



Projects on International Waterways

Note: This policy applies to projects financed by the International Finance Corporation (IFC). In case of doubt, any determination of what is acceptable to IFC under this policy is made by the Vice President, Investment Operations in consultation with the Vice President with corporate responsibility for environmental issues, the Technical and Environment, and Legal Departments. Questions should be addressed to the Associate Director, IFC's Environment Division.

Applicability of Policy

1. IFC's¹ operational policy covers the following types of international waterways:
 - a) any river, canal, lake, or similar body of water that forms a boundary between, or any river or body of surface water that flows through, two or more states, whether IFC members or not;
 - b) any tributary or other body of surface water that is a component of any waterway described in (a) above; and
 - c) any bay, gulf, strait, or channel bounded by two or more states or, if within one state, recognized as a necessary channel of communication between the open sea and other states--and any river flowing into such waters.
2. The policy applies to the following types of projects:
 - a) hydroelectric, irrigation, flood control, navigation, drainage, water and sewerage, industrial, and similar projects that involve the use or potential pollution of international waterways as described in para. 1 above; and
 - b) detailed design and engineering studies of projects under para. 2(a) above as part of an IFC investment or of non-lending services.

Agreements/Arrangements

3. Projects on international waterways may affect relations between IFC and its members and between states (whether members of IFC or not). IFC recognizes that the cooperation and goodwill of riparians is essential for the efficient utilization and protection of the waterway. Therefore, it attaches great importance to riparians' making appropriate agreements or arrangements for these purposes for the entire waterway or any part thereof. In cases where differences remain unresolved between the beneficiary state and the other riparians, prior to financing the project IFC normally would urge the beneficiary state to offer to negotiate in good faith with the other riparians to reach appropriate agreements or arrangements.

Notification

4. IFC and the project sponsor ensure that the international aspects of a project on an international waterway are dealt with at the earliest possible opportunity. If such a project is proposed, the project sponsor or IFC (with the project sponsor's consent) requests the beneficiary state, if the beneficiary state has not already done so, formally to notify the other riparians of the proposed project and its Project Details.² If the beneficiary state indicates to the project sponsor or IFC that it does not

¹ The International Finance Corporation (IFC) is the World Bank Group entity with a mandate to invest in private sector projects in developing member countries. It lends directly to and makes equity investments in private companies without guarantees from governments and attracts other sources of funds for these projects. IFC also provides advisory services and technical assistance to governments and businesses.

² The Project Details provide sufficient technical specifications, information and other data to enable the other riparians to determine as accurately as possible whether the proposed project has potential for causing appreciable harm through water deprivation or pollution or otherwise. IFC staff should be



wish to give notification, normally the project sponsor or IFC (with the project sponsor's consent) does so.³ If the beneficiary state also objects to the project sponsor's or IFC's doing so, or if the required notification does not take place because the project sponsor does not give its consent, IFC discontinues processing of the project. The members of IFC's Board of Directors concerned are informed of these developments and any further steps taken.

5. IFC ascertains whether the riparians have entered into agreements or arrangements or have established any institutional framework for the waterway concerned. In the latter case, IFC ascertains the scope of the institution's activities and functions and the status of its involvement in the proposed project, bearing in mind the possible need for notifying the institution.

6. Following notification, if the other riparians raise objections to the proposed project, IFC in appropriate cases may appoint one or more independent experts⁴ to examine the issues. Should IFC decide to proceed with the project despite the objections of the other riparians, IFC informs them of its decision.

Exceptions to Notification Requirement

7. The following exceptions are allowed to the IFC's requirement that the other riparian states be notified of the proposed project:

- a) For any ongoing schemes, projects involving additions or alterations that require rehabilitation, construction, or other changes that in the judgment of IFC
 - i) will not adversely change the quality or quantity of water flows to the other riparians; and
 - ii) will not be adversely affected by the other riparians' possible water use.

This exception applies only to minor additions or alterations to the ongoing scheme; it does not cover works and activities that would exceed the original scheme, change its nature, or so alter or expand its scope and extent as to make it appear a new or different scheme. In case of doubt regarding the extent to which a project meets the criteria of this exception, the members of IFC's Board of Directors representing the riparians concerned are informed and given at least two months to reply. Even if projects meet the criteria of this exception, IFC tries to secure compliance with the requirements of any agreement or arrangement between the riparians.

- b) Water resource surveys and feasibility studies on or involving international waterways. However, the project sponsor proposing such activities includes in the terms of reference for the activities an examination of any potential riparian issues.
- c) Any project that relates to a tributary of an international waterway where the tributary runs exclusively in one state and the state is the lowest downstream riparian, unless there is concern that the project could cause appreciable harm to other states.

satisfied that the Project Details are adequate for making such a determination. If not available at the time of notification, Project Details are made available to the other riparians as soon as possible after the notification.

³ For the purposes of this notification, IFC may request the assistance of the relevant members of IFC's Board of Directors.

⁴ If independent expert opinion is needed before further processing of the project, the Vice President, Investment Operations, initiates the process. The Vice President, Investment Operations, in consultation with the Vice President and General Counsel, select one or more independent experts and develop necessary terms of reference. The World Bank may be requested to assist in the process of identifying experts. The experts selected may not be nationals of any of the riparians of the waterways in question, and also may not have any other conflicts of interest in the matter. The experts are provided with the background information and assistance needed to complete their work efficiently. The experts' terms of reference require that they examine the Project Details. If they deem it necessary to verify the Project Details or take any related action, IFC makes its best effort to assist. The experts meet on an ad hoc basis until they submit their report to the Vice President, Investment Operations. The experts have no decision-making role in the project's processing. Their technical opinion is submitted for IFC's purposes only, and does not in any way determine the rights and obligations of the riparians. Their conclusions are reviewed by the Vice President, Investment Operations, in consultation with the Vice President and General Counsel.



Presentation of Loans to the Members of IFC's Board of Directors

8. For every project on an international waterway, the IFC Board Report will deal with the international aspects of the project, and state that IFC staff have considered these aspects and are satisfied that
- a) the issues involved are covered by an appropriate agreement or arrangement between the beneficiary state and the other riparians; or
 - b) the other riparians have given a positive response to the beneficiary state or IFC, in the form of consent, no objection, support to the project, or confirmation that the project will not harm their interests; or
 - c) in all other cases, in the assessment of IFC staff, the project will not cause appreciable harm to the other riparians, and will not be appreciably harmed by the other riparians' possible water use. The Board Report also contains in an annex the salient features of any objection and, where applicable, the report and conclusions of the independent experts.

Maps

9. Documentation for a project on an international waterway includes a map that clearly indicates the waterway and the location of the project's components. This requirement applies to the Environmental Review Summary (ERS) and the Board Report as well as any internal memoranda that deal with the riparian issues associated with the project. Maps are prepared and cleared in accordance with the World Bank's Administrative Manual Statement 7.10, *Cartographic Services*, and its annexes.

10. However, the inclusion of maps in the cited documents, except internal memoranda, is subject to any general instruction or decision of the Vice President, Investment Operations, taken in consultation with the Vice President and General Counsel, to omit maps of the beneficiary state in entirety or in part.