

IFC Safeguards Update / Disclosure Policy Review
Open stakeholder meeting, London, November 1, 2004
Notes
London, UK, November 1, 2004

London, UK, November 1, 2004, Commonwealth Club (9:30 am – 3:30 pm): IFC held an open meeting to discuss the proposed new IFC Policy and Performance Standards on Social and Environmental Sustainability, and Concept Paper on Disclosure of Information with interested stakeholders. The meeting was facilitated by professional facilitator Brian Lawrence.

Present were: Rod Janssen (HELIO International), Carolyn Hodder (Transparency International), Christopher Wright (London School of Economics and Political Science), John J. Anselmi (Sullivan & Cromwell LLP), Jeremy Martin (Environment & Sustainable Development International (ESDI), Seetharam Mukkavilli (PMP Plan International Headquarters), Gavin McGillivray (Department for International Development (DFID)), Roy Madron (Gaian Democracy Enterprises), Jonas Moberg (IBLF).

Discussion Summary:

A presentation of the review process and the proposed new Policy and Performance Standards on Social and Environmental Sustainability, and the Concept Paper on Disclosure by IFC was followed by discussion on a number of different issues, and then specific feedback on individual Performance Standards. The presentation is available on the policy reviews' website at www.ifc.org/policyreview.

Disclosure / Government Contracts

Participants raised a number of questions around IFC's approach to anti-corruption and transparency. Are there anti-bribery requirements in the Performance Standards? Does IFC assess how government concessions/ contracts are awarded, and refuse loans on these grounds? Are disclosure requirements undue burdens in the developing country context when similar requirements do not exist in the UK?

IFC clarified that it is still developing an approach to anti-bribery, which may not be part of IFC's approach to environmental and social sustainability, but rather a more general corporate policy. At present, IFC refuses loans quite often on grounds of the concession contract, mainly where contract terms might affect the company's financial soundness. Where privatizations are supported by the World Bank, IFC is subject to strict conflict of interest rules (Chinese Walls), and most times will not get involved. IFC noted that clients in developing countries understood the need for disclosure, and the importance of working with the community. IFC sees CSR entrepreneurship in many countries of operation.

Financial Intermediaries (FIs)

Questions were raised about the applicability of the revised policy framework to financial intermediaries, and how IFC currently ensures the application of social and environmental safeguards when it invests in financial intermediaries (FIs). IFC responded that there is an internal IFC task force working on how the standards will apply to financial intermediaries operationally, as well as to equity, funds, and municipal lending. IFC has further undertaken a portfolio review of FI clients. A few things are already clear: IFC will not look at every sub-project. Rather, IFC will be accountable for the social and environmental risk management capacity of the FI client. Training FIs to transfer management capacity is more effective than supervising.

IFC also found a great resonance between Islamic bankers and social and environmental management systems. IFC is now the largest investor in private equity funds, and challenging the private equity industry to set up social and environmental standards. Equally, IFC is asking the Socially Responsible Investment (SRI) community to invest in emerging markets.

Performance Standards - Approach and Requirement levels

A number of questions focused on the approach IFC is taking in the proposed new Performance Standards. Are the standards set at a realistic level for the developing country or will they prevent some people with good ideas but less capacity from working with IFC? Should IFC move to adopt a systems approach rather than focus on compliance, monitoring and reporting? Do the Performance Standards represent a move from a mandatory to a more discretionary approach?

IFC explained that feedback received in the consultation process should help determine whether the standards are set at the right level. IFC will help clients who lack capacity but are willing to build it. If the Performance Standards lead to increased transaction cost, IFC can help cover this cost through technical assistance. Where companies do not want to be 'burdened' however, IFC will not work with them. While there is a desire among IFC staff to be able to work in the systems approach, this is however not very well accepted by governments around the world. Also, as a publicly held institution IFC needs find an approach which allows for accountability and transparency. IFC reiterated that the Performance Standards are absolutely mandatory. Where the Performance Standard is relevant, this will become part of the Action Plan, which in turn is an element of the loan agreement.

Client Orientation

Discussion evolved around the role of client orientation in IFC's strategic approach, for instance vis-à-vis financial intermediaries, or investments in extractives versus renewable energy. What type of feedback are clients giving IFC as part of the policy review process.

IFC noted that its mission is to work through the private sector. Client orientation is not a strategy, but a way of doing business. IFC used to sit back and wait for new business, but has become more outward-looking. Investments in FIs have grown as part of a deliberate strategy to help create conditions for sustainable private sector development. This was not driven by environmental and social issues, but development considerations. Responding to valid criticism, IFC is now involved in the renewable energy discussion and investing in a number of ways, such as helping companies change their energy use through carbon finance, or helping local banks understand to manage environmentally-based business.

In the course of the consultation process, big global companies have noted that they want all sources of capital to use the same policy framework, so there is a level playing field. Smaller companies want IFC to help build their capacity. Companies also ask for clarity in what is being asked of them. Many times, companies want a standard that is best practice in different markets. A concern companies voiced was that IFC is moving toward an ambient approach in the Pollution Prevention and Abatement Handbook (PPAH). While prepared to meet specific limits, companies are concerned they may find themselves next to a polluter, unable to meet air-shed requirements with their installed technology. Disclosure requirements cause some companies to fear they may be put at a competitive disadvantage. On social issues, companies want to be reassured that IFC will help find a consultant, resources to help address the issues.

Public Utilities

Participants had questions about IFC's role in electric utility privatizations, referring to mistrust by many people that believe WBG involvement means utilities get bought by companies from the north. It was suggested that IFC formulate an approach to user fees as part of the Performance Standards.

IFC suggested that in utility privatization, one also needs to look at the government's capacity to provide a public grid without the private sector, which in many cases is absent. IFC, together with others, are struggling to find solutions for the provision of services: private-public partnerships etc. Rather than a Performance Standard issue, the question of user fees would be part of IFC's approach to infrastructure,

and health. IFC support for services concentrates on how systems are run, how to create tariff structures, etc. A positive example is Manila Water, for their exemplary work and relationship with communities.

PS 1 - Social and Environmental Assessment, and PS 9 - Social and Environmental Management Systems

For the remainder of the day, discussions focused on specific Performance Standards. Participants made a number of recommendations to IFC regarding PS 1 and 9:

General

- Explicitly reference Human Rights; and integrate the UN Convention on the Rights of the Child to the extend possible;
- Help all stakeholders understand that these are “wicked issues” and there can be no final definite answers, only constant improvement processes on a soft-systems framework;
- Open a stakeholder dialogue process to try and build a shared understanding of and commitment to continuous improvement processes;
- Provide a video of your presentations, and distribute copies of that;
- Address FIs more directly in the revised framework:
 - State explicitly for each of the PSs how it applies to FI investments,
 - Clarify how the revision will affect FI investments formerly categorized as type 1,
 - Improve disclosure practices pre- and post implementation, scope of the SPI annual environmental reports,
 - Take enforcement/monitoring capacity of the FI and the public agencies into account in the initial assessment of the FI project to be able to rely on host country regulations to ensure minimal environmental performance of subprojects;
- Question: Will annex F be revised alongside the revision of OP 4.01? What are the planned revisions of annex F, in particular requirements of type 1 projects?

PS 1 and 9

- PS 1 and 9 should be benchmarked against existing standards of ADB, DFID, AUSAid, etc.

PS 1

- Assessments should consider similar projects in the region;
- Put pressure on the government to conduct Strategic Environmental Assessments (SEAs), and encourage the private sector, too;
- Collaborate with the World Bank on environmental regulation, and the World Bank should help build capacity to ensure SEAs are in place;
- Do not get involved in a project where the Assessment is not satisfactory;
- Sanction companies that misrepresent the truth in Assessments;
- Don't always believe the “stakeholders”;
- Assessments should take place at the beginning of process, so if not satisfactory, IFC can pull out;
- Standards should be same as those of the World Bank;
- Assess whether bribery was part of winning the deal;
- Beware that some people may not have freedom of speech in the consultation process;
- Make more transparent the availability of information from the environmental and social assessment process, and how/where that information is available to interested parties. The Info shop is not enough;
- Develop criteria for determination of whether external experts are required in a category A project;
- Look at host country regulation and take into account the capacity of host system to enforce laws, and adequacy of the regulation with respect to SMEs. IFC's approach should be commensurate with capacity in the country.

PS 9

- Add examples and case studies of Environmental Management Systems in an annex;
- Make a commitment to long term monitoring of individual projects to develop trust and credibility in the community.

IFC noted that the World Bank is proposing a country systems approach – using the country system and adding requirements where these are not adequate. Effective environmental regulation, when enforced, is good for the private sector. The school of thought in banking prefers enforcement through SEC type regulations. So far, we do not differentiate standards depending on the strength of the country system.

It is time for explicit reference to Human Rights. Indirectly, Human Rights are covered in the standards.

If there is anywhere the standards are diluted compared to the current safeguards, please point this out to us, and this will be addressed in drafting.

References to International Conventions will be in Interpretation Notes. However, other than for POPS, these do not speak to private sector responsibility. We took the principles and formulated what should be required of the private sector.

Performance Standard 2 – Labor and Working Conditions

Question: Does IFC work in tandem with the World Bank?

- IFC: ILO is the partner for governments on labor, not the World Bank. IFC is not going beyond ILO, and not setting a new standard for labor, rather clarifying what standards a client should meet. In this case, these were derived from core labor standards. IFC will engage in an ongoing structured dialogue with labor from now on.

Question: The requirement on non-discrimination is very general. Why?

- IFC: This was a political judgment call – if we put the list in, it might not clear the board. There are two lists, of the ILO and the UN. The WBG Board does not like discussing these issues. We will probably footnote the UN list.

Performance Standard 5 - Land Acquisition and Involuntary Resettlement

Suggestions:

- IFC should look at DFID's guidelines on resettlement, which are highly progressive.
- IFC should make funds available to make the community responsible for monitoring. Seed money would help here.

Performance Standard 7 - Indigenous Peoples / Natural Resource Dependent Communities

Question: Does IFC consider the question of ownership and control of property when indigenous peoples are involved?

- IFC: What is important is who is affected by the project. Where impacts cannot be avoided, we look at remediation. Question on property ownership is more relevant to public processes.

Performance Standard 8 - Cultural Heritage

Question: Would you finance patenting GM foods products?

- IFC: We would patent those processes that hold commercial gains.

Performance Standard 3 - Pollution Prevention and Abatement

Question: Which applies, if host country standards are lower than WB standards?

- IFC: Whichever standards are higher apply.

Question: How are GGH emissions / emissions trading addressed?

- IFC: Emissions trading is not part of this risk framework, IFC does this as a value added component.

Question: Should climate change have its own PS?

- IFC: We considered a free-standing PS on climate change, now the components are spread across the different PSs.

Performance Standard 4 - Community health and safety / Consultation

Suggestion: Be more explicit about what it means "as early as possible in the project cycle".

- IFC: IFC sometimes comes at a later stage, and then brings in an independent expert, where problems are not possible to address, IFC does not finance.

Performance Standard 6 - Biodiversity

Question: Will IFC address set-asides?

- IFC: Originally we planned to address this in Interpretation Notes. It will have to go into the Performance Standard.