

Review and Update of the Policy and Performance Standards on Social and Environmental Sustainability and Policy on Disclosure of Information
Open House Consultation Report: Manila, Philippines, July 9, 2010

Note: This interim report from the consultation workshop summarizes key points and suggestions made by the participants. It does not contain detailed responses from IFC. The issues are under review and discussion, and IFC is preparing a summary of responses to key issues related to these and other topics during the second half of September 2010. These will be posted to the www.ifc.org/policyreview website.

IFC wishes to thank all the participants in this consultation as well as others who have contributed to the consultation process on IFC's revised Sustainability Framework. While we have tried to be as comprehensive and accurate as possible in capturing participants' views and observations, there may be errors or omissions in the summary. We welcome corrections.

Location of Consultation: Manila, Philippines

Date: July 9, 2010

Participants: See Annex A

Consultation Process: The consultation included: (i) brief introduction of all participants and the expectations of the process, (ii) overview of the Performance Standards, (iii) sustainability framework marketplace: breakout group discussions on (a) environment, (b) social, and (c) transparency, disclosure and stakeholder engagement, (iv) report back from breakout groups, (v) management responses and next steps, and (vi) closing comments.

Key Themes, Recommendations, and Questions Raised

Revision of the Sustainability Framework and Performance Standards

ENVIRONMENT BREAKOUT GROUP

Norly Grace Mercado, BIC, Rapporteur; Greg Radford and Richard Caines (IFC reps)

Climate Change

- Use UNFCC standards for clients to follow (rather than 'good international practice')
- Projects should demonstrate that they are consistent with, or ahead of, any government commitment to reduce emissions (i.e. project is consistent with country commitment to UNFCC reduction targets)
- Poor business practices (SawitWatch examples: Indonesian companies which are burning to clear, conversion of peatland etc). Links between climate change and overall (government) development methodology (e.g. land concession allocation)
- GHG intensive and high impact projects e.g. open cast coal mining. If IFC has commitment to low carbon growth, then needs to go beyond PS3/resource efficiency aspects.
- IFC does not have a commitment to reduce GHG intensity of its portfolio, but asks its clients to do so through the Performance Standards. This is the dilemma – and IFC needs to be explicit on this.

- Should not be a commitment to energy intensity, it should be a carbon cap.
- Such a commitment needs to extend to Advisory Services work as well: work should lead to GHG avoidance
- Extend Ex List to cover certain types of ‘no go’ investment e.g. open cast coal mining or other high impact extractives
- IFC role in creative structuring of projects e.g. local community benefit sharing to provide
- ADB: if enabling environment does not give confidence that a project can be delivered
- IFC to do more work on country sectoral analysis – allowing IFC to take an informed position up front on (high impact) sectors and ‘rules of engagement’ for IFC investment
- Client’s GHG reporting should be made public (and using UNFCCC methodologies)
- ADB: ‘20,000mtpa is a good figure for IFC’
- IFC commitment to phase out fossil fuel investments (‘it’s not sensible, it’s revolutionary’)

Water

- Don’t use the concept of water ‘offset’: tainted by market understanding of carbon offsets
- Meter/quantified water use – IFC clients should disclose this so that other users of resource are aware and there can be meaningful dialogue.
- IFC should stop funding water-related projects that harm or potentially impact livelihood, food security, social, cultural, and spiritual values.

Biodiversity

- IFC should have a ‘no go’ policy for any projects in critical natural habitats. Biodiversity offsets should not be used since biodiversity cannot be replaced.
- Mitigation hierarchy: IFC should reject a project if first two options on mitigation hierarchy (avoid, minimize) are triggered but where investments help to restore degraded ecosystems, this would be acceptable.
- Clarified that critical natural habitat interpretation note content now part of the PS6 Guidance Note.

Exclusion List Additions

- Open pit mining
- Any project where first option on mitigation hierarchy (avoid, minimize) cannot be demonstrated
- Any monoculture plantations of industrial scale which have converted natural forest
- Any project which negatively impacts critical natural habitat
- Extractive industries

Extractive Industries

- Mandate strategic environmental impact assessment
- Stricter standards for revenue reporting (10% threshold too high)

- More transparency on concession agreements etc
- Adopt FPIC (Consent)
- Gender segregated health studies (baselines)
- IFC should not finance extractives

Forestry

- Definition of forest to exclude monoculture plantations
- No go zone → forests in critical habitats
- IFC should only fund projects which will protect natural forests rather than plantations

Biofuels

- IFC should not invest in biofuels as it promotes land grabbing
- IFC out of biofuels since it competes with food security/food sovereignty

Animal welfare

- Is a cross-cutting issue but there is no reference about animal welfare in any of the PS
- Should be a principle in policy statement or included in PS 1 and 3, particularly with regards to GHG emission contribution of large-scale commercial livestock industries.

Financial Intermediaries

- Risk that it is used as an 'investment laundering', as disclosure is limited: more disclosure needed
- Establish no go/exclusions for FI investments (I clarified that we did have Ex Lists for FI projects, tailored to the type of finance being provided and that some additional exclusions are present on the core FI exclusion list (e.g. timber extraction in tropical moist forests))
- BDO: IFC encourages leadership through investment in FIs who then implement IFC's requirements across their operations. This is a positive effect/outcome.

SOCIAL BREAKOUT GROUP

Mae Taqueban, Saligan, Rapporteur; Patty Miller and Maria Gallegos (IFC Reps)

Human Rights

- The Performance Standards should explicitly incorporate universally accepted HR standards and provide greater guidance to clients to help ensure that clients respect and uphold human rights;
- IFC must create a separate and robust human rights impact assessment mechanism during the design phase of the project, especially where HR practices are questionable;
- The results of the Human Rights Impact Assessment (HRIA) must be used by IFC as a basis for deciding to engage in any activity for all IFC operations and products, not just direct lending
- IFC should only enter into partnerships with companies that have no track record of human rights abuses and violations (using a decision flowchart);

- Establish a clear HR due diligence process that ensures full consideration of potential human rights impacts;
- Clearly identify the responsibilities of IFC to ensure that activities it supports do not contribute to HR abuses;
- The Performance Standards should outline due process standards for the design and implementation of project-level grievance mechanisms; and
- Establish evaluation and monitoring mechanisms on HRIA.

Labor Conditions

- Ensure that exclusion list reflects more stringent definitions of forced labor, harmful labor, contemporary forms of slavery and human trafficking;
- Take customary laws into consideration when defining HR violations and labor conditions such as contemporary forms of slavery;
- Ensure the exclusion list include investments in all production of, use, or trade in asbestos fibers or asbestos-containing products, and other hazardous elements or chemicals with no minimum content threshold;
- In IFC projects in which collective bargaining agreements do not exist, commit IFC to enforcing the ILO principle of prevailing wages, working conditions and freedom of association (rather than the text currently obliges client firms to comply with national law);
- Strengthen language that would prevent forced labor in the supply chain; and
- Require clients to comply with ILO standards regardless of the type of employment.

Housing, Land Acquisition, Involuntary Resettlement

- Reference standards that should apply to all evictions, including consultations with communities on all key aspects of the resettlement process;
- Require that displacement be avoided and minimized and not simply reduced;
- Ensure meaningful participation, including in assessing alternative designs and monitoring implementation of resettlement plans;
- Involuntary resettlement is not an option, thus, no IFC engagement or activities; and
- Prohibit rehabilitation schemes based on cash compensation alone and require land-for-land which is ensured through meaningful participation.

Indigenous Peoples

- The IFC must recognize, subscribe and comply with the UNDRIP;
- The IFC must recognize, subscribe and comply with customary laws or indigenous or traditional or native systems by which indigenous peoples will be able to declare their opinion and decision on projects (principle of FPIC);
- The IFC must engage in an internal across the board discussion and recognize and comply with the principles of free prior and informed CONSENT and not just free, prior and informed CONSULTATION;
- Clear provisions on ensuring FPIC must be defined and operationalized via the Guidance Notes. This FPIC must be a requirement, not only in the Policy, but also in the

Performance Standards and in the Guidance Notes, emphasizing that risks are accurately characterized, articulated and understood clearly by the indigenous peoples.;

- IFC and the client must provide public and detailed information to the community for them to determine if they will support or not, and
- Establish a mechanism for negotiating benefits, including non-material wealth, for the affected communities.

TRANSPARENCY, DISCLOSURE AND STAKEHOLDER ENGAGEMENT BREAKOUT

Nadia Hadad, BIC, Rapporteur, Aaron Rosenberg and Karen Villalobos (IFC reps)

Project Level Disclosure

- The DOTS (Development Outcome Tracking System) should be disclosed.
- IFC should follow through and come up with an evaluation which should be publicly disclosed.
- There has to be disclosure of the process which includes a summary of the steps taken by the client.
- While there is full disclosure for Category A projects, there is a need to clarify and distinguish the procedures between Category B projects (high impact vs. low impact) projects.

Financial Intermediaries (FIs)

- For projects where IFC deals with banks and other FIs, it was noted that there should be a disclosure on what the bank is doing to mitigate the risks of the projects being funded.
- On high risk projects, clients should be required to fully disclose all the risks involved in the projects.
- Full disclosure on the financial performance as well as the social and environmental aspects of the sub-projects.
- It was pointed out by 1 participant that ADB checks on Category A sub-project before approving it. Aaron pointed out that ADB and IFC have completely different portfolio. ADB's portfolio involving FIs is only about 1% while IFC's portfolio consists of about 40% with FIs.
- IFC should conduct its own assessment and not rely on third party or that of the client.
- IFC to disclose any violation of the law or other rules and regulations.
- IFC to expose projects with PEP (politically exposed persons).
- IFC to disclose documents related to the company as well as the company's partners.
- There has to be a feedback mechanism where the public could send their comments and give their inputs on IFC's projects. IFC should also have a mechanism in place where it is able to review and go through feedback from the public.

Community Engagement

- IFC should not just provide (BCS) broad community support. The FPIC (Free Prior Informed Consent) principle which is also observed by most multilaterals like ADB and other UN agencies must be adopted. This is the minimum standard. FPIC is defined as consent which is free from coercion, stakeholders/community members must be informed prior to, in a timely manner and in a language that they understand. It was recognized that the operationalization of this principle varies on the ground as it may be culture specific.
- Projects must disclose all contracts and agreements. With respect to all contracts and agreement with any and all concerned parties including government agencies and other private entities, full presumption to disclose must be adopted.
- The full transcript of the reports must be published which includes the full monitoring reports. Early stages, updates and developments must also be published in the language familiar to the majority especially that of the affected community.
- All the steps taken during community consultations must be documented and disclosed.
- The social and environmental monitoring report, which IFC requires must be submitted yearly by clients, must be disclosed. This should include IFC's evaluation of said report.
- IFC to disclose any violation of the law or other rules and regulations as well as the extent of the damage or violation to the community.
- When a community is asked to sign a compensation agreement, the irreparable/irrecoverable damage must be included. It must also be clear that the members of the community are informed that they forfeit their right to the resource. They should be informed about scenarios 5-10 years thereafter.

IFC's partners

- IFC should disclose project co-funders such as donor agencies and other partners as well as potential donors/firms agencies so as to inform the public and allow feedback from them.

Advisory Services

- IFC to disclose the implications of the advice that is provided to firms and other entities that IFC works with.

Grievance Mechanism

- IFC to come up with a mechanism which should be gender sensitive and responsive, and a transparent procedure in cases of non-disclosure of information.

Benefit Sharing

- IFC should also fully disclose on how the community can benefit from the project. There should be capacity-building and access to resources and information.

Evaluation

- IFC should publish Project Completion Reports (PCRs).

DOTS

- IFC should also fully disclose this. The report should include protective mitigation efforts, and relevant client information. This must also include positive and negative outcomes, independent impact assessment reports which should include irreparable damage.

SUSTAINABILITY FRAMEWORK REVIEW AND UPDATE GENERAL/PROCESS (Some Parking Lot Issues Raised)

- Participants expect that IFC will seriously consider the issues and recommendations they presented.
- Timeframe for review is too tight. Consider moving deadline to mid 2011 to ensure robust critique and recommendations from affected communities and CSOs.
- Consult the Faith Groups: Hinduism, Islam, Christianity, Jewish, Buddhism, Indigenous Peoples, etc. There are underlying “economic/financial” decisions in ethical, moral, value systems which cannot be taken for granted.