



February 24, 2015

The Honorable Sara Aviel  
Committee for Development Effectiveness  
World Bank Group  
[eds01@worldbank.org](mailto:eds01@worldbank.org)

Dear Ms. Aviel,

The Society for American Archaeology (SAA) supports the Review and Update of the World Bank Safeguard Policies, applauds the recognition of cultural heritage as a priority issue, and values the opportunity to offer this submission. We have divided our comments into general and specific. General comments are provided in this cover letter. Most of SAA's specific comments are on Environmental and Social Standard (ESS) 8, followed by comments on ESSs 1, 7, and 10.

SAA is an international organization that, since its founding in 1934, has been dedicated to expanding appreciation and understanding of humanity's past as achieved through systematic investigation of the archaeological record. With more than 7,000 members, representing professional archaeologists all over the world in colleges and universities, museums, government agencies, and the private sector, SAA leads the archaeological community by promoting research, stewardship of archaeological resources, public and professional education, and the dissemination of knowledge. To serve the public interest, SAA seeks the widest possible engagement with all segments of society, including governments, educators, and indigenous peoples, in advancing knowledge and enhancing awareness of the past.

SAA has five overarching concerns with the proposed ESSs.

**1. The lack of permanent cultural heritage expertise and especially archaeological heritage expertise across the World Bank Group.**

The ESS documentation makes frequent reference to Bank reviews and assessments of project impacts, project risk, the scope of environmental and social assessments, the capacity of country systems, the recognition of third-party expertise and the like. The Bank staff undertaking such pivotal work are usually not specified, but paragraph 37 of Information Note 2 (Use and Strengthening of Borrower's Environmental and Social Framework) states that "The review of the Borrower'[s] ES Framework will be carried out by the Bank project team's environment and social development specialist". In the considerable experience of our members, such specialists rarely, if ever, have any cultural heritage and especially archaeological expertise. In the past, this has meant that cultural heritage, and particularly archaeological heritage, has often been poorly served by Bank policies and procedures. The Bank's long-term cultural heritage consultants provide invaluable professional input, and the Bank's 2009 Physical Cultural Resources Safeguard Policy Guidebook is a useful resource for its intended audience. Neither, however, can replace qualified permanent in-house heritage professionals in guiding the implementation of the Bank's environmental and social standards.

**Therefore, the SAA recommends that the World Bank appoints one or more permanent senior full-time archaeological heritage specialists to efficiently support implementation of ESS 8 and related aspects of the Bank's other ESS portfolios.**

## **2. Independent peer review of bank projects with significant cultural heritage impacts.**

Independent peer review is the only mechanism by which the bank, the applicant, regulatory government agencies, local and descendant communities, stakeholders, and other interested parties can be assured that the cultural heritage safeguard plans have been adequately implemented. Peer reviewers need to be credentialed cultural heritage experts who subscribe to professionally-acceptable codes of conduct and standards of research performance and agree to be held accountable to those principles.

**Accordingly, SAA recommends that the World Bank establish an independent peer review panel for bank projects where significant impacts to cultural heritage are anticipated.**

## **3. The establishment of a Cultural Heritage Preservation Fund to provide financial resources to countries that lack strong cultural heritage frameworks.**

The major impediment to implementing ESS 8 is, in many cases, the lack of viable cultural heritage protection infrastructure and personnel in applicant countries. Following the model of the US Historic Preservation Fund, the World Bank should establish a fund that applicant countries can use to train cultural heritage specialists in technical aspects of cultural heritage management and establish strong regulatory controls. The bank should also facilitate training opportunities for applicant countries with agencies such as the US National Park Service or UK English Heritage, which have foreign assistance programs.

**SAA recommends that the World Bank establish and maintain a Cultural Heritage Preservation Fund for the purpose of creating in-country cultural heritage frameworks that are adequate to implement the requirements of ESS 8.**

## **4. The need to make the results of cultural heritage work sponsored by the World Bank available and accessible to professional archaeologists and other cultural heritage specialists.**

Through its ESSs, the World Bank is one of the major sponsors of archaeological research in developing countries. Yet, little of this work is easily available to the professional community, either in the country where development is done or to the broader scholarly community. The World Bank should require its applicants to deposit reports and other documentation in a trusted digital repository, such as the Digital Archaeological Record (tDAR) or the Archaeological Data Service (ADS). Archaeological research reports should also identify the museum or curatorial repository in the applicant country where the physical collections associated with funded projects are permanently curated.

**SAA recommends that ESS 8 include a stipulation requiring that, in addition to requiring explicit descriptions of curating the physical collection in a museum or repository in the applicant country, associated digital reports and other documents be placed in a trusted digital repository.**

## **5. Recognition of cultural heritage as a universal human right.**

Cultural heritage is one important pathway local and descendant communities use to transmit social norms and mores to the next generation. Loss of cultural heritage is not simply the loss of buildings, monuments, and artifacts, but also the loss of the connections people use to construct and pass on their social identity and ideology. ESS 8 limits cultural heritage to tangible objects of the past, and ESS 7 restricts intangible heritage to indigenous communities *only* and does not recognize that other populations also value tangible and intangible heritage at the same time. We suggest that the World Bank alter its definition of cultural heritage to include tangible and intangible aspects of cultural heritage in ways that do not impede the bank's ability to provide fund development projects.

**SAA recommends that the World Bank recognize intangible cultural heritage as an integral part of a community's cultural heritage. Intangible heritage should be recognized explicitly in the definition of cultural heritage in ESS 8, but also as needed as a universal human right in ESS 1, 5, 7, 8, and 10.**

For the past three years, SAA has been working with Bank staff on cultural heritage issues and hopes to provide continuing input into the development of the Environmental and Social Framework. In the meantime, please contact me if I can be of further assistance regarding this submission.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeffrey H. Altschul".

Jeffrey H. Altschul  
President

## **ESS 8. Cultural Heritage** (by original paragraph number)

In addition to the following points, the SAA would firmly endorse (and be happy to assist with) the updating of the Bank's 2009 Physical Cultural Resources Safeguard Policy Guidebook.

### **4. The term “cultural heritage” is defined...**

Rewrite this paragraph. The Bank's existing OP/BP4.11 as well as IFC PS8 have more comprehensive and professionally credible definitions. They would form a useful starting point, but both require expansion to capture intangible heritage more adequately, with reference to the 2003 UNESCO Convention on Intangible Cultural Heritage, as per global best practice.

### **5. ESS 8 applies to projects...**

The term “significant” is too subjective and will facilitate the destruction of cultural heritage. In line with global best practice, reword subparagraph (a) as follows:

- (a) *Involves demolition, excavation or movement of earth, modification of the ground surface, flooding or other changes in the physical environment; or*

### **10. If the environmental and social assessment determines...**

Reword as follows to recognize appropriate professional accreditation and global best-practice standards:

*If the environmental and social assessment determines that the project may, at any time during the life of the project, have impacts on cultural heritage, the Borrower will: (a) retain credentialed, accredited and internationally recognized independent cultural heritage experts to assist in the identification and protection of cultural heritage; and (b) ensure that well documented and internationally recognized best practices for field-based study, documentation and protection of cultural heritage are implemented, including by contractors and other third parties. As part of the suite of internationally recognized best practices, the Borrower will develop a chance find procedure for managing chance finds, which will be included in all contracts relating to construction of the project.*

Add the following at the end footnote 3 regarding the role of chance find procedures:

*Chance find procedures are an addition to and not a substitute for a comprehensive suite of procedures to protect cultural heritage.*

Reword footnote 5 as follows regarding global best practice in mitigation measures:

*Appropriate mitigation measures include comprehensive field survey and subsurface sampling (including excavation); systematic data recovery, recording and analysis, chance find procedures; measures for strengthening the capacity of national and sub-national institutions responsible for managing cultural heritage affected by the project; establishment of a monitoring system to track the progress and efficacy of these activities; establishment of an implementation schedule and required budget for the identified mitigation measures; and cataloguing of finds.*

### **13. The environmental and social assessment will identify...**

Reword point (c) as follows regarding professional and scientific stakeholders:

*(c) relevant nongovernmental organizations and experts, including national and international professional and scientific bodies and cultural heritage organizations.*

**14. The Borrower will consult...**

Reword footnote 7 as follows (i) because the word “relevant” is too subjective and will see appropriate agencies excluded on political and other grounds, and (ii) to recognise cultural heritage professionals:

*The Borrower will ensure the inclusion and cooperation of the various stakeholders through a dialogue with the appropriate authorities, including the national or local regulatory agencies entrusted with the protection of cultural heritage as well credentialed, accredited and internationally recognized independent cultural heritage experts, to establish the most effective means for addressing the views and concerns of the stakeholders and involving them in the protection and management of the cultural heritage.*

**15. The Borrower, in consultation with the Bank...**

Reword as follows regarding recognition of cultural heritage professionals:

*The Borrower, in consultation with the Bank and credentialed, accredited and internationally recognized independent cultural heritage experts, will determine whether disclosure of information regarding cultural heritage required under the ESSs would compromise or jeopardize the safety or integrity of such cultural heritage. In such cases, sensitive information may be omitted from public disclosure.*

**17. Archaeological sites...**

Reword to emphasize the fact that the nature of most archaeological sites means they are unseen by and unknown to local people and authorities. There is almost never “no archaeology”.

*Archaeological sites comprise any combination of structural remains, artifacts and ecological elements. A site may be located entirely beneath, partially above, or entirely above the land or water surface. Most archaeological sites are completely hidden from view. Only very rarely is there no archaeological material in any given area, even if such material is not known to or recognized by local people or recorded by national or international archaeological agencies or organizations.*

**18. Where there is evidence of...**

Reword to emphasize that an apparent lack of archaeological evidence does *not* mean a real lack of archaeological evidence rather than a lack of archaeological work. To repeat, there is almost never “no archaeology”.

*The Borrower will undertake background research, including use of aerial and other remote-sensing imagery, and conduct surface survey and subsurface sampling (including excavation) of the project area to locate, document, map and investigate archaeological remains. The Borrower will thoroughly document the location and characteristics of archaeological sites and artifacts discovered during the life of the project and provide such documentation in full to the national or subnational cultural heritage authorities and international archaeological and cultural heritage bodies, as well as to the public in a form that does not endanger the heritage resources.*

Reword footnote 8 to recognize appropriate professional accreditation and global best-practice standards:

*The Borrower will employ credentialed, accredited and internationally recognized independent cultural heritage experts and adopt a cost-effective but comprehensive and professionally acceptable set of methods.*

**19. The Borrower will determine:**

Reword to recognize appropriate professional accreditation and global best-practice standards:

*The Borrower will consult with national archaeological and cultural heritage agencies and credentialed, accredited and internationally recognized independent cultural heritage experts to determine if archaeological remains and artifacts discovered during the life of the project require: (a) documentation only; (b) detailed excavation, analysis and documentation; or (c) conservation in place; and will manage them accordingly. The Borrower will determine ownership and custodial responsibility for artifacts in accordance with national and subnational law, and will arrange for their identification and storage to enable future study, analysis and publication by experts.*

**21. When the project has...**

Reword footnote 9 as follows to recognize global best-practice standards:

*In accordance with the 1994 Nara Document on Authenticity and applicable national and subnational laws and/or zoning regulations.*

**26. Movable cultural heritage**

Reword to be more accurate and comprehensive:

*Movable cultural heritage includes such objects as: historic or rare books and manuscripts; paintings, drawings, sculptures, statuettes and carvings; modern or historic religious artifacts; historic costumes, jewellery and textiles; fragments of monuments or historic buildings; archaeological evidence; and natural history collections such as fossils, bones/skeletons, skins/pelts (including stuffed specimens), shells, flora, or minerals. Discoveries and access resulting from a project may increase the vulnerability of cultural artifacts to theft or abuse.*

**27. The Borrower will identify movable...**

Reword to be more accurate and comprehensive:

*The Borrower will identify movable cultural heritage objects that may be endangered by the project and make provisions for their protection throughout the life of the project. The Borrower will inform religious or secular authorities or other recognized custodians and experts with responsibility for oversight and protection of the cultural heritage items of the schedule for project activities and alert them regarding the potential vulnerability of movable cultural heritage artifacts. The Borrower will take permanent measures to guard against theft and illegal trafficking of cultural heritage items affected by the project and will notify relevant authorities of any such activity.*

**D. Commercialization of Intangible Cultural Heritage**

Delete “Intangible” from heading, as the paragraph refers to all cultural heritage including but not restricted to intangible heritage.

## **ESS 1. Assessment and Management of Environmental and Social Risks and Impacts** (by original paragraph number)

The Association's prime concern with ESS 1 is that the Bank has **no** appropriate high-level in-house archaeological heritage expertise to facilitate sound professional judgements concerning the provisions of this crucial overarching standard. This concern focuses particularly on the assessment of project risk regarding cultural heritage and of the capacity of country systems to evaluate and manage that risk.

### **31. For projects that are *High Risk*...**

Reword to recognise appropriate professional accreditation:

*For projects that are High Risk or contentious, or that involve serious multidimensional environmental or social risks or impacts, the Borrower may be required to engage one or more accredited credentialed internationally recognized independent experts. Such experts may, depending on the project, form part of an advisory panel or be otherwise employed by the Borrower, and will provide independent advice and oversight to the project.*

### **49. The Borrower will monitor and measure**

Reword to recognise appropriate professional accreditation and the need for standard rather than optional independent expert verification and quality control:

*The Borrower will monitor and measure the environmental and social performance of the project in accordance with the legal agreement (including the ESCP). The extent of monitoring will be agreed upon with the Bank, and will be commensurate with the nature of the project, the project's environmental and social risks and impacts, and compliance requirements. The Borrower will ensure that adequate systems, resources and personnel are in place to carry out monitoring. The Borrower will engage stakeholders and third parties, including accredited credentialed internationally recognized independent experts, local communities or NGOs, to complement or verify its own monitoring activities. Where other agencies or third parties are responsible for managing specific risks and impacts and implementing mitigation measures, the Borrower will collaborate with such agencies and third parties to establish and monitor such mitigation measures.*

### **50. Monitoring will normally include**

Delete the word "normally" because is too subjective and will see monitoring downplayed or disregarded.

### **53. At the Bank's request, the Borrower will...**

Reword as follows to recognise appropriate professional expertise:

*At the Bank's request, the Borrower will facilitate site visits by Bank staff credentialed, accredited and internationally recognized independent experts acting on the Bank's behalf.*

## **ESS 7. Indigenous Peoples** (by original paragraph number)

The SAA's main interest with ESS 7 is to ensure that Indigenous cultural heritage is properly protected and that ESS 7 is adequately articulated with ESS 8.

### **8. Following a determination by the World Bank...**

Reword to emphasise need for independence in expert advice:

*Following a determination by the World Bank that Indigenous Peoples are present in, or have collective attachment to the project area, the Borrower may be required to seek inputs from appropriate independent specialists to meet the consultation, planning, or other requirements of this ESS.*

### **15. If specific actions relating to**

Reword footnote 6 to emphasise need for accreditation and independence of expert advisors:

*The format and title of the plan may be adjusted to fit the project or country context. The scope of the plan should be commensurate with risks and impacts. The determination of the appropriate planning scope, as well as determination of appropriate mitigation measures, may require the input of credentialed, accredited and internationally recognized independent experts. A community development plan may be appropriate in circumstances where others, as well as Indigenous Peoples, will be affected by adverse impacts or project risks, where more than one Indigenous Peoples group is to be included, or where the regional or national scope of a programmatic project incorporates other population groups. When all necessary information cannot be made available because project design or siting is not finalized, preparation of a planning framework is appropriate.*

### **19. Indigenous Peoples may be particularly vulnerable...**

Reword to include cultural heritage (as per ESS 7 para 11), to remove the subjective word "significant" and to emphasise need for accreditation and independence of expert advisors:

*Indigenous Peoples may be particularly vulnerable to the loss of, alienation from or exploitation of their land and access to natural and cultural resources (including cultural heritage). In recognition of this vulnerability, in addition to the General Requirements of this ESS (Section A) and those set forth in ESSs 1 and 10, the Borrower will obtain the FPIC of the affected Indigenous Peoples when the project will: (a) have impacts on land and natural resources subject to traditional ownership or under customary use or occupation; (b) cause relocation of Indigenous Peoples from land and natural resources subject to traditional ownership or under customary occupation or use; or (c) have impacts on Indigenous Peoples' cultural heritage. In these circumstances, the Borrower will engage credentialed, accredited and internationally recognized independent experts to assist in the identification of the project risks and impacts.*

### **23. Indigenous Peoples are often closely tied...**

Remove the word "significant", which is too subjective and will result in irreversible impacts on traditional lands.

### **26. Where a project may significantly impact cultural heritage...**

Rewrite (i) to remove subjective and ambiguous terms that will result in irreversible impacts on indigenous cultural heritage, and (ii) to emphasize FPIC provisions:

*Where a project may impact cultural heritage connected to the identity and/or cultural, ceremonial, or spiritual aspects of Indigenous Peoples' lives, priority will be given to the avoidance of such impacts. Where project impacts are unavoidable, the Borrower will obtain the FPIC of affected Indigenous Peoples. Where FPIC is not obtained, this aspect of the project will not proceed, as per paragraph 21 of this ESS.*

**NOTE: DO NOT ALTER FOOTNOTE 16 IN REWRITE**

**27. Where a project proposes to use...**

Add the following to emphasise FPIC provisions:

*Where FPIC is not obtained, this aspect of the project will not proceed, as per paragraph 21 of this ESS.*

**32. The Borrower may request...**

Reword to include cultural heritage as per ESS 7 para 11:

*The Borrower may request Bank technical or financial support, in the context of a specific project or as a separate activity, for preparation of plans, strategies or other activities intended to strengthen consideration and participation of Indigenous Peoples in the development process. This may include a variety of initiatives designed, for example, to: (a) strengthen local legislation to establish recognition of customary or traditional land tenure arrangements; (b) address the gender and intergenerational issues that exist among Indigenous Peoples; (c) protect indigenous cultural heritage and indigenous knowledge including intellectual property rights; (d) strengthen the capacity of Indigenous Peoples to participate in development planning or programs; and (e) strengthen the capacity of government agencies providing services to Indigenous Peoples.*

**33. Affected Indigenous Peoples may themselves...**

Reword to include cultural heritage as per ESS 7 para 11:

*Affected Indigenous Peoples may themselves seek support for various initiatives and these should be taken into consideration by the Borrower and the Bank. They include: (a) support for the development priorities of Indigenous Peoples through programs (such as community-driven development programs and locally managed social funds) developed by governments in cooperation with Indigenous Peoples; (b) preparation of participatory profiles of Indigenous Peoples to document their culture, demographic structure, gender and intergenerational relations and social organization, institutions, production systems, religious beliefs, cultural heritage and resource use patterns; (c) facilitating partnerships among the government, Indigenous Peoples Organizations (IPOs), CSOs, and the private sector to promote Indigenous Peoples' development programs.*

## **ESS 10. Information Disclosure and Stakeholder Engagement** (by original paragraph number)

As with ESS 1, the Association's prime concern is that the Bank has **no** appropriate high-level in-house archaeological heritage expertise to facilitate sound professional judgements concerning the provisions of this crucial overarching standard.

### **5. For the purpose of this ESS...**

Reword footnote 1 to recognise the role of professional bodies:

*Other stakeholders are those not directly affected by the project but that have an interest in it. These could include national and local authorities, neighboring projects, professional and scientific bodies, or nongovernmental organizations.*

### **16. The SEP will...**

Reword footnote 5 to recognise the role of professional bodies:

*For example, community and religious leaders, local government representatives, civil society representatives, professional and scientific bodies, politicians, teachers, and/or others representing one or more project-affected groups.*

### **21. The Borrower will provide:**

Reword last sentence as the words "Where appropriate" are too subjective and will see stakeholders excluded for political and other reasons:

*All other stakeholders will also be included in the ongoing engagement.*

## **ANNEX 1. Grievance Mechanism**

### **2. The grievance redress mechanism...**

Reword (c) as follows to emphasize accessibility:

*Widely-accessible publicly advertised service standards outlining the length of time users can expect to wait for acknowledgement, response and resolution of their complaints;*