

## **UN Guiding Principles on Business and Human Rights and IFC Sustainability Framework**

The objective of this analysis is to identify the convergences in IFC's approach to human rights using the IFC Sustainability Framework and the UN Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework (GPs).

For the purpose of this review, only the sections of the GPs specific to the private sector have been considered, i.e., those relating to the corporate responsibility to respect (GPs 11 to 24), and those regarding non-State-based and non-judicial grievance mechanisms that are directed at business enterprises (GPs 29 to 31).

The analysis is carried out at two levels: at IFC's level (IFC's commitments are captured in the Sustainability Policy and Access to Information Policy), and at IFC's client's level (client requirements are found in the Performance Standards). The analysis confirms that IFC's approach of assessing and managing the environmental and social risks and impacts of its investment operations, including IFC procedural and substantive requirement placed on its clients through the Performance Standards, is broadly convergent with the GPs, and their emphasis on due diligence. Additional procedural guidance and explanation on the substantive requirements can be found in the Guidance Notes accompanying the Performance Standards.

Separately, IFC has analyzed how the updated Sustainability Framework relates to the International Bill of Human Rights. [See "[International Bill of Human Rights and IFC Sustainability Framework](#)."] ]

## II. The Corporate Responsibility to Respect Human Rights

SRSG Guiding Principles (GPs)	IFC Sustainability Policy (SP), Performance Standards (PSs), and Access to Information Policy (AIP)
<p><b>A. Foundational Principles</b></p> <p>GP11: Business enterprises should respect human rights. This means that they should avoid infringing on the human rights of others and should address adverse human rights impacts with which they are involved.</p>	<p>SP ¶ 12 expresses IFC's explicit recognition of "the responsibility of business to respect human rights...[which] means to avoid infringing on the human rights of others and to address adverse human rights impacts business may cause or contribute to. Meeting this responsibility also means creating access to an effective grievance mechanism that can facilitate early indication of, and prompt remediation of various project-related grievances."</p> <p>SP ¶ 12 also points to the human rights coverage of IFC's Performance Standards, which support the private sector's responsibility to respect human rights, as "[e]ach of the Performance Standards has elements related to human rights dimensions that businesses may face in the course of their operations." [See "<a href="#">International Bill of Human Rights and IFC Sustainability Framework</a>."] </p> <p>PS 1 ¶ 3 recognizes for IFC clients and business enterprises generally that "[b]usiness should respect human rights, which means to avoid infringing on the human rights of others and address adverse human rights impacts business may cause or contribute to."</p> <p>PS 1 ¶ 3 also states that "[e]ach of the Performance Standards has elements related to human rights dimensions that a project may face in the course of its operations. Due diligence against these Performance Standards will enable the client to address many relevant human rights issues in its project."</p> <p>(For further information on avoiding and address adverse human rights impacts, see comments on GP 13.)</p>
<p>GP12: The responsibility of business enterprises to respect human rights refers to internationally recognized human rights – understood, at a minimum, as those expressed in the International Bill of Human Rights and the principles concerning fundamental rights set out in the International Labour Organization's Declaration on Fundamental Principles and Rights at Work.</p>	<p>SP ¶ 12 footnote 4 specifies that, "[f]or purposes of this policy, IFC will be guided by the International Bill of Rights and the eight core conventions of the International Labour Organization."</p> <p>PS 2 ¶ 2 footnote 2 lists individually the eight ILO core conventions, as well as the UN Convention on the Rights of the Child and the UN Convention on the Protection of the Rights of all Migrant Workers and Members of their Families.</p>
<p>GP13: The responsibility to respect human rights requires that business enterprises:</p> <ul style="list-style-type: none"> <li>(a) Avoid causing or contributing to adverse human rights impacts through their own activities, and address such impacts when they occur;</li> <li>(b) Seek to prevent or mitigate adverse human rights impacts that are directly linked to their</li> </ul>	<p>Through SP ¶ 6, IFC underscores that the specific requirements in the PSs are designed to help clients improve their E&amp;S performance through a risk and outcomes based approach, and that, "[c]entral to these requirements is the application of a mitigation hierarchy to anticipate and avoid adverse impacts on workers, communities, and the environment, or where avoidance is not possible, to minimize, and where residual impacts remain, compensate/offset for the risks and impacts, as appropriate."</p> <p>SP ¶ 23 specifies that, as part of IFC's own due diligence process, "IFC will review clients' identification of third party risks, and will determine whether such risks are manageable, and if so under what conditions, so as to create outcomes consistent with the Performance Standards."</p>

<p>operations, products or services by their business relationships, even if they have not contributed to those impacts.</p>	<p>PS 1 ¶ 13-16 outline the management programs required of the client, including a mitigation hierarchy to address identified risks and impacts, which “will favor the avoidance of impacts over minimization, and, where residual impacts remain, compensate/offset, wherever technically and financially feasible.”</p> <p>PS 1 ¶ 2 acknowledges that, “[a]t times, the assessment and management of certain environmental and social risks and impacts may be the responsibility of the government or other third parties over which the client does not have control or influence” and explains that an “effective ESMS should identify the different entities involved and the roles they play, the corresponding risks they present to the client, and opportunities to collaborate with these third parties in order to help achieve environmental and social outcomes that are consistent with the Performance Standards.”</p> <p>PS 1 ¶ 9 further specifies that, “[i]n the event of risks and impacts in the project’s area of influence resulting from a third party’s actions, the client will address those risks and impacts in a manner commensurate with the client’s control and influence over the third parties, and with due regard to conflict of interest.”</p> <p>PS 1 ¶ 10 requires that, “[w]here the client can reasonably exercise control, the risks and impacts identification process will also consider those risks and impacts associated with primary supply chains.”</p> <p>PS 1 ¶ 22 states that, “[w]here the government or other third party has responsibility for managing specific risks and impacts and associated mitigation measures, the client will collaborate in establishing and monitoring such mitigation measures.”</p> <p>PS 2 elaborates provisions required for workers engaged by third parties (¶ 24-26) and extends some labor provisions (child labor, forced labor, and safety issues) to the supply chain (¶ 27-29).</p> <p>PS 6 ¶ 30 describes requirements for primary suppliers contributing to significant conversion of natural and/or critical habitats.</p>
<p>GP14: The responsibility of business enterprises to respect human rights applies to all enterprises regardless of their size, sector, operational context, ownership and structure. Nevertheless, the scale and complexity of the means through which enterprises meet that responsibility may vary according to these factors and with the severity of the enterprise’s adverse human rights impacts.</p>	<p>SP ¶ 12 on the responsibility of business to respect human rights specifies that, “[c]onsistent with this responsibility, IFC undertakes due diligence of the level and quality of the risks and impacts identification process carried out by its clients against the requirements of the Performance Standards, informed by country, sector, and sponsor knowledge.”</p> <p>SP ¶ 20 ensures that IFC’s E&amp;S due diligence applies to all IFC investment activities regardless of regions, sectors, or ownership structures.</p> <p>SP ¶ 26 explains that “IFC’s environmental and social due diligence is commensurate with the nature, scale, and stage of the business activity, and with the level of environmental and social risks and impacts.”</p> <p>PS 1 ¶ 5 requires the client to “conduct a process of environmental and social assessment, and establish and maintain an [environmental and social management system] appropriate to the nature and scale of the project and commensurate with the level of its environmental and social risks and impacts.”</p> <p>Similarly, PS 1 ¶ 7 requires the client to establish and maintain a process for identifying the environmental and social risks and impacts of the project. “The type, scale, and location of the project guide the scope and level of effort devoted to the risks and impacts identification process.”</p>
<p>GP15: In order to meet their responsibility to respect human rights, business enterprises should have in place policies and processes appropriate to their size</p>	<p>SP ¶ 12 contains IFC’s own policy commitment to respect human rights through its “due diligence of the level and quality of the risks and impacts identification process carried out by its clients against the requirements of the Performance Standards, informed by country, sector, and sponsor knowledge.”</p>

<p>and circumstances, including:</p> <p>(a) A policy commitment to meet their responsibility to respect human rights;</p> <p>(b) A human rights due-diligence process to identify, prevent, mitigate and account for how they address their impacts on human rights;</p> <p>(c) Processes to enable the remediation of any adverse human rights impacts they cause or to which they contribute.</p>	<p>SP ¶ 22 states that “IFC will only finance investment activities that are expected to meet the requirements of the Performance Standards within a reasonable period of time. Persistent delays in meeting these requirements can lead to loss of financial support from IFC.”</p> <p>PS 1 Objectives summarize clients’ approach to E&amp;S risks and impacts assessment and management by “adopt[ing] a mitigation hierarchy to anticipate and avoid, or where avoidance is not possible, minimize, and, where residual impacts remain, compensate/offset for risks and impacts to workers, Affected Communities, and the environment.”</p> <p>These are further elaborated under the Requirements (¶ 5-36) of the Environmental and Social Assessment and Management System, including Policy (¶ 6), Identification of Risks and Impacts (¶ 7-12), Management Programs (¶ 13-16), Organizational Capacity and Competency (¶ 17-19), Emergency Preparedness and Response (¶ 20-21), Monitoring and Review (¶ 22-24), Stakeholder Engagement (¶ 25-33), External Communications and Grievance Mechanisms (¶ 34-35), and Ongoing Reporting to Affected Communities (¶ 36). Each one of these requirements can be adapted to specific project circumstances.</p> <p>(For further information on policy statements, see GP 16.)</p> <p>(For further information on due diligence requirements, see GP 17.)</p>
<p><b>B. Operational principles</b></p> <p><b>Policy commitment</b></p> <p>GP16: As the basis for embedding their responsibility to respect human rights, business enterprises should express their commitment to meet this responsibility through a statement of policy that:</p> <p>(a) Is approved at the most senior level of the business enterprise;</p> <p>(b) Is informed by relevant internal and/or external expertise;</p> <p>(c) Stipulates the enterprise’s human rights expectations of personnel, business partners and other parties directly linked to its operations, products or services;</p> <p>(d) Is publicly available and communicated internally and externally to all personnel, business partners and other relevant parties;</p> <p>(e) Is reflected in operational policies and procedures necessary to embed it throughout the business enterprise.</p>	<p>The Sustainability Framework itself was approved by IFC’s senior management and by the World Bank Group’s board.</p> <p>SP ¶ 12 contains IFC’s own policy commitment to respect human rights through its “due diligence of the level and quality of the risks and impacts identification process carried out by its clients against the requirements of the Performance Standards, informed by country, sector, and sponsor knowledge.”</p> <p>PS1 ¶ 5 requires a policy as part of the E&amp;S Assessment and Management System that clients are required to establish and maintain, and which is appropriate to the nature and scale of the project and commensurate with the level of its E&amp;S risks and impacts.</p> <p>PS1 ¶ 6 elaborates on this, recognizing the importance of an “overarching policy defining the environmental and social objectives and principles that guide the project to achieve sound environmental and social performance.”</p> <p>PS1 ¶ 6 ensures that the policy “specifies that the project (or business activities, as appropriate) will comply with the applicable laws and regulations of the jurisdictions in which it is being undertaken, including those laws implementing host country obligations under international law.” It further stipulates that, “[u]nder some circumstances, clients may also subscribe to other internationally recognized standards, certification schemes, or codes of practice and these too should be included in the policy.”</p> <p>PS1 ¶ 6 also states that the “policy will indicate who, within the client’s organization, will ensure conformance with the policy and be responsible for its execution (with reference to an appropriate responsible government agency or third party, as necessary). The client will communicate the policy to all levels of its organization.”</p> <p>PS1 ¶ 24 refers to senior-level management involvement in reviewing and implementing internal policy and performance. It states that “[s]enior management in the client organization will receive periodic performance reviews of the effectiveness of the [environmental and social management system], based on systematic data collection and analysis... Based on results within these performance reviews, senior</p>

	<p>management will take the necessary and appropriate steps to ensure the intent of the client’s policy is met, that procedures, practices, and plans are being implemented, and are seen to be effective.”</p>
<p><b>Human rights due diligence</b></p> <p>GP17: In order to identify, prevent, mitigate and account for how they address their adverse human rights impacts, business enterprises should carry out human rights due diligence. The process should include assessing actual and potential human rights impacts, integrating and acting upon the findings, tracking responses, and communicating how impacts are addressed. Human rights due diligence:</p> <ul style="list-style-type: none"> <li>(a) Should cover adverse human rights impacts that the business enterprise may cause or contribute to through its own activities, or which may be directly linked to its operations, products or services by its business relationships;</li> <li>(b) Will vary in complexity with the size of the business enterprise, the risk of severe human rights impacts, and the nature and context of its operations;</li> <li>(c) Should be ongoing, recognizing that the human rights risks may change over time as the business enterprise’s operations and operating context evolve.</li> </ul>	<p>SP ¶ 12 contains IFC’s commitment to respect human rights through its “due diligence of the level and quality of the risks and impacts identification process carried out by its clients against the requirements of the Performance Standards, informed by country, sector, and sponsor knowledge.”</p> <p>SP ¶ 20 ensures that IFC’s E&amp;S due diligence applies to all IFC investment activities.</p> <p>SP ¶ 21 specifies that “IFC’s environmental and social due diligence is integrated into IFC’s overall due diligence of the business activity under consideration, including the review of financial and reputational risks.”</p> <p>SP ¶ 28 further elaborates on this by defining the key components of IFC’s E&amp;S due diligence, namely “(i) reviewing all available information, records, and documentation related to the environmental and social risks and impacts of the business activity; (ii) conducting site inspections and interviews of client personnel and relevant stakeholders, where appropriate; (iii) analyzing the business activity’s environmental and social performance in relation to the requirements of the Performance Standards and provisions of the World Bank Group Environmental, Health and Safety Guidelines or other internationally recognized sources, as appropriate; and (iv) identifying any gaps therewith, and corresponding additional measures and actions beyond those identified by the client’s in-place management practices.”</p> <p>More generally, SP ¶ 21-39 ensures that the scope, dynamic nature and extent of the due diligence process addressed in this Principle are addressed through IFC’s overall approach to E&amp;S due diligence for direct investments, investments through financial intermediaries, and advisory services.</p> <p>On the Performance Standard side, PS 1 ¶ 3 recognizes that “[b]usiness should respect human rights, which means to avoid infringing on the human rights of others and address adverse human rights impacts business may cause or contribute to.”</p> <p>PS 1 ¶ 3 also states that “[e]ach of the Performance Standards has elements related to human rights dimensions that a project may face in the course of its operations. Due diligence against these Performance Standards will enable the client to address many relevant human rights issues in its project.”</p> <p>PS 1 ¶ 7 states that the “type, scale, and location of the project guide the scope and level of effort devoted to the risks and impacts identification process. The scope of the risks and impacts identification process will be consistent with good international industry practice, and will determine the appropriate and relevant methods and assessment tools.”</p> <p>PS 1 ¶ 7 additionally specifies that the “risks and impacts identification process will be based on recent environmental and social baseline data at an appropriate level of detail. The process will consider all relevant environmental and social risks and impacts of the project, including the issues identified in Performance Standards 2 through 8, and those who are likely to be affected by such risks and impacts.”</p> <p>PS 1 ¶ 7 footnote explicitly states that, “[i]n limited high risk circumstances, it may be appropriate for the client to complement its environmental and social risks and impacts identification process with specific human rights due diligence.”</p>

<p>GP18: In order to gauge human rights risks, business enterprises should identify and assess any actual or potential adverse human rights impacts with which they may be involved either through their own activities or as a result of their business relationships. This process should:</p> <p>(a) Draw on internal and/or independent external human rights expertise;</p> <p>(b) Involve meaningful consultation with potentially affected groups and other relevant stakeholders, as appropriate to the size of the business enterprise and the nature and context of the operation.</p>	<p>The comments on human rights due diligence requirements address the identification and assessment of human rights risks and impacts by IFC and its clients. (See comments under GP 17.)</p> <p>The comments on business relationships address the identification and assessment of human rights risks and impacts by third parties. (See comments under GP 13.)</p> <p>Specific internal and/or external expertise is addressed both directly and indirectly.</p> <p>PS 1 ¶ 18 specifies that “[p]ersonnel within the client’s organization with direct responsibility for the project’s environmental and social performance will have the knowledge, skills, and experience necessary to perform their work, including current knowledge of the host country’s regulatory requirements and the applicable requirements of Performance Standards 1 through 8. Personnel will also possess the knowledge, skills, and experience to implement the specific measures and actions required under the ESMS and the methods required to perform the actions in a competent and efficient manner.”</p> <p>PS 1 ¶ 19 further mandates that the “process of identification of risks and impacts will consist of an adequate, accurate, and objective evaluation and presentation, prepared by competent professionals. For projects posing potentially significant adverse impacts or where technically complex issues are involved, clients may be required to involve external experts to assist in the risks and impacts identification process.”</p> <p>PS 1 ¶ 22 also states that, “[f]or projects with significant impacts, the client will retain external experts to verify its monitoring information.”</p> <p>Meaningful consultation with potentially affected groups and other relevant stakeholders is addressed in many areas of the SP and PSs.</p> <p>SP ¶ 30 explains that, “[i]n cases where the business activity to be financed is likely to generate potential significant adverse impacts on communities (i.e., Affected Communities) or is likely to generate potential adverse impacts on Indigenous Peoples, IFC expects clients to engage in a process of Informed Consultation and Participation (ICP). In such cases, through its own investigation, IFC will determine whether the client’s community engagement is one that involves ICP and enables the participation of the Affected Communities, leading to Broad Community Support for the business activity by Affected Communities. Broad Community Support is a collection of expressions by Affected Communities, through individuals or their recognized representatives, in support of the proposed business activity... After the Board approval of the business activity, IFC continues to monitor the client’s community engagement process as part of its portfolio supervision.”</p> <p>SP ¶ 31 offers specific provisions when Indigenous Peoples are involved, stating that, “where a proposed business activity triggers the Performance Standard 7 requirement of Free, Prior, and Informed Consent of Indigenous Peoples, IFC will undertake an in-depth review of the process conducted by the client as part of its environmental and social due diligence.”</p> <p>PS 1 ¶ 22 says that, “[w]here appropriate, clients will consider involving representatives from Affected Communities to participate in monitoring activities.”</p> <p>PS 1 ¶ 25 describes the basic principles of Stakeholder Engagement, including a recognition that the “nature, frequency, and level of effort of stakeholder engagement may vary considerably and will be commensurate with the project’s risks and adverse impacts, and the project’s phase of development.”</p> <p>PS 1 ¶ 26-33 deal specifically with Stakeholder Analysis and Engagement Planning, including paragraphs specifically on Consultation (¶ 30) and Participation (¶ 31).</p> <p>PS 5 contains provisions for community engagement with affected communities, including host communities, in cases of land acquisition and involuntary resettlement (¶ 10).</p>
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	<p>PS 7 outlines participation and consent (¶ 10-12) for Indigenous Peoples, including the circumstances requiring free, prior, and informed consent (FPIC) of Indigenous Peoples (¶ 13-17).</p> <p>PS 8 addresses consultation (¶ 9) in the context of cultural heritage.</p>
<p>GP19: In order to prevent and mitigate adverse human rights impacts, business enterprises should integrate the findings from their impact assessments across relevant internal functions and processes, and take appropriate action.</p> <p>(a) Effective integration requires that:</p> <p>(i) Responsibility for addressing such impacts is assigned to the appropriate level and function within the business enterprise;</p> <p>(ii) Internal decision-making, budget allocations and oversight processes enable effective responses to such impacts.</p> <p>(b) Appropriate action will vary according to:</p> <p>(i) Whether the business enterprise causes or contributes to an adverse impact, or whether it is involved solely because the impact is directly linked to its operations, products or services by a business relationship;</p> <p>(ii) The extent of its leverage in addressing the adverse impact</p>	<p>The comments on human rights due diligence requirements address impact assessments and the prevention and mitigation of adverse impacts. (See comments on GP 17.)</p> <p>The comments on business relationships address the identification and assessment of human rights risks and impacts by third parties. (See comments on GP 13.)</p> <p>SP ¶ 21 specifies that “IFC’s environmental and social due diligence is integrated into IFC’s overall due diligence of the business activity under consideration, including the review of financial and reputational risks.”</p> <p>SP ¶ 22 states that “IFC will only finance investment activities that are expected to meet the requirements of the Performance Standards within a reasonable period of time. Persistent delays in meeting these requirements can lead to loss of financial support from IFC.”</p> <p>PS 1 ¶ 1 underscores the importance of managing environmental and social performance throughout the life of a project. It also emphasizes the overarching idea that a “good ESMS appropriate to the nature and scale of the project promotes sound and sustainable environmental and social performance, and can lead to improved financial, social, and environmental outcomes.”</p> <p>PS 1 ¶ 13-16 on Management Programs discuss clients’ “mitigation and performance improvement measures and actions that address the identified environmental and social risks and impacts of the project.” Additionally, “the management program will recognize and incorporate the role of relevant actions and events controlled by third parties to address identified risks and impacts. Recognizing the dynamic nature of the project, the management program will be responsive to changes in circumstances, unforeseen events, and the results of monitoring and review.”</p> <p>PS 1 ¶ 17 requires that the client, “in collaboration with appropriate and relevant third parties, will establish, maintain, and strengthen as necessary an organizational structure that defines roles, responsibilities, and authority to implement the ESMS. Specific personnel, including management representative(s), with clear lines of responsibility and authority should be designated. Key environmental and social responsibilities should be well defined and communicated to the relevant personnel and to the rest of the client’s organization. Sufficient management sponsorship and human and financial resources will be provided on an ongoing basis to achieve effective and continuous environmental and social performance.”</p> <p>PS 1 ¶ 24 specifies that “[s]enior management in the client organization will receive periodic performance reviews of the effectiveness of the ESMS, based on systematic data collection and analysis. The scope and frequency of such reporting will depend upon the nature and scope of the activities identified and undertaken in accordance with the client’s ESMS and other applicable project requirements. Based on results within these performance reviews, senior management will take the necessary and appropriate steps to ensure the intent of the client’s policy is met, that procedures, practices, and plans are being implemented, and are seen to be effective.”</p>
<p>GP20: In order to verify whether adverse human rights impacts are being addressed, business enterprises should track the effectiveness of their response. Tracking should:</p>	<p>SP ¶ 45 defines IFC’s approach to monitoring its investments and advisory activities as part of its portfolio supervision program. For direct investments, this includes:</p> <ul style="list-style-type: none"> <li>• Implementation of a regular program of supervision in accordance with IFC’s E&amp;S Review Procedures</li> <li>• Review of implementation performance, as reported in the Annual Monitoring</li> </ul>

<p>(a) Be based on appropriate qualitative and quantitative indicators;</p> <p>(b) Draw on feedback from both internal and external sources, including affected stakeholders.</p>	<p>Report and E&amp;S Action Plan updates</p> <ul style="list-style-type: none"> <li>• Collaboration with the client following changes E&amp;S impacts from changes in the business activity circumstances</li> <li>• Collaboration with the client, and the possible use of remedies, if the client fails to comply with its E&amp;S commitments</li> </ul> <p>SP ¶ 45 also outlines IFC’s approach to monitoring for investments through FIs and advisory activities.</p> <p>PS 1 ¶ 5 requires the client to “conduct a process of environmental and social assessment, and establish and maintain an ESMS appropriate to the nature and scale of the project and commensurate with the level of its environmental and social risks and impacts.”</p> <p>PS 1 ¶ 16 requires the clients’ management programs to “establish environmental and social Action Plans, which will define desired outcomes and actions to address the issues raised in the risks and impacts identification process, as measurable events to the extent possible, with elements such as performance indicators, targets, or acceptance criteria that can be tracked over defined time periods, and with estimates of the resources and responsibilities for implementation.”</p> <p>PS 1 ¶ 16 further emphasizes that, “[r]ecognizing the dynamic nature of the project, the management program will be responsive to changes in circumstances, unforeseen events, and the results of monitoring and review.”</p> <p>PS 1 ¶ 22-24 concentrate specifically on monitoring and review, detailing measures imposed on clients. Among the many provisions relevant to this GP are the following:</p> <ul style="list-style-type: none"> <li>• “Where appropriate, clients will consider involving representatives from Affected Communities to participate in monitoring activities.” (¶ 22)</li> <li>• “In addition to recording information to track performance and establishing relevant operational controls, the client should use dynamic mechanisms, such as internal inspections and audits, where relevant, to verify compliance and progress toward the desired outcomes.” (¶ 23)</li> <li>• “Monitoring will normally include recording information to track performance and comparing this against the previously established benchmarks or requirements in the management program. Monitoring should be adjusted according to performance experience and actions requested by relevant regulatory authorities.” (¶ 23)</li> <li>• “The client, in collaboration with appropriate and relevant third parties, will implement these corrective and preventive actions, and follow up on these actions in upcoming monitoring cycles to ensure their effectiveness.” (¶ 23)</li> <li>• “Based on results within these performance reviews, senior management will take the necessary and appropriate steps to ensure the intent of the client’s policy is met, that procedures, practices, and plans are being implemented, and are seen to be effective.” (¶ 24)</li> </ul>
<p>GP21: In order to account for how they address their human rights impacts, business enterprises should be prepared to communicate this externally, particularly when concerns are raised by or on behalf of affected stakeholders. Business enterprises whose operations or operating contexts pose risks of severe human rights impacts should report formally on how they address them. In all instances, communications should:</p> <p>(a) Be of a form and frequency that reflect an enterprise’s human</p>	<p>SP ¶ 14 defines IFC’s approach to disclosure of information, stating that “IFC seeks to provide accurate and timely information regarding its investment and advisory activities as well as more general institutional information in accordance with its Access to Information Policy. IFC also recognizes the importance of disclosure of information, both for itself and its clients, as a means of managing environmental, social, and governance risks.”</p> <p>The AIP defines IFC’s role regarding the scope of information that it makes available to the public either as a routine matter or upon request.</p> <p>AIP ¶ 8 outlines IFC’s responsibilities with respect to disclosure of information, primarily “mak[ing] available information concerning its activities that would enable its clients, partners and stakeholders (including Affected Communities), and other interested members of the public, to understand better, and to engage in informed discussion about, IFC’s business activities, the development outcomes and other impacts of its activities, and its overall contribution to development.” This information is either</p>

<p>rights impacts and that are accessible to its intended audiences;</p> <p>(b) Provide information that is sufficient to evaluate the adequacy of an enterprise's response to the particular human rights impact involved;</p> <p>(c) In turn not pose risks to affected stakeholders, personnel or to legitimate requirements of commercial confidentiality.</p>	<p>institutional information about IFC or project-level information regarding investments and advisory services supported by IFC.</p> <p>AIP ¶ 9 outlines the client's responsibilities, requiring that they "engage with communities affected by their projects, including through the disclosure of information, in a manner that is consistent with the Sustainability Policy and the Performance Standards."</p> <p>AIP ¶ 10 is explicit that "[t]here is a presumption in favor of disclosure with respect to the information described in paragraph 8 above, absent a compelling reason not to disclose such information." AIP ¶ 11 lists the exceptions and considerations to the information disclosure policy (e.g., commercially sensitive and confidential information, personal information, etc.).</p> <p>The remainder of the AIP supplements the overarching policies with more specific detail, including Information Routinely Made Available by IFC (¶ 16-48), Implementation Aspects of the Policy (¶ 49-69), and Monitoring and Reporting (¶ 70).</p> <p>PS 1 ¶ 25 states that stakeholder engagement may involve, inter alia, ongoing reporting to Affected Communities.</p> <p>PS 1 ¶ 34 confirms that "clients are encouraged to make publicly available periodic reports on their environmental and social sustainability."</p> <p>PS 1 ¶ 36 concentrates on ongoing reporting to affected communities, specifying that the "client will provide periodic reports to the Affected Communities that describe progress with implementation of the project Action Plans on issues that involve ongoing risk to or impacts on Affected Communities and on issues that the consultation process or grievance mechanism have identified as a concern to those Communities." Any changes to the mitigation measures or actions of the Action Plan should also be communicated.</p> <p>PS 1 ¶ 36 further clarifies that "[t]he frequency of these reports will be proportionate to the concerns of Affected Communities but not less than annually."</p> <p>With respect to Occupational Health and Safety, PS 2 ¶ 23 requires the client to address areas that include the "documentation and reporting of occupational accidents, diseases, and incidents."</p> <p>Regarding security personnel, PS 4 ¶ 14 requires the client to "report unlawful and abusive acts [of security personnel] to public authorities."</p>
<p><b>Remediation</b></p> <p>GP22: Where business enterprises identify that they have caused or contributed to adverse impacts, they should provide for or cooperate in their remediation through legitimate processes.</p>	<p>SP ¶ 12 recognizes the importance of grievance mechanisms in meeting the business responsibility to respect human rights: "Meeting this responsibility also means creating access to an effective grievance mechanism that can facilitate early indication of, and prompt remediation of various project-related grievances."</p> <p>SP ¶ 54-57 describe the presence and function of the Compliance Advisor/Ombudsman as an independent body to accept and address complaints directed to IFC by Affected Communities. "IFC supports its clients in addressing environmental and social issues arising from their business activities by requiring them to set up and administer appropriate mechanisms and/or procedures to address related grievances and complaints from Affected Communities." (¶ 54) "Recognizing the importance of accountability and that the concerns and complaints of Affected Communities should be addressed in a manner that is fair, objective, and constructive, a mechanism has been established through the Compliance Advisor/Ombudsman (CAO) to enable individuals and communities affected by IFC-supported business activities to raise their concerns to an independent oversight authority." (¶ 55)</p> <p>PS 1 also underscores the importance of grievance mechanisms, as well as consultation and participation in remediation, in areas of stakeholder engagement (¶</p>

	<p>25, 27), disclosure of information (¶ 29), consultation (¶ 30), participation (¶ 31), external communications (¶ 34), and ongoing reporting to Affected Communities (¶ 36).</p> <p>PS 1 ¶ 35 explicitly addresses grievance mechanisms for Affected Communities. “Where there are Affected Communities, the client will establish a grievance mechanism to receive and facilitate resolution of Affected Communities’ concerns and grievances about the client’s environmental and social performance. The grievance mechanism should be scaled to the risks and adverse impacts of the project and have Affected Communities as its primary user. It should seek to resolve concerns promptly, using an understandable and transparent consultative process that is culturally appropriate and readily accessible, and at no cost and without retribution to the party that originated the issue or concern. The mechanism should not impede access to judicial or administrative remedies. The client will inform the Affected Communities about the mechanism in the course of the stakeholder engagement process.”</p> <p>PS 2 ¶ 13-14 offer provisions related to workers’ organizations. PS 2 ¶ 13 supports “workers’ rights to form and to join workers’ organizations of their choosing without interference and to bargain collectively” where allowed by national law. PS 2 ¶ 14 recognizes that, “[w]here national law substantially restricts workers’ organizations, the client will not restrict workers from developing alternative mechanisms to express their grievances and protect their rights regarding working conditions and terms of employment.”</p> <p>Additionally, PS 2 ¶ 20 explicitly addresses grievance mechanisms: “The client will provide a grievance mechanism for workers (and their organizations, where they exist) to raise workplace concerns. The client will inform the workers of the grievance mechanism at the time of recruitment and make it easily accessible to them. The mechanism should involve an appropriate level of management and address concerns promptly, using an understandable and transparent process that provides timely feedback to those concerned, without any retribution. The mechanism should also allow for anonymous complaints to be raised and addressed. The mechanism should not impede access to other judicial or administrative remedies that might be available under the law or through existing arbitration procedures, or substitute for grievance mechanisms provided through collective agreements.”</p> <p>With respect to security personnel, PS 4 ¶ 12 requires the client to “provide a grievance mechanism for Affected Communities to express concerns about the security arrangements and acts of security personnel.”</p> <p>PS5 ¶ 11 also specifically requires the client to establish a grievance mechanism consistent with PS 1 regarding land acquisition and involuntary resettlement.</p> <p>PS 7 ¶10 requires the client to “undertake an engagement process with the Affected Communities of Indigenous Peoples as required in Performance Standard 1. This engagement process includes stakeholder analysis and engagement planning, disclosure of information, consultation, and participation, in a culturally appropriate manner. In addition, this process will:</p> <ul style="list-style-type: none"> <li>• Involve Indigenous Peoples’ representative bodies and organizations (e.g., councils of elders or village councils), as well as members of the Affected Communities of Indigenous Peoples; and</li> <li>• Provide sufficient time for Indigenous Peoples’ decision-making processes.”</li> </ul>
<p><b>Issues of context</b></p> <p>GP23: In all contexts, business enterprises should:</p> <p>(a) Comply with all applicable laws and respect internationally recognized human rights, wherever they operate;</p> <p>(b) Seek ways to honour the principles of internationally recognized human rights when</p>	<p>SP ¶ 12 defines IFC’s recognition of the responsibility of business to respect human rights. Footnote 4 clarifies that, “[f]or purposes of this policy, IFC will be guided by the International Bill of Rights and the eight core conventions of the International Labour Organization.”</p> <p>SP ¶ 33 refers to IFC’s commitments for FI clients to “apply the IFC Exclusion List and follow respective national law.”</p> <p>SP ¶ 39 reflects IFC’s commitment to “[screen] each advisory activity against the IFC</p>

<p>faced with conflicting requirements;</p> <p>(c) Treat the risk of causing or contributing to gross human rights abuses as a legal compliance issue wherever they operate.</p>	<p>Exclusion List.”</p> <p>PS 1 ¶ 3 states that “[b]usiness should respect human rights.”</p> <p>PS 1 ¶ 6 requires the client to “establish an overarching policy defining the environmental and social objectives and principles that guide the project to achieve sound environmental and social performance. The policy provides a framework for the environmental and social assessment and management process, and specifies that the project (or business activities, as appropriate) will comply with the applicable laws and regulations of the jurisdictions in which it is being undertaken, including those laws implementing host country obligations under international law. The policy should be consistent with the principles of the Performance Standards. Under some circumstances, clients may also subscribe to other internationally recognized standards, certification schemes, or codes of practice and these too should be included in the policy.”</p> <p>PS 1 ¶ 15 specifies that, “[w]here the identified risks and impacts cannot be avoided, the client will identify mitigation and performance measures and establish corresponding actions to ensure the project will operate in compliance with applicable laws and regulations.”</p> <p>PS 2 Objectives include to “promote compliance with national employment and labor laws.”</p> <p>PS 2 ¶ 8 requires that human resources policies and procedures are “appropriate to its size and workforce” and “consistent with the requirements of this Performance Standard and national law.”</p> <p>PS 2 ¶ 9 states that “the client will provide workers with documented information that is clear and understandable, regarding their rights under national labor and employment law and any applicable collective agreements.”</p> <p>PS 2 ¶ 10 provides for reasonable working conditions and terms of employment. Footnote 6 suggests that “[r]easonable working conditions and terms of employment could be assessed by reference to [inter alia,]... conditions established by national law.”</p> <p>PS 2 ¶ 13 confirms that, “[i]n countries where national law recognizes workers’ rights to form and to join workers’ organizations of their choosing without interference and to bargain collectively, the client will comply with national law. Where national law substantially restricts workers’ organizations, the client will not restrict workers from developing alternative mechanisms to express their grievances and protect their rights regarding working conditions and terms of employment.”</p> <p>PS 2 ¶ 16 similarly requires that, “[i]n countries where national law provides for non-discrimination in employment, the client will comply with national law. When national laws are silent on non-discrimination in employment, the client will meet this Performance Standard. In circumstances where national law is inconsistent with this Performance Standard, the client is encouraged to carry out its operations consistent with the intent of paragraph 15 above without contravening applicable laws.”</p> <p>PS 2 ¶ 17 further clarifies that “[s]pecial measures of protection or assistance to remedy past discrimination or selection for a particular job based on the inherent requirements of the job will not be deemed as discrimination, provided they are consistent with national law.”</p> <p>PS 2 ¶ 19 specifies that the client “should ensure that all workers receive notice of dismissal and severance payments mandated by law and collective agreements in a timely manner.”</p> <p>PS 2 ¶ 20 outlines that the “[grievance] mechanism should not impede access to other judicial or administrative remedies that might be available under the law or through existing arbitration procedures.”</p> <p>PS 2 ¶ 21 states that, “[w]here national laws have provisions for the employment of</p>
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minors, the client will follow those laws applicable to the client.”

PS 3 ¶ 10 refers to “national law, or where this is silent, with GIIP” regarding pollution prevention. PS 3 ¶ 12 footnote 15 further specifies that “[t]ransboundary movement of hazardous materials should be consistent with national, regional and international law, including the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal and the London Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter.”

PS 4 ¶ 12 on security personnel says that “the client will be guided by the principles of proportionality and good international practice in relation to hiring, rules of conduct, training, equipping, and monitoring of such workers, and by applicable law.” Additionally, PS 4 ¶ 12 footnote 3 explicitly specifies that practice should be “consistent with the United Nation’s (UN) Code of Conduct for Law Enforcement Officials, and UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.”

PS 5 ¶ 5 footnote 6 clarifies that land rights or land use rights “also applies to customary or traditional rights recognized or recognizable under the laws of the host country. The negotiations may be carried out by the government or by the company (in some circumstances, as an agent of the government).”

PS 5 ¶ 12 footnote 17 provides that, “[w]here national law and tenure systems do not recognize the rights of women to hold or contract in property, measures should be considered to provide women as much protection as possible with the objective to achieve equity with men.”

PS 5 ¶ 17 defines displaced persons as persons, inter alia, “who do not have formal legal rights to land or assets, but have a claim to land that is recognized or recognizable under national law.”

PS 5 ¶ 24 requires that “[f]orced evictions will not be carried out except in accordance with law and the requirements of this Performance Standard.” PS 5 ¶ 24 footnote 23 defines “forced evictions” as the “permanent or temporary removal against the will of individuals, families, and/or communities from the homes and/or lands which they occupy without the provision of, and access to, appropriate forms of legal and other protection.”

PS 5 ¶ 31 specifies that the client will need to include in its Supplemental Resettlement Plan, inter alia, “a description of regulated activities, including the entitlements of displaced persons provided under applicable national laws and regulations.”

PS 7 ¶ 2 footnote 1 states that, “[i]n addition to meeting the requirements under this Performance Standard, clients must comply with applicable national law, including those laws implementing host country obligations under international law.”

PS 7 ¶ 13 clarifies that, “[w]hile Indigenous Peoples may not possess legal title to these lands as defined by national law, their use of these lands, including seasonal or cyclical use, for their livelihoods, or cultural, ceremonial, and spiritual purposes that define their identity and community, can often be substantiated and documented.”

PS 7 ¶ 14 requires the client to “[e]nsure that Affected Communities of Indigenous Peoples are informed of their land rights under national law, including any national law recognizing customary use rights.”

PS 7 ¶ 15 footnote 12 acknowledges that, regarding communally held lands, that “[t]ypically, Indigenous Peoples claim rights and access to, and use of land and resources through traditional or customary systems, many of which entail communal property rights. These traditional claims to land and resources may not be recognized under national laws.”

PS 7 ¶ 17 states that, “[w]here a project proposes to use the cultural heritage including knowledge, innovations, or practices of Indigenous Peoples for commercial purposes, the client will inform the Affected Communities of Indigenous Peoples of (i) their rights under national law.”

	<p>PS 7 ¶ 19 requires that the “determination, delivery, and distribution of compensation and other benefit sharing measures to the Affected Communities of Indigenous Peoples will take account of the laws, institutions, and customs of these communities as well as their level of interaction with mainstream society.”</p> <p>PS 8 ¶ 6 specifies that, “[i]n addition to complying with applicable law on the protection of cultural heritage, including national law implementing the host country’s obligations under the Convention Concerning the Protection of the World Cultural and Natural Heritage, the client will identify and protect cultural heritage by ensuring that internationally recognized practices for the protection, field-based study, and documentation of cultural heritage are implemented.”</p> <p>PS 8 ¶ 15 confirms that “[l]egally protected cultural heritage areas are important for the protection and conservation of cultural heritage, and additional measures are needed for any projects that would be permitted under the applicable national law in these areas.”</p> <p>PS 8 ¶ 16 requires that, “[w]here a project proposes to use the cultural heritage, including knowledge, innovations, or practices of local communities for commercial purposes, the client will inform these communities of [inter alia] ... their rights under national law.”</p>
<p>GP24: Where it is necessary to prioritize actions to address actual and potential adverse human rights impacts, business enterprises should first seek to prevent and mitigate those that are most severe or where delayed response would make them irremediable.</p>	<p>SP ¶ 3 footnote 1 and PS 1 ¶ 1 footnote 2 take account of the severity of impacts as part of the definition of environmental and social risks.</p> <p>SP ¶ 6 underscores that the specific requirements in the PSs are designed to help clients improve their E&amp;S performance through a risk and outcomes based approach, and that, “[c]entral to these requirements is the application of a mitigation hierarchy to anticipate and avoid adverse impacts on workers, communities, and the environment, or where avoidance is not possible, to minimize, and where residual impacts remain, compensate/offset for the risks and impacts, as appropriate.”</p> <p>PS 1 ¶ 13-16 outline the management programs required of the client, including a mitigation hierarchy to address identified risks and impacts, which “will favor the avoidance of impacts over minimization, and, where residual impacts remain, compensate[e]/offset, wherever technically and financially feasible.”</p> <p>PS 1 ¶ 22 states that, “[w]here the government or other third party has responsibility for managing specific risks and impacts and associated mitigation measures, the client will collaborate in establishing and monitoring such mitigation measures.”</p> <p>In PS 1, mitigation measures are also discussed generally, with respect to emergency preparedness and response (PS 1 ¶ 20), monitoring and review (PS 1 ¶ 22), disclosure of information (PS 1 ¶ 29), consultation (PS 1 ¶ 30), participation (PS 1 ¶ 31), ongoing reporting (PS 1 ¶ 36), and supply chain (PS 1 ¶ 38).</p> <p>PS 4 ¶ 5 requires that the client “identify risks and impacts and propose mitigation measures that are commensurate with their nature and magnitude. These measures will favor the avoidance of risks and impacts over minimization.”</p> <p>PS 5 ¶ 2 maintains that “involuntary resettlement should be avoided. However, where involuntary resettlement is unavoidable, it should be minimized and appropriate measures to mitigate adverse impacts on displaced persons and host communities should be carefully planned and implemented.”</p> <p>PS 7 ¶ 18-20 outline requirements for mitigation and development with respect to Indigenous Peoples.</p>

### III. Access to Remedy

SRSB Guiding Principle	IFC Sustainability Policy (SP), Performance Standards (PSs), and Access to Information Policy (AIP)
<p>GP29: To make it possible for grievances to be addressed early and remediated directly, business enterprises should establish or participate in effective operational-level grievance mechanisms for individuals and communities who may be adversely impacted.</p>	<p>See the list of SP and PS items corresponding to GP22 on remediation and grievance mechanisms.</p>
<p>GP30: Industry, multi-stakeholder and other collaborative initiatives that are based on respect for human rights-related standards should ensure that effective grievance mechanisms are available.</p>	<p>See the list of SP and PS items corresponding to GP22 on remediation and grievance mechanisms.</p>
<p><b>Effectiveness criteria for non-judicial grievance mechanisms</b></p> <p>GP31: In order to ensure their effectiveness, non-judicial grievance mechanisms, both State-based and non-State-based, should be:</p> <ul style="list-style-type: none"> <li>(a) Legitimate: enabling trust from the stakeholder groups for whose use they are intended, and being accountable for the fair conduct of grievance processes;</li> <li>(b) Accessible: being known to all stakeholder groups for whose use they are intended, and providing adequate assistance for those who may face particular barriers to access;</li> <li>(c) Predictable: providing a clear and known procedure with an indicative timeframe for each stage, and clarity on the types of process and outcome available and means of monitoring implementation;</li> <li>(d) Equitable: seeking to ensure that aggrieved parties have reasonable access to sources of information, advice and expertise necessary to engage in a grievance process on fair, informed and respectful terms;</li> </ul>	<p>See the list of SP and PS items corresponding to GP22 on remediation and grievance mechanisms.</p> <p>See also the Guidelines of the IFC/MIGA Compliance Advisor Ombudsman, which is IFC's independent accountability mechanism.</p>

<p>(e) Transparent: keeping parties to a grievance informed about its progress, and providing sufficient information about the mechanism's performance to build confidence in its effectiveness and meet any public interest at stake;</p> <p>(f) Rights-compatible: ensuring that outcomes and remedies accord with internationally recognized human rights;</p> <p>(g) A source of continuous learning: drawing on relevant measures to identify lessons for improving the mechanism and preventing future grievances and harms;</p> <p>Operational-level mechanisms should also be:</p> <p>(h) Based on engagement and dialogue: consulting the stakeholder groups for whose use they are intended on their design and performance, and focusing on dialogue as the means to address and resolve grievances.</p>	
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