

IFC Note on ESSD Memorandum On IFC Proposed Environmental and Social Safeguard Policies

IFC has consulted closely with colleagues in the World Bank, principally the Environmentally and Socially Sustainable Development (ESSD) network and the Legal Department, in order to ensure that IFC's proposed policies are consistent with the Bank's Safeguard Policies. These internal consultations have been critical to IFC policy review process.

Prior to IFC's presentation on September 7, 2005, of the revised policy documents to the Committee on Development Effectiveness (CODE) – a committee of IFC's Board of Directors – the ESSD Vice President met with IFC's EVP, the latest in a series of high level meetings throughout the review process. He provided a summary of the ESSD and Legal Department review of the proposed Policy and Performance Standards in the form of a memorandum from the ESSD Vice President. The memorandum from the ESSD Vice President did not include a discussion of the IFC draft Guidance Notes. This memorandum was attached to the documentation for CODE and is provided below as Annex 1. The ESSD memo reflects the strengthened consensus around IFC's proposed Safeguard Update.

Prior to the public release of the draft Sustainability Policy and Performance Standards on September 22, IFC made further changes to reflect the World Bank comments. As a result, the areas of divergence continue to be addressed. We will engage in further discussions with Bank colleagues. The purpose of this note is to (1) point out the areas of consensus; and (2) provide an initial response to the remaining areas of divergence. As part of our ongoing discussions with ESSD and the Legal Department, we will revisit these areas during the 60-day comment period.

1) Areas of Consensus

The World Bank finds that IFC's proposed policy and performance standards are broadly consistent with and complementary to the World Bank requirements, noting:

- IFC's policy update is "an important opportunity for the World Bank Group to innovate in its approach to safeguard policies."
- "The use of the Performance Standards to manage and improve their social and environmental performance through an outcomes based approach is especially important."

2) Areas of Divergence/Response.

The World Bank also noted the importance of maintaining certain key features of the established safeguard system. They pointed to a number of areas in which IFC's proposed standards differ from the World Bank's:

- **Financial Institutions.**

ESSD Comment: "*Consultation and Disclosure for FI Operations.* The Bank's view is that provisions should be made in IFC procedures for FI operations to mandate project related public consultations. The operations manual, or equivalent materials concerning environmental and social review procedures, should be disclosed to the public prior to project appraisal."

IFC Response: While we agree with the importance of transparency, we disagree with the recommendation for FIs to disclose operations manuals of procedure, as this is not commercial practice. Instead, FI transparency should be achieved through the disclosure of social and

environmental assessments of subprojects financed by the FIs. The World Bank's practice for FI activities is evolving in this area.

- **Forestry Operations :**

ESSD Comment: "*Certification Standards for Forestry Operations.* IFC is not currently using language that would make the provisions of the Performance Standard consistent with the provisions in the Forests Policy of the Bank. IFC views the provisions of our policy as not fully appropriate for the private sector in developing countries."

IFC Response: IFC's proposed Performance Standard is consistent with the Bank's requirements for certification. Guidance is continued in PS 6 and lays out the generic criteria that IFC deems acceptable in a certification standard for a range of sustainably managed natural resources, without endorsing any single system for any sector, consistent with Operational Policy 4.36. In addition, specific criteria for forest certification are found in Guidance Note 6, which parallels the World Bank's Operational Policy 4.36 on Forests. Working in the private sector, IFC is not in a position to dictate one certification scheme over another, a decision made by the relevant government authorities. But IFC requires its client to use certification and that the certification scheme is one that meets World Bank Group criteria.

- **Indigenous Peoples**

ESSD Comment: "*Indigenous Peoples.* The most significant area of difference concerns provisions for addressing Indigenous Peoples. These provisions, which have been adjusted to reflect the private sector clients of the IFC, are not fully consistent with those of the Bank. They include:

- "*Threshold for Application of the Performance Standard.* The Performance Standard establishes the threshold of "significant impacts" for projects to be located on traditional or customary lands. This threshold is higher than that under the Bank policy.
- "*Benefit Sharing.* For projects to be located on customary lands of Indigenous Peoples, the affected communities will be offered at least compensation. The Bank policy requires equitable sharing in benefits.
- "*Commercial Development of Cultural Resources.* The language with regard to commercial development of cultural resources is weaker than that of the Bank because rather than requiring fair and equitable sharing of benefits, it requires the client to "seek to provide fair and equitable sharing."

IFC Response: We have taken on board these suggestions and made drafting changes in regard to the appropriate level of threshold on special provisions on Indigenous Peoples' lands, their cultural resources, and sharing of development opportunities. With these changes, we believe that Performance Standard 7 enables IFC to coordinate its policy implementation closely with the World Bank.

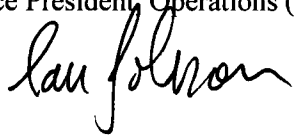
IFC is pleased by ESSD's and the Legal Department's valuable input into helping IFC develop a new Sustainability Policy and Performance Standards and consider areas of difference as a reflection of the different requirements necessary to achieve the same desired outcomes through involving the private sector and public sector projects.

OFFICE MEMORANDUM

DATE: August 5, 2005

TO: Mr. Assaad Jabre, Vice President, Operations (CIOVP)

FROM: Ian Johnson (ESDVP)



EXTENSION: 31053

SUBJECT: **IFC Policy Statement – Policy on Social and Environmental Sustainability and Performance Standards**

1. ***Policy Statement and Performance Standards.*** We have reviewed the draft to be submitted to CODE of the IFC Policy on Social and Environmental Sustainability and Performance Standards. This memo does not include a discussion of the IFC Guidance Notes, which are advisory in nature.

2. ***Coordination and Approach.*** Coordination with the IFC Team responsible for the Safeguard Update process has been excellent. The IFC Safeguard Process provides an important opportunity for the World Bank Group to innovate in its approach to safeguard policies. At the same time there remains a need to maintain certain key features of the established safeguard systems traditionally used within the World Bank Group. We believe that the use of the Performance Standards to support the IFC and its clients to manage and improve their social and environmental performance through an outcomes based approach is especially important. The focus on the use of the Performance Standards and their implementation process provides a solid base from which clients may increase the sustainability of their business operations.

3. ***Key Issues.*** The Bank notes several key areas where the IFC Policy Statement and Performance Standards differ with Bank policies:

- ***Different Standards for Public and Private Sector Operations.*** The current drafts of the IFC Policy Statement and Performance Standards, with the exception of the approach to Indigenous Peoples, are broadly consistent with, and complementary to, the requirements of the Bank. At the same time, they are different enough to be considered as a special approach for the private sector clients of the IFC.
- ***Consultation and Disclosure for FI Operations.*** The Bank's view is that provisions should be made in IFC procedures for FI operations to mandate project related public consultations. The operations manual, or equivalent materials concerning environmental and social review procedures, should be disclosed to the public prior to project appraisal.
- ***Certification Standards for Forestry Operations.*** IFC is not currently using language that would make the provisions of the Performance Standard consistent with the

provisions in the Forests Policy of the Bank. IFC views the provisions of our policy as not fully appropriate for the private sector in developing countries.

- *Indigenous Peoples.* The most significant area of difference concerns provisions for addressing Indigenous Peoples. These provisions, which have been adjusted to reflect the private sector clients of the IFC, are not fully consistent with those of the Bank. They include:
 - *Threshold for Application of the Performance Standard.* The Performance Standard establishes the threshold of "significant impacts" for projects to be located on traditional or customary lands. This threshold is higher than that under the Bank policy.
 - *Benefit Sharing.* For projects to be located on customary lands of Indigenous Peoples, the affected communities will be offered at least compensation. The Bank policy requires equitable sharing in benefits.
 - *Commercial Development of Cultural Resources.* The language with regard to commercial development of cultural resources is weaker than that of the Bank because rather than requiring fair and equitable sharing of benefits, it requires the client to "seek to provide fair and equitable sharing."

cc: Messrs.: Rachel Kyte, Motoko Aizawa (CESDR); David Freestone (LEGVP); Charles di Leva (LEGEN); James Warren Evans (ENV); Stephen Lintner (ESDQC)