



ADAPTATION FUND

AFB/B.41/7
15 September 2023

Adaptation Fund Board
Forty-first meeting
Bonn, Germany, 10-13 October 2023

Agenda item 10.c) (i)

**INDEPENDENT REVIEW OF THE ENVIRONMENTAL AND
SOCIAL POLICY OF THE ADAPTATION FUND WITH A
PROPOSAL FOR ITS UPDATE**

I. Background

1. At the Sharm el-Sheikh Climate Change Conference in November 2022, the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol at its seventeenth session (CMP 17) requested the “Adaptation Fund Board to review and update the environmental and social safeguard policy of the Adaptation Fund, as needed.”¹

2. In response to this mandate, the Adaptation Fund Board (the Board) considered this mandate as part of its meeting agenda on issues arising from the CMP 17, CMA 4, and the twenty-seventh session of the Conference of Parties (COP27) and decided the following:

Having considered Adaptation Fund related decisions taken by the Conference of the Parties serving as meeting of the Parties to the Kyoto Protocol at its seventeenth session and Conference of the Parties serving as the meeting of the Parties to the Paris Agreement at its fourth session, as well as document AFB/B.40/8 and its annex, the Adaptation Fund Board (the Board) decided:

(a) To request the secretariat to:

- (i) Commission an independent review of the Environmental and Social Policy of the Adaptation Fund (ESP) with a view to updating the ESP;*
- (ii) Prepare a proposal for an update of the ESP as necessary in consultation with relevant stakeholders of the Adaptation Fund;*
- (iii) Present the output referred to in paragraphs (a)(i) and (a)(ii) at its forty-first meeting for the Board’s consideration;*

[. . .]

(Decision B.40/80)

3. In response to decision B.40/80, the secretariat has commissioned an independent review of the ESP with a view to updating the ESP by hiring an environmental and social safeguard expert, Mr. Charles Di Leva² and launched surveys targeting the Board, the Implementing Entities (IEs), the Designated Authorities (DAs) and the Adaptation Fund Civil

¹ Decision 5/CMP.17 (Fourth review of the Adaptation Fund), para. 15.

² Mr. Charles E. Di Leva served as the Chief Officer for Environmental and Social Standards at the World Bank, under the Vice Presidency for Operations, Policy and Country Services. Prior to this position, he served as Chief Counsel of the Environmental and International Law Practice Group in the World Bank Legal Vice-Presidency and as Legal Advisor to the Climate Change Solutions Area and Environment and Natural Resources Global Practice Group. There, he led the Bank’s legal work on the revision of its environmental and social safeguards, provided legal advice to the Bank on the Paris Agreement and related climate finance issues, and led negotiations related to the Green Climate Fund. Throughout his career, Mr. Di Leva has worked on Bank projects in all regions, focusing on environmental and social issues in complex and high-risk settings. He has also represented the Bank Senior Management in activities and investigations carried out by the Bank’s Independent Inspection Panel. He is an adjunct professor at American University’s Washington College of Law where he teaches coursework on Project Finance and the Environment and International Financial Institutions and International Law. He also teaches at George Washington University’s School of Law in the field of International Trade and Sustainable Development.

Society Network in July 2023 for a month period. The results of the respective surveys were fed into the independent review of the ESP.

4. Being prepared in response to decision B.40/80 (a), this document consists of: (i) the main document which includes a summary of the ESP review and recommendations for the Board; (ii) Annex 1 to this document which contains the outcome of the independent review of the ESP ; and (iii) Annex 2 to this document which presents results of the ESP surveys including the substantive responses verbatim from the respondents.

II. Independent technical review of the ESP

5. The Fund's ESP³ was originally adopted by the Board in November 2013 and amended in March 2016 by updating the principle 5 (then 'gender equity and women's empowerment') in line with the Gender Policy adopted in March 2016). To complement the ESP, a Guidance Document for IEs on Compliance with the ESP (Guidance)⁴ was developed in 2014 and amended in March 2016 to be aligned with the Gender Policy in March 2016.

6. The independent technical review of the Fund's ESP aimed to examine whether the ESP with its 15 principles and the Guidance Document for IEs on Compliance with the Adaptation Fund ESP ("Guidance") are generally in line with the practice of other leading institutions (the "comparators") which are active in climate finance, taking into consideration the AF funding operational framework. The financing institutions that the review looked into include the World Bank, the International Finance Corporation (IFC), the Green Climate Fund (GCF), the United Nations Development Programme (UNDP), and the International Fund for Agricultural Development (IFAD).

7. The analysis relied on a desk review of the environmental and social safeguards requirements of these organizations and provides recommendations on potential updates to the current ESP and on related to Fund's instruments with a caveat that: the recommendations need to be considered in light of how the Adaptation Fund is distinct, including such as financing modality, size of projects and programmes, and comparatively limited size of the secretariat; a desk review is inherently limited in fully understanding how the Fund's ESP principles are applied in the field, and the precise nature, degree, and categorization of the risks and impacts associated with the Fund-supported projects.

III. ESP surveys of Fund's stakeholders

8. The secretariat launched the respective ESP surveys targeting the Board, IEs, DAs, and AF CSO Network in July 2023 for a period of 4 weeks. The respective surveys included general questions addressed to all four groups and specific questions tailored to each group. The

³ <https://www.adaptation-fund.org/document/environmental-and-social-policy-approved-in-november-2013/>.

⁴ <https://www.adaptation-fund.org/document/guidance-document-implementing-entities-compliance-adaptation-fund-environmental-social-policy/>

secretariat received responses from eight Board members, 19 DAs, 19 IEs (including 12 NIEs) and eight civil society organizations (CSOs). The survey responses were shared with the expert who conducted the review of the ESP.

9. While full results of the ESP surveys are contained in Annex 2, some results of the survey are presented as follows:

Questions	Board respondents	DA	IEs (NIEs)	AF CSO Network
<i>How important are environmental and social safeguards (ESS) for successful action on adaptation?</i>	Very important (43%); important (57%)	Very important (69%); important (26%); somewhat important (5%)	Very important (IE: 100%) (NIE: 100%)	Very important (75%); important (13%); somewhat important (12%)
<i>Does the current AF ESP provide an adequate policy framework to ensure that projects and programmes supported by the AF do not result in unwanted environmental and social harms?</i>	Yes (86%) No (14%)	Yes (87%)	Yes (IE: 63%) (NIE: 100%)	Yes (63%)
<i>In your view, are there any environmental or social risks that are not addressed and should be added to the 15 principles of the AF ESP?</i>	N/A	N/A	IE- No (58%) Yes (16%); Don't know (26%) NIE- No (75%) Yes (8%); Don't know (17%)	No (50%) Don't know (50%)

IV. Summary of the independent review of the ESP

1. General findings and recommendations

10. Since the ESP was last updated in 2016, the comparators and other international organizations have updated and broadened environmental and social coverage and related supporting documents. The independent review found that the ESP requires coverage of most essential environmental and social (E&S) risks and elements, however, it is not “fully in line” with comparator organizations standards. It omits explicit reference to certain risks and impacts. In addition, while comparator

organizations have stressed the importance of clarity in distinguishing between E&S mandatory and non-mandatory measures, the Fund's ESP and its Guidance are not always consistent in making these distinctions, nor are they current on some of these issues.

11. It also noted a lack of criteria upon which to judge what is 'significant' or when an action is 'unjustified.' For example, in "whether and how projects and programmes shall... avoid any significant or unjustified reduction or loss of biodiversity or introduction of invasive species" or "shall not result in any significant or unjustified increase of greenhouse gases," it is not clear what criterion is to be taken into account when determining the amount of biodiversity lost, invasive species introduced or greenhouse gases emitted is "unjustified." Comparator organizations have standards that refer to specific guidance to help determine whether amounts of GHGs or other forms of pollution are acceptable, through use of required application of Good International Industry Practice (GIIP) or World Bank Group Environmental, Health and Safety Guidelines.

12. ESP Guidance documents include inconsistent reference related to "possible elements to be considered." For example, the possible elements considered under Principle 4 "Human rights" do not seem less important or distinct than the "design and implementation" aspects under Principle 5 "Gender Equality and Women's Empowerment". However, those aspects are not included in Principle 5 "possible elements". The independent review also noted that it was unclear why only some of the fifteen Principles have included a section on "possible elements to be considered".

13. General recommendations are as follows:

- Regardless of whether the Fund continues to use a principles-based approach, it is recommended to update ESP terminology and to make it more consistent in framing what is required as opposed to aspirational.
- The ESP Principles and Guidance are recommended to be updated to capture the elements comparators consider essential for appropriate E&S risk and impact management.
- Given Fund's project/programme size and the relatively limited secretariat's capacity, consideration could also be given to formulating a list of ineligible activities. Several comparators use this listing, although not with the explicit ambition to exclude Category A high risk projects from their portfolios.

2. Specific recommendations on respective ESP principles

14. Beyond general recommendation, the independent review also included specific recommendations on the respective ESP principles as follows.

1) Principle 1: "Compliance with Law"

15. The independent review recommended revising the formulation to make it clear that if there is a conflict between national law and international law, or between national law and

international standards that are accepted practice as Good International Practice as defined within the United Nations system, the environmental and social assessment will identify the difference between the domestic and international provisions. Further, where the international provisions provide enhanced E&S protection, the IE will apply the higher standards unless to do so would not be technically and financially feasible.⁵ It also suggested defining what is meant by “international law,” for instance, international conventions that have been ratified by the relevant country or accepted international customary law.

2) Principle 2: “Access and Equity”

16. If Principle 2 is retained as a standalone principle instead of being merged in an umbrella Principle 1, the review recommended considering revising the formulation of this Principle 2 by reconsidering what should be mandatory, including by more consistent use of “shall”, in the main text of the Principle which states “Projects and programmes... **shall** provide fair and equitable access...and **should** not exacerbate existing iniquities...” Moreover, given that the objective of this principle is to provide access to benefits in an inclusive manner, it recommends ESP require incorporation of a **Stakeholder Engagement Plan** which would include an organized system to incorporate the views of marginalized and vulnerable groups, enabling a benefit sharing plan to be part of project documentation. This topic is also relevant in other Principles that could more explicitly identify ways for impacted communities to benefit from project design, such as Principle 8 on ‘Involuntary Resettlement.’

17. Finally, if Principle 2 is retained, other principles that have relevant coverage of access and equity are recommended to be reviewed to determine if they would benefit from specific references to access and equity that comparators make explicit, such as access to stakeholder events, documentation, resettlement benefits, and cultural heritage sites.

3) Principle 3: “Marginalized and Vulnerable Groups”

18. If Principle 3 is retained as a standalone principle, the review recommends considering broadening the definition and making mandatory terms that are now optional as well as the use of stakeholder engagement plans, particularly for projects that may have significant stakeholder interest, stressing the importance that such groups should also be protected from risk of reprisal.

4) Principle 4:” Human Rights”

19. If Principle 4 is retained as a standalone principle, the review recommends revisiting the Principle 4 to explicitly point out that human rights related reports, such as those by the Special Procedures branch, as well as other directly relevant human rights instruments, should be taken into account as part of Fund’s project/programme preparation, particularly when they are relevant

⁵ UNDP Social and Environmental Standards includes a definition of this term as follows under Standard 2 (Climate Change and Disaster Risks): “Technical feasibility means the proposed measures and actions can be implemented with commercially viable skills, equipment and materials, taking into consideration prevailing local factors such as climate, geography, demography, infrastructure, security, governance, capacity and operational reliability. Financial feasibility means the ability to apply sufficient financial resources to install the measures and maintain them in operation in the long term. Cost- effectiveness is determined according to the capital and operational costs and also the financial benefits of the measure, considered over its lifespan.”

to the Fund supported project's potential environmental and social risks and impacts and the country or project context.

5) Principle 5: “Gender Equality and Women’s Empowerment”

20. It is recommended to include specific reference to the mandate to prevent and address gender-based violence (GBV)/sexual exploitation, abuse and harassment (SEAH) and consider whether to delete the chapeau of “Possible elements”, given that the elements are standard practice.

6) Principle 6: Labor and Working Conditions

21. It is recommended that Principle 6 require the IE to confirm whether the nature of Fund supported projects indicates there may be worker related activities that fall outside the scope of International Labor Organization (ILO) protections and coverage, including as it pertains to supply chain and third-party workers. It is also recommended that Principle 6 consider the importance of highlighting the use of grievance mechanisms and better coverage of gender-related protection.

7) Principle 7: “Indigenous Peoples”

22. It is recommended to revise Principle 7 to clarify definitional references to ‘Free, Prior, and Informed Consent’ (FPIC), relevant indigenous Peoples related international instruments, and reconsider whether possible elements should be mandatory.

8) Principle 8: “Involuntary Resettlement”

23. It is recommended to clarify that resettlement plans should strive to not only avoid adverse impact, but also improve living conditions, especially for the marginalized and vulnerable. Another recommendation is to consider adding key elements that are covered in comparator standards, such as specifying timing of compensation, tools to use when compensation is contested, how to address legacy issues where resettlement had taken place prior to the project, and more detail on when livelihood impacts are covered with resettlement policy benefits as opposed to broader social impact mitigation measures.

9) Principle 9: “Protection of Natural Habitats” and Principle 10: “Conservation of Biological Diversity”

24. Without diluting their requirements, it is recommended for both Principle 9 and Principle 10 to be revisited jointly and redrafted by considering the comparators policies to ensure comprehensive coverage, including making clear the use of no-go zones where risks or impacts could adversely impact critical habitat. Redrafting should consider combining Principle 9 and Principle 10, similar to how the comparators have combined these two topics.

10) Principle 11: “Climate Change”

25. It is recommended that Principle 11 be revised to clarify when a climate risk assessment is required, and what is meant by “significant or unjustified increase”. Further, it is also recommended Principle 11 follow a consistent structure and rationale for the use of a “Compliance” section and consider updating to take into account relevant aspects of the Paris

Agreement. It also recommends considering whether to include assessment of risks and impacts to Fund's supported projects as related to natural disasters and extreme weather as part of this Climate Change principle.

11) Principle 12: "Pollution Prevention and Resource Efficiency"

26. It recommends revising Principle 12 to approach pollution prevention and resource efficiency in better alignment with comparators by, among other things, pointing out the kinds of pollution that may be relevant for Fund supported projects and the use of resources, like water, and mandating plans that address these issues, taking into national and international law, GIIP, while also recognizing limits that may need to take into account technical and financial feasibility.

12) Principle 13: "Public Health"

27. It is recommended that Principle 13 be reframed as "Community Health and Safety" and explicitly include the range of community health and safety issues identified by comparators as potentially adverse impacts at the community level. In addition, the screening and assessment is recommended to cover potentially adverse impacts, and not only those that are "significant and negative". The section on "Possible Elements to be Considered" should make clear that the elements covered are those that will be assessed. In other words, it should not be optional whether to consider "potentially significant negative impacts".

13) Principle 14: "Physical and Cultural Heritage"

28. It is recommended that Principle 14 include references to important elements for the protection of cultural heritage to ensure that they are taken into account if a Fund supported project requires an impact plan for addressing cultural heritage.

14) Principle 15: "Lands and Soil Conservation"

29. If Principle 15 is retained as a standalone Principle, it is recommended to consider framing so that lands and soil conservation are part of an umbrella Principle 1 "Compliance with the Law" or, a broader principle addressing Ecosystem Services. The closest approach might be what is covered under the Biodiversity and Natural Resources type of standard of the comparators. While the comparators do not have a standalone standard for ecosystem services, they recognize that there are four types of ecosystem services that merit being part of project screening and scoping at the environmental assessment stage. These services include the benefits from land and soil, but also from groundwater, fresh water, plants, fiber, food, etc. It is also recommended that Principle 15 take note of the importance of addressing tenure and use patterns related to land and other natural resources.

3. Other suggestions

30. The review also made other suggestions. First, a development of a tool such as screening checklists for environmental and social risks impacts and screening would be helpful in supporting IEs, like many comparator organizations have in place such as the [IFAD Social, Environmental and Climate Assessment Procedures \(SECAP\) standards requirement checklists](#) (2021).

31. A more comprehensive approach could help ensure that a project is following a precautionary approach, applying the mitigation hierarchy, using adaptive management techniques. In addition, the review recommends considering a requirement of stakeholder engagement plans under the ESP to help ensure a meaningful, effective, and informed stakeholder engagement in project participation.

32. Another suggestion includes that the Fund's guidance note on Projects/Programmes with Unidentified Sub-Projects (USPs) could benefit from further clarity, such as making clear minimum requirements that have to be met in terms of the mandatory elements of the ESP.

V. Recommendation for the Board

33. Having considered document AFB/B.41/7 and the Annexes 1 and 2, the Adaptation Fund Board may want to consider and decide:

- (a) To take note of the independent review of the Adaptation Fund (the Fund) Environmental and Social Policy (ESP) and the results of stakeholder surveys as contained in Annexes 1 and 2, respectively;
- (b) To start the process of updating the ESP in consultation with relevant stakeholders of the Fund;
- (c) To request the secretariat to;
 - a. Prepare a draft of the updated ESP considering the independent review of the ESP and the results of the surveys as referred to in paragraph (a);
 - b. Launch a public call for comments on the draft of the updated ESP with a view to reflecting inputs received therefrom into the draft of the updated ESP;
 - c. *Present the output referred to in subparagraphs (c)(i) and (c)(ii) at the forty-third meeting of the Board for its consideration.*