



**January 29, 2016**

**Comments of the Society for American Archaeology  
On the Second Draft of the World Bank's Environmental and Social Framework**

The Society for American Archaeology (SAA) is pleased to provide the following comments on the second draft of the *Review and Update of the World Bank's Safeguard Policies - Proposed Environment and Social Framework* (Second Draft).

SAA is an international organization that, since its founding in 1934, has been dedicated to the research about and interpretation and protection of the archaeological heritage of the Americas. With nearly 8,000 members, SAA represents professional archaeologists in colleges and universities, museums, government agencies, and the private sector. SAA has members in all 50 states as well as many other nations around the world.

SAA understands that, while the Committee agrees in general with the structure and much of the coverage of the proposed Environmental and Social Framework (ESF), questions remain regarding the following issues in cultural heritage:

1. The treatment of intangible cultural heritage;
2. The application of intangible cultural heritage when the project intends to commercialize such heritage; and
3. The application of cultural heritage requirements when cultural heritage has not been legally protected or previously identified or disturbed.

The last matter can be addressed in a straightforward manner. A great deal of cultural heritage is not legally protected or previously identified, not because it is unimportant but because no-one has sought to identify it and assess and document its value. This applies to all forms of heritage but is particularly the case with archaeological heritage, which is very often buried or underwater and thus not visible. Chance finds procedures are essential for dealing with such material, but should not be the principle mechanism adopted by the Bank for applying 'cultural heritage requirements when cultural heritage has not been legally protected or previously identified or disturbed'. Rather, standard professional archaeological methods of site discovery, assessment and documentation should be undertaken ahead of development projects by qualified professional archaeologists, as detailed in the previous submissions of the SAA and other professional archaeological and cultural heritage bodies. This is standard procedure in many parts of the world.

As for concerns about intangible heritage, the long and varied experience of SAA members around the world is that tangible and intangible heritage cannot sensibly be separated, either conceptually or in practice. Clearly, though, there are serious issues to be addressed with regard to defining, evaluating, and treating impacts on intangible heritage. A key question is how one can limit the liability of the Bank and

its clients at the same time as meeting the needs of local and especially Indigenous communities as well as of the scientific community.

Uncertainties about resolving this question have resulted in inconsistencies in the proposed ESS 8, between the definition of intangible cultural heritage (ICH) and how it is actually dealt with. On page 126 (Scope of Application, Point 4), ICH is defined as ‘Intangible cultural heritage, which includes practices, representations, expressions, knowledge, skills events or living traditions, ideas, beliefs, artistic and literary works’. However, this definition is immediately qualified in Point 7, which states that ‘The requirements of ESS8 apply to intangible heritage only in so far as it relates to a physical component of a project’.

It is not clear how Point 4 and Point 7 relate. Is it that the Bank will only safeguard ICH that is directly impacted by a project as opposed to an indirect impact? For example, will it protect a sacred tree that will be destroyed by a road but not a ritual that will be altered because more tourists can get to the village because there is now a road?

The issue is further complicated by section D. Provisions for Specific Types of Cultural Heritage, beginning on Page 130. Here there is no section on ICH, only a section on ‘Natural Features with Cultural Significance’, which states the following:

*Natural features may be imbued with cultural heritage significance. Examples include sacred hills, mountains, landscapes, streams, rivers, waterfalls, caves and rocks; sacred trees or plants, groves and forests; carvings or paintings on exposed rock faces or in caves; and paleontological deposits of early human, animal or fossilized remains... The significance of such heritage may be localized in small community groups or minority populations.*

Since there is no section on ICH, it appears as if the Bank is limiting its safeguard to ‘physical’ intangible cultural heritage. This would seem to defeat the purpose of including ICH in the first place.

On this basis, while the SAA applauds the Bank for including intangible cultural heritage, the Society strongly suggests that ESS 8 should be revised so it is clear:

1. What ICH is
2. What elements of ICH are covered by the ESS, and
3. How borrowers should identify and evaluate ICH.

In addition, we believe it is vital that the Bank employ cultural resources specialists whose expertise will lead to the best possible implementation of these policies. Without knowledgeable in-house personnel to participate in project evaluation and oversight, the Bank will be never be able to ascertain whether or not its guidelines are being properly followed by borrowers and their contractors.

SAA is happy to continue to advise the Bank on these and other cultural heritage matters.