Management



ESS4

Community Health  
and Safety



ESS5

Land Acquisition,  
Restrictions on Land  
Use and Involuntary  
Resettlement



ESS6

Biodiversity Conservation  
and Management of  
Living Natural Resources



ESS7

Indigenous Peoples/ Sub-  
Saharan African  
Historically Underserved  
Traditional Local  
Communities



ESS8

Cultural Heritage



ESS9

Financial Intermediaries



ESS10

Stakeholder Engagement  
and Information  
Disclosure

## Borrower Responsibilities

Environmental and Social  
Standards  
1 - 10

Environmental, Health, and  
Safety Guidelines (EHSG)

Guidance Notes

# ESF Architecture

## *Environmental and Social Standards (ESSs)*

- ✓ ESS 1 “*climate change and other transboundary or global risks and impacts*”



ESS1

Assessment and  
Management of E&S  
Risks and Impacts

28. The environmental and social assessment, informed by the scoping of the issues, will take into account all relevant environmental and social risks and impacts of the project, including:

- (a) Environmental risks and impacts, including: (i) those defined by the EHSGs; (ii) those related to community safety (including dam safety and safe use of pesticides); (iii) those related to climate change and other transboundary or global risks and impacts; (iv) any material threat to the protection, conservation, maintenance and restoration of natural habitats and biodiversity; and (v) those related to ecosystem services<sup>27</sup> and the use of living natural resources, such as fisheries and forests;

[ESS 1, Guidance Note for Borrowers.](#)

Borrower  
Responsibilities

Environmental and Social  
Standards  
1 - 10

Environmental, Health, and  
Safety Guidelines (EHSG)

Guidance Notes

# ESF Architecture

## *Environmental and Social Standards (ESSs)*

- ✓ ESS 1 “*climate change and other transboundary or global risks and impacts*”



ESS1

Assessment and  
Management of E&S  
Risks and Impacts

35. The environmental and social assessment will consider potentially significant project-related transboundary and global risks and impacts, such as impacts from effluents and emissions, increased use or contamination of international waterways, emissions of short- and long-lived climate pollutants,<sup>35</sup> climate change mitigation, adaptation and resilience issues, and impacts on threatened or depleted migratory species and their habitats.

[ESS 1, Guidance Note for Borrowers.](#)

Borrower  
Responsibilities

Environmental and Social  
Standards  
1 - 10

Environmental, Health, and  
Safety Guidelines (EHSG)

Guidance Notes

# ESF Architecture

## *Environmental and Social Standards (ESSs)*

- ✓ ESS 3 “[...] *potential for local, regional, and transboundary impacts*”



ESS3

Resource Efficiency and  
Pollution Prevention  
and Management

### **Pollution prevention and management**

11. The Borrower will avoid the release of pollutants or, when avoidance is not feasible, minimize and control the concentration and mass flow of their release using the performance levels and measures specified in national law or the EHSGs, whichever is most stringent. This applies to the release of pollutants to air, water and land due to routine, non-routine, and accidental circumstances, and with the potential for local, regional, and transboundary impacts.

[ESS 3, Guidance Note for Borrowers.](#)





## Project Grievance Mechanism

### Project Grievance Mechanism

- Addresses project environmental and social performance
- May be formal and/or informal grievance mechanisms, supplemented as needed

## Grievance Redress Service

### World Bank Grievance Redress Service (GRS)

- Supports Task Teams in addressing grievances from project affected communities
- Provides an entry point at the corporate level for communities to voice grievances and guidance and support for staff to help so that these complaints can be efficiently reviewed and managed

## Inspection Panel

### Inspection Panel

- Serves as an independent complaints mechanism for people and communities who believe that they have been, or are likely to be, adversely affected by a World Bank-funded project

# IFC Performance Standards for Environmental and Social Sustainability (Performance Standards)





# IFC Performance Standards

## *Performance Standards (PS)*

- ✓ PS 1 Assessment and Management of Environmental and Social Risks and Impacts [...] para 7

appropriate level of detail. The process will consider all relevant environmental and social risks and impacts of the project, including the issues identified in Performance Standards 2 through 8, and those who are likely to be affected by such risks and impacts.<sup>12</sup> The risks and impacts identification process will consider the emissions of greenhouse gases, the relevant risks associated with a changing climate and the adaptation opportunities, and potential transboundary effects, such as pollution of air, or use or pollution of international waterways.



# IFC Performance Standards

## *Performance Standards (PS)*

### ✓ PS 3

#### **Pollution Prevention**

10. The client will avoid the release of pollutants or, when avoidance is not feasible, minimize and/or control the intensity and mass flow of their release. This applies to the release of pollutants to air, water, and land due to routine, non-routine, and accidental circumstances with the potential for local, regional, and transboundary impacts.<sup>10</sup> Where historical pollution such as land or ground water contamination exists, the client will seek to determine whether it is responsible for mitigation measures. If it is determined that the client is legally responsible, then these liabilities will be resolved in accordance with national law, or where this is silent, with GIIP.<sup>11</sup>



# Concluding Remarks

# World Bank support to transboundary resources and management

- ✓ Due diligence is both the Bank and the Borrower's responsibility.
- ✓ Depends on the financing requested from the Borrower and based on Country Partnership Framework.
- ✓ Transboundary harm mitigated through the ESF and other project measures
- ✓ Bank's due diligence under ESF applies on a country-specific context whether it is a standalone project or a Regional Integration project.
- ✓ OP 7.60 Projects in Disputed Areas and OP 7.50 Projects in International Waterways apply alongside the ESF.



Thank you!