

IFC's Performance Standards – What's New and Different

Background

In April 2003, the CAO published a comprehensive review of the impact and effectiveness of IFC's Safeguard Policies. Undertaken at the request of management following a commitment to the Board, the review's principal finding was that positive development outcomes depend on the capacity of the project sponsor to carry out its operations over time. The review also found that the current Safeguard Policies were unclear in what they demanded of clients and had gaps in the issues they covered.

Following the CAO report, IFC embarked on the update of the Safeguard Policies. The draft IFC Policy on Social and Environmental Sustainability and Performance Standards was released for public consultation on August 16, 2004, following IFC's Board subcommittee approval to proceed to public consultation, and detailed discussion with the World Bank management and specialists on the contents of the Policy and Performance Standards to ensure consistency and coordination with the World Bank's Safeguard Policies.

The consultation process, to date, has reinforced the direction IFC has taken with its proposed Policy and Performance Standards, and our initial view that the new policy framework will allow IFC and the client to work together to establish a clear understanding of the client's compliance responsibility and to identify areas where the client can move towards best practices. In the course of consultations to date, we have also taken note of concerns about any possible weakening of the World Bank Group's Safeguards approach by the Performance Standards. This paper summarizes these concerns and IFC's perspective.

Policy and Performance Standards on Social and Environmental Sustainability

Overall Approach

We have learned over the years that it is not possible for policy to anticipate all project scenarios and risks and to prescribe for them. In addition to clear standards, companies must build and maintain capacity, usually through corporate management systems, to anticipate and manage social and environmental impacts from changes in business activities.

As a result, IFC proposes an approach that is less prescriptive and can be interpreted more flexibly in response to various project situations, and makes clear about the outcomes that projects must achieve over time. At the same time, the policy takes into account the need for each project to balance financial, economic, environmental and social considerations, and that at times difficult tradeoffs, such as costs and benefits of mitigation measures, local and national considerations, and calculated risk-taking to realize development opportunities, may have to be made. Following analysis of tradeoffs, IFC may decide not to proceed with the investment, if the project cannot be expected to meet the requirements of the Performance Standards. If IFC decides to proceed, the project and IFC must stand ready to make the basis of their decision clear and demonstrate the achievements of the project over time.

The project specific management measures resulting from the social and environmental assessment consistent with the Performance Standards will be captured in an "Action Plan" that is

agreed by the client and IFC. IFC will also review the client's existing or proposed management system to ensure that the client has or will have capacity to implement the Action Plan. Finally, consistent with its current practice, IFC will ensure compliance by incorporating the client's Action Plan into the legal documents, i.e. implementation of the Action Plan will be part of the contract between the client and IFC. Noncompliance may become an event of default. For these reasons, IFC does not consider that the proposed Policy and Performance Standards are only advisory and not mandatory.

IFC is committed to the corporate values and principles underlying the Performance Standards. At the same time, IFC is prepared to be more explicit about the desired outcomes of projects, the investment decisions it makes, and its overall successes and failures in achieving project development impact. Management believes that the Policy and Performance Standards, together with the revised Disclosure of Information Policy, will help IFC further its mission.

What's New in the Policy and Why?

Care has been taken to build on the key principles contained in the existing IFC Safeguard Policies. Extensive discussions with World Bank ESSD management and specialists on the Performance Standards, and more recently on the Guidance Notes, enabled IFC to ensure policy coordination and harmonization with the World Bank. New areas proposed by IFC, and a few areas of difference based on the private sector client base and private sector characteristics are noted in the next two sections. Annex 1 records in greater detail the new areas and areas of difference from the existing IFC Safeguard Policies.

The following are examples of new or strengthened areas of coverage in the Performance Standards:

- **Fully integrated** social and environmental assessment as key to IFC's approach to helping clients manage social and environmental risks and impacts. This will allow a **greater emphasis on social issues** beyond the three specific social themes (involuntary resettlement, indigenous peoples and cultural property)
- More comprehensive approach to **community engagement, through disclosure, consultation and informed participation, as appropriate, throughout the life of the project**
 - This is as a direct result of the World Bank Group Management Response to the EIR
 - For the first time, IFC will move this concept beyond the extractive sector to all projects with significant impacts
 - The process of **Free, Prior and Informed Consultation (FPIC)** will be a project requirement
 - FPIC applies to Indigenous Peoples in all cases. In large projects FPIC applies to all communities affected
 - Before financing high impact projects, IFC, through its own due diligence, must assure itself that there is **broad community support** for the project
- **Labor standards and working conditions policy that covers all four core labor standards** (going beyond the current practice of only addressing harmful child labor and forced labor)

- Expanding the current practice of pollution prevention and abatement from direct project emissions to ambient conditions, and introducing **climate change considerations** as policy
- New Performance Standard on **Community Health and Safety** addresses health and safety considerations of communities directly and adversely affected by the project, including public health, public safety, and emergency preparedness and response aspects
 - To ensure that clients pay attention to issues outside their project boundaries in the same way as inside the project boundaries
- Ensuring that the client creates and maintains **capacity to implement** its Action Plan throughout the life of the project by establishing and maintaining its **social and environmental management system**

What's different in the Policy and Why?

We itemize below the principal areas where the Performance Standards present issues and requirements differently from the existing Safeguard Policies, and the reason why:

- The Performance Standards are client focused, making clear IFC's requirements in the context of a project. Successful outcomes depend on the client's understanding of potential project risks, the need to manage these risks and how best to do so
 - This is a major lesson from IFC's own mainstreaming of environmental and social accountability
 - Businesses and Equator banks need to understand what, why and how
 - Better risk management leads to improved project outcomes
 - IFC adds value by helping clients go beyond risk management towards enhancement of social and environmental opportunities - this is IFC's business model
- **Pest Management** (current OP 4.09) is no longer a free standing Safeguard Policy
 - Because pesticides are a subset of hazardous chemicals/persistent organic pollutants
 - Pesticides are dealt with as part of occupational health and safety (Performance Standard 2), pollution prevention and abatement (Performance Standard 3), and community health & safety (Performance Standard 4)
 - Integrated pest management is dealt with as part of pollution prevention and abatement
 - In the redrafting, following consultation, IFC will consider whether to explicitly mention WHO classifications or other classifications in the Performance Standards
- **Safety of Dams** (current OP 4.36) is no longer a free standing safeguard, but the principle and the substance are now covered in Performance Standard 4
 - Because the accepted approach to structural safety has become more sophisticated, based on risk assessment (rather than whether a dam is 15m in height), and IFC's approach should reflect this change
 - Because structural safety of buildings and structures (not just dams) is treated as part of community health and safety (Performance Standard 4)

- **Forests** (current OP 4.37) is no longer a free standing Safeguard Policy
 - Because forests are a part of biodiversity, and the Performance Standard on Conservation of Biodiversity and Sustainable Natural Resource Management (PS 6) addresses all aspects of biodiversity, including forests
 - The forest certification provisions in PS 6 and the Guidance Note are consistent with the World Bank's latest policy on Forests

- **International Waterways** (current OP 7.50) is no longer a free standing Safeguard Policy but the substantive aspects of OP 7.50 are part of the transboundary impacts to be addressed through assessment (Performance Standard 1)
 - Because water should be treated as one of many potential transboundary impacts (e.g., airshed pollution)
 - Because the "trigger" for notification should be based on whether there will be significant adverse transboundary impacts (based on the approach taken in the Espoo Convention)
 - Notification to riparian states or states impacted by transboundary impacts will be IFC's responsibility, not the clients'
 - IFC will seek World Bank guidance on appropriate interstate commissions and agencies to be notified

- IFC's approach to **Indigenous Peoples** is focused on mitigation of adverse impacts to them
 - There are two broad areas of difference from the approach taken by the World Bank in its proposed OP 4.10, determined by the different roles and responsibilities of the public and private sectors.
 - The Performance Standard does not contain a requirement for clients to establish legally recognized land rights prior to, or concurrent with, project development, as is the case with the World Bank draft policy. While the private sector must respect existing national laws and indigenous customs, private sector clients cannot be required to change laws.
 - The social assessment process will assess all those potentially affected by a project and will determine whether any of those are Indigenous Peoples, including those who may be positively affected by the project. Mitigation measures, including individual and community compensation, will be directed at those who will be adversely affected by the project.

The Next Steps

The Performance Standards are in draft and will be revised again with the benefit of all we have learned from the public consultation period. Through our recent process of drafting the Guidance Notes which will accompany the Performance Standards, it has become clear that some provisions in the Guidance Note would be more appropriate in the Performance Standards, including definitions of certain key terms and requirements. These changes will be reflected in the draft Policy and Performance Standards to be presented to IFC management for their agreement and subsequently sent to the Board.