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Dear Dr. Issa,

Re: Integrated Safeguards System (ISS) Draft Guidance Notes

We write to offer the following recommendations to the African Development Bank on how to improve the usefulness and content of the Guidance Notes in helping Borrowers implement the Operational Standards. While we appreciate the opportunity to comment on the draft Guidance Notes, we observed that much of the text is from the World Bank Environmental and Social Framework (ESF) Guidance notes and as such some text refers to the ESF not the Integrated Safeguards System (ISS). We believe this will be edited to reflect the ISS.

We urge the AfDB to revise the Guidance Notes so that they have stronger language and provide more substantive guidance, concrete examples, and references to additional outside tools and resources, with specific attention to marginalized groups, and clear, consistent definitions that are as inclusive as possible.

Secondly, we call on the AfDB to provide a detailed plan and appropriate resources for the ISS implementation. The updated ISS represents a significant progression for the AfDB in terms of necessary due diligence, Borrower support, and supervision requirements. However, broadening the scope of the ISS in order to incorporate additional social issues, including ones that impact children, persons with disabilities, and other marginalized groups, will require the development of new staff capacity, expertise, and training for staff at headquarters, in country offices, and within implementing agencies. Meanwhile, the AfDB's current capacity to supervise Borrowers' compliance with existing safeguards, which are more limited in scope, is already stretched thin. We hope that the Board and management's discourse following the approval of the updated ISS will include serious consideration of the additional budgetary and capacity requirements that will be needed to adequately implement the updated ISS. Without additional resources, any advances in the new policy will not be realized at the project level, perpetuating dangerous compliance gaps and potentially leaving marginalized groups unable to benefit from projects and at risk of harm.

We look forward to your response, and to working with you to update the Guidance Notes and feed into the forthcoming staff Directives so that they provide the resources and clarity necessary for Borrowers and staff to carry out their responsibilities under the updated ISS.

Sincerely,

AfDB CSO Working Group

Recommendations on the AfDB's Draft Guidance Notes for Borrowers Regarding the Implementation of the Updated Integrated Safeguards System (ISS)

Given the significantly increased responsibility that the updated Integrated Safeguards System assigns to Borrowers, both Borrowers and the AfDB will benefit from substantial and comprehensive guidance to appropriately implement the ISS.

Guidance Note - Operational Safeguard (OS)1: Assessment and Management of Environmental and Social Risks and Impacts

Introduction

The Guidance Note should:

- Include, in Paragraph 4.8, “*considerations of crosscutting issues such as inclusion, gender and climate change, resilience and adaptation*” specific reference to disability inclusion, as well as “children and climate change” as a cross-cutting issue, to acknowledge and address children’s particular vulnerabilities and stake in the climate crisis.

Use of Borrower’s Environmental and Social Framework

The ability to utilize alternative systems or approaches in lieu of the ISS is one of the riskiest developments in the AfDB’s overhaul of its safeguards. The Guidance Notes do not clarify sufficiently when a Borrower’s system can be used, or what is meant by “achieve objectives materially consistent with the OSs”. The Guidance Note should clarify when and why a Borrower’s system should be used.

The Guidance Note should:

- Define what it means to “*achieve objectives materially consistent with the OS*” so it is clear that such consistency results in objectives being achieved in all essential respects, including specific components of the ISS necessary to achieve “material consistency.”
- Clarify that Borrower systems assessment should include meaningful accessible public consultation, outlining the consultation process, including in-person, open consultations, a public comment period, and longer periods for high-risk projects and sectors. Consultations should be free from coercion and undue influence by the Borrower.
- In paragraph 18.4, specify that “*assessments from previous projects or analytical work*” will include independent assessments and not only those which the Borrower has previously submitted to the Bank. There is a danger that such assessments may be self-assessments by the Borrower, project proponents, or the implementation team. To preclude this possibility, the statement in 18.4 should say “*independent assessments of previous projects – including by experts on social and environmental impacts – carried out by parties neither affiliated with the Borrower nor those engaged in project implementation.*”

Environmental and Social Assessment

- Mitigation hierarchy: In addition to environmental and social specialists, the Borrower needs to engage the project affected people and civil society especially those representing marginalized groups in developing the mitigation hierarchy and should provide sufficient resources and capacity building for them to fully engage in the mitigation hierarchy for all projects, not just high risk ones.
- The Climate Change Assessment requires a sensitivity assessment, acknowledging that *“Individuals and communities are differentially vulnerable to climate change depending on factors such as wealth, education, gender, age, nutrition, disability and health.”* The Guidance Note should clarify how age will be disaggregated and how projects will avoid exacerbating risks and vulnerabilities, specifically calling for analysis on climate-related impacts on children, youth, and persons with disabilities.

Modern Day Slavery

- The Guidance Notes should include modern day slavery as a social risk that has been aggravated due to COVID-19. A report by [Global Estimates of Modern Slavery \(2022\)](#) estimates that 49.6 million people live in modern slavery in forced labor and forced marriage, and that roughly a quarter of all victims of modern slavery are children. The Guidance Notes need to define what modern day slavery is and provide concrete examples, impacts or risks and how to avoid or mitigate risks of modern day slavery in the context of AfDB projects.

Gender Identity and Sexual Orientation

Sexual and gender minorities are often among the most marginalized, and sexual orientation and gender identity (SOGI) is an important lens, alongside disability or other social status, for considering risk and potential mitigation measures, particularly in areas such as health, education, employment and the prevention of gender-based violence.

- In paragraph 25.4, the phrase *“There may be norms, societal practices, or legal barriers that impede the full participation of persons of one gender (usually women, but potentially men) as well as people of diverse sexual orientations and gender identities”* should to be edited as follows: ***“There may be norms, societal practices, or legal barriers that impede the full participation of persons based on their gender identity as well as because of their sexual orientations or gender expression.”***
- The development of the Best Practice Note on Gender Identity and Sexual Orientation referenced under paragraph 25 should be informed by consultation with external stakeholders including CSOs, and the final Best Practice Note should be disclosed.

Disadvantaged or Vulnerable Groups

- As with the ISS itself, it is important to clearly define terms such as “vulnerable groups” and use consistent terminology throughout the Guidance Notes and ISS.

- In consultations with “vulnerable groups” (paragraph 25), it is crucial to underline the need to mitigate tensions/possible conflicts amongst such groups, which are not homogenous groups speaking with only one voice; all individuals must be included including the most marginalized even within vulnerable groups.
- The Guidance Note should underline how such groups will be targeted and included: how will the Bank and Borrower seek out, facilitate, and enable their inclusion and active participation?
- The Guidance Notes should discuss measures to more safely implement projects in contexts where SOGI-based discrimination and/or violence is high or increasing. Guidance on conducting “Social and Conflict Analysis (page 54, F) and “Contextual Risk Assessment” (page 54, G) should include specific direction to include analysis of the legal and de facto environment for SOGI discrimination, and mitigation measures.

Environmental and Social Management Plan

- The Guidance Note states that, “*Training should address codes of conduct for project workers and consider past events (e.g., accidents, emergency situations, internal or external grievances), and shortcomings in performance as identified by audits and benchmarking with other government agencies or organizations or direct suggestions or requests from employees themselves.*” This should be expanded to include training on SEAH and GBV. The codes of conduct should also include prevention of SEAH and GBV with proper definitions and examples.

Notification of Materially Adverse Events

- While the Guidance Note mentions “*prompt reporting in the event of any accidents or incidents,*” it does not include a period in which to report. This is especially dangerous in cases of SEAH or GBV incidents that require fast response. The Guidance Note should define “prompt reporting” and include a timeframe and a reporting matrix.

Annex 1: Climate Change Assessment

- Annex 1: Assessment of Impacts Related to Climate Change explains the screening process for risks and adds, “*Specific attention should be paid to gender inequality and also intersectionality.*” In addition to gender inequality, attention should also be paid to children and persons with disabilities.

Exclusion List

- The Environmental and Social Exclusion List in Annex 4 includes a prohibition on support to projects involving prostitution, commercial sex work, and escort agencies. The forthcoming Technical Note on the use of the ES Exclusion List should clarify the application of this provision so as to uphold the rights of sex workers and prevent their exclusion from benefiting from or being consulted on projects, as they are often marginalized.

Guidance Note - Operational Safeguard 2: Labour and Working Conditions

The Guidance Note should:

- Consider putting in place disqualification and/or sanctions measures for contractors who are found to have past incidents of child labor.
- Provide more detailed guidance on addressing the root causes and drivers (i.e. push-pull factors) of child labor according to the country and sector characteristics, as well as appropriate prevention and mitigation responses, such as proactively engaging with children and child rights-focused CSOs as stakeholders.
- Include a gender perspective that takes into account differentiated causes and consequences of child labor on girls and boys.
- Provide a sample project-level child labor risk assessment tool that takes into account country and sector characteristics, and recommend that risk assessments are completed on an ongoing basis throughout the project cycle to allow for tailored and responsive action.

Guidance Note - Operational Safeguard 3: Resources Efficiency and Pollution Prevention and Management

The Guidance Note should:

- Clarify that Borrowers should take measures to disclose Scope 3 emissions. Without this, Borrowers underestimate their overall emissions footprint. For example, feed production for industrially raised animals involves substantial Greenhouse Gas (GHG) emissions arising from the manufacture of fertilizers to grow feed, the application of those fertilizers, and deforestation resulting from soy production.
- Reference the Intergovernmental Panel on Climate Change (IPCC) with respect to certain definitions, such as GHGs. Similarly, it should utilize IPCC metrics for calculating the global warming potential of GHGs over a 20-year time horizon.

Guidance Note - Operational Safeguard 4: Community Health, Safety and Security

The Guidance Note should:

- Direct Borrowers to prepare a Disaster and Climate Change Risk Assessment and/or Disaster and Climate Change Risk Management Plan for all projects, regardless of whether they are classified as high, moderate or low risk.
- In the list of what Borrowers should include in the Disaster and Climate Change Risk Assessment, the Guidance Note should include, in the third point, “Identification and evaluation of the physical and social vulnerability of the project and surrounding communities and environment,” the identification of the marginalized groups in the project area, including persons with disabilities, and evaluate the specific, disaggregated measures that will be implemented to help them adapt and be more resilient in the event of a natural hazard or climate-induced disaster.

- Consider enhancing climate resilience in the definition and understanding of universal access. The Guidance Note includes four aspects to consider when applying universal design or universal access in projects, and another component should be added around considering/requiring the use of climate-resilient materials and design standards for access in the event of a natural disaster.
- The GN should go beyond identifying groups vulnerable to climate change and explain how the project design and implementation will incorporate measures to help these groups become more resilient and explain how vulnerability will be mitigated.
- Provide Borrowers with a standardized SEA/H risk assessment tool and require that all projects are evaluated for their potential for SEA/H or GBV risks. For example, the Note should clarify what SEA/H prevention measures are required based on the results from this risk assessment, including a specialized grievance mechanism, service provider mapping, hiring of gender specialists, among others, and have cross-references to the Guidance Note on Gender.
- Recommend a dedicated SEA/H action plan for projects with substantial or high SEA/H risks, with specific prevention and response strategies throughout the project cycle, including specific measures on addressing and responding to child SEA/H.
- Emphasize the importance of a survivor-centered approach in SEA/H and GBV response from Borrowers and third parties, especially those responses that foreground the rights of survivors and prioritize their agency and active participation in decision-making.
- Recognize that persons with disabilities are more vulnerable to climate change and specify specific actions Borrowers should take to mitigate and prevent additional adverse effects.

Guidance Note - Operational Safeguard 5 - Land Acquisition, Restrictions on Access to Land and Land Use, and Involuntary Resettlement

The Guidance Note should:

- Specifically acknowledge the increased risks of GBV, SEAH, and intimate partner violence (IPV) in the contexts of displacement and resettlement, and advise Borrowers to consider the differentiated impacts and needs of women, girls, boys, and men in their planning of SEAH and GBV prevention, mitigation, and response measures.
- Specifically include children as a separate category in the census and socio-economic survey undertaken before resettlement so as to understand and address their unique needs.

Guidance Note - Operational Safeguard 6: Habitat and Biodiversity Conservation and Sustainable Management of Living Natural Resources

The Guidance Note should provide additional detail on upstream issues in considering habitat and biodiversity loss.

Guidance Note - Operational Safeguard 7: Vulnerable Groups

The Guidance Note should:

- Emphasize the need to include and consult with specialists and CSOs working with marginalized groups from the early stages of project design and throughout the project life cycle for all projects.
- Provide Borrowers with the necessary tools and resources so that development resources, consultations, and project benefits are accessible to persons with disabilities by identifying and eliminating obstacles and barriers to accessibility, providing reasonable accommodation, and promoting universal design.
- Explain that baseline data should be disaggregated, at a minimum, by age, gender, marital and family status, demographic group (i.e., ethnic background, language, religion), geographical location (rural, urban, state/territory), disability, and gender identity and sexual orientation and gender (with the below exception), and socio-economic, minority, or other status. Include additional distinctions depending on the environment for discrimination.
- Underscore that the Borrower should not equate gender inclusive initiatives with the inclusion of women in projects: the Bank and Borrower should adopt an intersectional and holistic approach to gender.
- Recognize and address human rights risks when collecting and disaggregating data. For instance, in countries where there are discriminatory laws against people on the basis of their gender identity and sexual orientation, or where people are routinely targeted for their gender identity and sexual orientation, any system of data collection disaggregated on these grounds should not put people at risk.
- Provide examples of ‘differentiated mitigation measures’ that may be necessary to prevent adverse impacts from falling disproportionately on the disadvantaged or vulnerable, drawing on the work of relevant UN bodies regarding temporary special measures.
- Encourage the Borrower to concretely detail how marginalized communities, including sexual and gender minorities, will be protected during the project design/consultation and implementation (page 17) to enable their continued contribution even in difficult contexts.
- Encourage the Borrower to concretely detail how they will manage potential conflicts within different marginalized groups and enable all voices to be heard (page 17).
- The focus of this OS is “indigenous people” yet the document also refers to other ‘vulnerable groups,’ including sexual and gender minorities, albeit sporadically: this could be more mainstreamed throughout the document and its recommendations.
- Recognise more clearly the intersections between different ‘vulnerable groups’ and that people have more than one identity which may affect how they are protected by OS7. For

example, some people from highly vulnerable rural minorities will also be people with disabilities.

- Provide examples of specific consultation strategies and best practice for meaningfully engagement including children in project consultations and the Free, Prior, and Informed Consent (FPIC) processes. Inclusive stakeholder engagement processes should include safety and socio-cultural measures that are in line with the UN Committee on the Rights of the Child standards.

Guidance Note - Operational Safeguard 10: Stakeholder Engagement and Information Disclosure

OS10 provides requirements for stakeholder engagement, information disclosure, and grievance mechanisms, which make its proper implementation critical. The principle of meaningful participation is central to the ISS and its implementation, and essential for the legitimacy and sustainability of AfDB-financed projects. For participation to be meaningful and work toward “*achieving inclusive and sustainable development*,” it is important that all stakeholders, particularly vulnerable groups, have the space and opportunity to share their views without fear of reprisal, and to see those views reflected in decisions that may impact them.

The Guidance Note should:

- Clarify that children should also have access to the participatory process in matters that affect them and their views should be taken into account according to age, disability, and maturity. Public consultations should take place in a child-friendly environment.
- Include specific strategies for making consultations and project information accessible to children. For example, making information accessible to children by having it available in places where children go such as schools and hospitals, and providing child-friendly materials. Child participation should be in line with the UN Committee on the Rights of the Child standards.
- Specify that, in addition to information being disclosed in an accessible manner, reasonable accommodations should be provided where individuals with disabilities require them to participate in consultations.
- Expand project data to include disaggregated data on children and youth (as well as civil society organizations that work with children) as stakeholders.
- Include gender identity and sexual orientation in the barriers to stakeholder engagement, along with sociopolitical, societal conflict, educational, or practical factors.
- Provide additional details and examples of “*measures for ensuring that stakeholders, and especially vulnerable and disadvantaged groups, are able to safely participate in consultations and that consultations are free of coercion and duress.*”

- Emphasize and include consultation with all stakeholders, not only with the Bank, in preparation and development of the Stakeholder Engagement Plan (paragraph 15).
- Provide guidance on the need to and how to update and include new stakeholders during project implementation as once the project is developed and underway, new stakeholders may be identified who should be included in processes.
- Direct Borrowers to designate a clear point of contact for project communication with stakeholders.
- Recognize that making materials accessible is essential for all persons with disabilities, not only those with sensory disabilities, and formats should be broadened to include Easy Read, and other modes and forms of communication, in line with the Convention on the Rights of Persons with disabilities.

Grievance Mechanism

- Refer to United National Guiding Principles for Business and Human Rights effectiveness criteria for non-judicial grievance mechanisms.
- Specify that project grievance mechanisms should be designed to be accessible to children, and provide examples of child-friendly design measures that bring such mechanisms in line with the Guidance Note's commitment to make grievance mechanisms "*equally accessible to those who may be marginalized, disadvantaged or vulnerable*" (a category which includes children and youth according to OS7: Vulnerable Groups).

Annex 2. Addressing Reprisal Risks

- Additional guidance is needed on how reprisal risks will be identified, prevented, and responded to.
- The Guidance Note should include additional concrete examples of good practice for holding safe consultations. For example, holding consultations in a neutral location, offering smaller meetings or meetings that are not multistakeholder, etc.
- The Guidance Note should provide specific timelines and process for how the Borrower should report reprisals to the AfDB.

Guidance Note: Gender and the Operational Safeguards

The Guidance Note should:

- Include consideration of sexual orientation and gender identity as a means for promoting gender equality and inclusion. The example scoping questions in Section 4 of the Note, "Addressing Gender in the Project Life Cycle" should encourage Borrowers to explicitly consider potential differentiated impacts on sexual and gender minorities. For example,

"What community and occupational health and safety hazards posed by project activities could disproportionately impact persons on account of their sex, *sexual orientation, and/or gender identity*?"

- Include guidance on approach to "customary practices" (i.e. FGM, child marriage); cultural norms; and VAW, VAC, GBV, and SEAH, and note its differentiated impacts on women, girls, boys, and men.
- Set more clear requirements about a SEAH/GBV Action plan, including *when* a SEAH/GBV Action plan is needed, *what* specific measures should be taken, *how* they will be implemented, and *when* the plan should be disclosed. **Note: It is highly recommended that the Bank develop, in consultation with CSOs and other stakeholders, a separate Guidance Note for SEAH Prevention and Response, where these issues can be addressed alongside more detailed considerations for specific situations such as incidences of child SEAH.**
- Until a specific SEAH Guidance Note is crafted, the Gender Guidance Note should emphasize the importance of a survivor-centered approach to responding to SEAH, specify measures to increase transparency around prevention strategies (including measuring and publishing progress to addressing SEAH), and include the new and updated World Bank Good Practice notes on preventing SEAH in Human Development operations and in large infrastructure/civil works projects in its reference list.