

## **U.S. Comments on IFC Policy and Performance Standards on Social and Environmental Sustainability and Policy on Disclosure of Information**

### **Summary**

This paper sets out U.S. initial thoughts for consideration by the IFC in its review of its Policy and Performance Standards on Social and Environmental Sustainability and its Policy on Disclosure. We look forward to IFC recommendations, which we anticipate will take into account the three-year implementation review and recommendations from the IEG review of Bank Group safeguards; the CAO's review for this policy update; other CAO recommendations from project reviews; and the on-going palm oil review, agribusiness review and human rights review. We also encourage the IFC to take this opportunity to ensure that its safeguard requirements are at least equivalent to those of the World Bank in all substantive areas, in light of efforts to streamline safeguard requirements for joint projects.

While we have become more comfortable with the IFC's "outcomes" approach since it was established in 2006, we continue to believe that the balance should shift towards more accountability. Our key comments are listed briefly in the summary and are covered in more detail in sections I -V below. We conclude with some views on the implementation of the policy.

### ***New Issues***

- ***Climate change.*** The USG proposes that the Sustainability Policy include a new section on climate change to guide the IFC on working with clients to minimize green-house gas (GHG) emissions from coal projects, referencing "Principles for IFC Engagement with Clients on Coal-Fired Power Generation". We also propose strengthening provisions relating to GHG accounting and integrating low-carbon approaches in IFC-supported projects more broadly.
- ***Supply chains.*** We support the IFC's efforts to address supply chains in a systematic and comprehensive manner, and recommend that the up-stream supply chain be included in the scope of the environmental and social assessment.
- ***Human rights.*** While noting that the IFC does not have a human rights mandate, we look forward to the results of the current human rights review, and encourage the IFC to consider language adopted by the Asian Development Bank with respect to "consent" by indigenous people.
- ***Water.*** We recommend that the IFC strengthen its safeguards relating to water and water access throughout the project cycle and for the full range of project types. We recommend particular attention to the design of large hydropower projects.

### ***The Sustainability Policy***

- ***Categorization.*** We recommend strengthening the process for significance evaluations and categorization decisions, including clarifying that they are based on an assessment of pre-mitigation impacts; developing a framework or guidance for these decisions, and (in the Disclosure Policy) disclosing preliminary categorization/significance decisions early in the project cycle.

- **Consultation.** We support the IFC's efforts to elaborate how the concepts of "broad community support" and "free, prior and informed consultation" are elaborated in practice, and suggest that the IFC establish requirements that clients inform affected people of these provisions.
- **Extractives' governance.** We welcome the IFC's efforts in this area and encourage the development of more specific requirements with respect to disclosure of revenues, and suggest that the threshold for "significant" extractive industry (EI) projects, if retained, be reduced from 10% of government revenues to no more than 1%. We recommend that the IFC document the extent to which the host country has in place functioning systems for transparency and accountability with respect to EI revenues.
- **Financial intermediaries and corporate entities.** We recommend consideration of new provisions on IFC responsibilities consistent with recommendations for PS 1.

### ***The Performance Standards***

- **PS 1 – Social and Environmental Assessment and Management Plans.** Recommendations are listed below on quality assurance, scope of a project's area of influence, treatment of trans-boundary impacts, evaluations on the robustness of EIAs, disclosure and consultation procedures, grievance mechanisms, monitoring reports, and community participation in monitoring. We also recommend the establishment of a mechanism for communities and/or clients to get help in addressing concerns about client disclosure regarding high-risk category B projects. We welcome the IFC's efforts to elaborate the environmental and social review process of financial intermediaries (FIs) and encourage the IFC to do the same for corporate operations, including private equity funds. We recommend stronger disclosure at both the overall operation level and the FI-funded 'subproject' level.
- **PS 3 – Pollution Prevention and Abatement (including EHS).** We make recommendations with respect to the EHS Guidelines and GHG emissions, including stronger requirements related to GHG elimination and reduction.
- **PS 5 – Land Acquisition and Involuntary Resettlement.** We recommend greater attention to economic (as opposed to physical) displacement and adoption of a standard that livelihoods be restored to at least the pre-project level where impacts are significant. Resettlement action plans and frameworks should be developed on the basis of rigorous economic and financial analysis.
- **PS 6 – Biodiversity.** We recommend strengthening performance standards by, inter alia, increasing consideration of ecosystems, avoiding support to extractive and infrastructure projects in areas of high biodiversity value, and considering further the issues associated with community dependence on biodiversity. We recommend clarification of the definition of critical habitats and requirements concerning critical habitats.

### ***Extractives***

- We recommend upgrading requirements for the environmental management of resource extraction, stronger cooperation with other entities to address regulatory capacity issues, stronger provisions in equity operations, and clearer requirements regarding mining closure and post-closure activities.

***Disclosure Policy***

- We recommend that the IFC adopt the changes recently proposed for the IBRD/IDA, including strengthening the presumption of disclosure by moving from a positive list to a general presumption in favor of disclosure that allows for certain well defined exceptions and a robust appeals mechanism. Exceptions should reflect the IFC's private-sector mandate. We also recommend that such information be released earlier in the project cycle, and include reporting on project-level performance indicators and development impacts. Other disclosure recommendations include longer disclosure periods for Category A projects' Environmental and Social Review Summaries (including EIAs), the early disclosure of category/ significance decisions noted above, more meaningful discussions of category decisions, disclosure in co-financing situations, EIA hardcopy disclosure, and disclosure of safe-guard specific documents.

## I. New Issues

**Climate change:** The IFC can play an important role in supporting the private sector transition to a low-carbon economy by:

- Making effective use of IFC’s instruments to address financing barriers in making low-carbon investments and in reducing GHG emissions from existing infrastructure (e.g., gas flaring reduction);
- Strengthening linkages between IFC project support and World Bank-supported country policy reform where the prevailing market or policy environment biases private investment away from low carbon options; and
- Adopting a systematic and transparent decision process for limiting the conditions in which IFC would finance coal-fired power plants.<sup>1</sup>

**Supply chains:** We recommend that, in PS 1, the IFC explicitly require that the up-stream supply chain be included in the project’s area of influence and in the scope of environmental and social assessment, particularly for projects that are dependent on natural resource-based material inputs. We also recommend that PS 6 address other inputs vulnerable in supply chains besides forest-based inputs, such as marine-based inputs.

**Human rights/free, prior and informed consent:** We look forward to the review of the relationship between the Performance Standards and specific human rights. With respect to a “consent” standard for projects affecting indigenous people, we encourage the IFC to consider relevant language adopted by the Asian Development Bank in its recent safeguard update.

**Water:** We recommend that the IFC’s sustainability policy and performance standards be strengthened to ensure reduced impacts on water and sound water management. Requirements should address all phases of the project cycle and include supply, quality, consumption, water-dependent downstream eco-systems and aquifers, water-dependent agriculture, exposure to water-based public health risks, and affordability and access to water and sanitation services. Particular attention should be focused on the design of large hydropower projects to ensure that prevention and mitigation needs are incorporated in project design. Biodiversity impacts and social impacts on river-dependent people are particularly important. Project design should be based on downstream, data-based baseline and impact assessments, and address downstream mitigation needs, including technically-based ecological flows. Where flood recession agriculture or flood-dependent ecosystems are important, planned mitigation should include artificial flood releases of adequate size and duration to continue supporting ecosystems (including fishery migrations) and population requirements. Large daily fluctuations in river levels should also be adequately mitigated to ensure continued ecosystem functioning. On the social impact side, we recommend that water access issues (including cost of service and distribution) be explicitly addressed.

## II. Policy on Social and Environmental Sustainability

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<sup>1</sup> A separate document on “Principles for IFC Engagement with Clients on Coal-Fired Power Generation” will be forwarded to IFC. We recommend that this document form the basis for a new section to be added to IFC’s Sustainability Policy and to corresponding staff guidance.

***Categorization and significance decisions.***<sup>2</sup> We remain concerned that the IFC’s categorization process and the related evaluation of significance of impacts can, in some instances, result in under-categorization, insufficient due diligence and insufficient disclosure, with corresponding increased risks to the implementation of the project and the reputation of the institution. Therefore, we recommend that the IFC:

- 1) Develop and make publicly available a **categorization/significance-evaluation framework or guidance**, articulating the connection between the category rating and the types of projects and factors that are the IFC considers, along the lines of the IBRD’s 1993 Environmental Sourcebook Update No. 2 (April 1993) or the EBRD’s indicative list of Category A projects. This would bring transparency and accountability to the categorization process while allowing the IFC to retain judgment on specific operations.
- 2) Establish **quantitative thresholds** as part of that framework, where possible, that can be used to help determine the category of a project. (OPIC has established quantitative thresholds for more than a dozen sectors and the EBRD has adopted quantitative thresholds in some cases, integrated into its indicative list of Category A projects.)
- 3) Explicitly address categorization/significance evaluation of projects involving **expansion, modernization, retrofitting and/or privatization**, stating that the risk-based “potential impact” approach applies to these cases. In addition, an evaluation of expansion projects should typically consider the existing facility as well.
- 4) Develop a **two component rating** for FI operations, with the second element reflecting the likely risk of FI subprojects. An FI operation where Category A subprojects are likely would be rated “FI(A)”.
- 5) Alert the Board to any differences in categorization of the same project by different **co-financiers**, along the lines of the suggestion by Canada.
- 6) State that the categorization and significance decisions/assessments:
  - a. are based on **potential pre-mitigation impacts**, not on post-mitigation impacts (that is, on the gross potential impacts, not the net impacts);
  - b. are based on **the impacts in the area of influence** and, in particular, the most significant impacts; and
  - c. take **indirect impacts** into account, articulating a broad definition of indirect impacts, to ensure that all the relevant risks are assessed and appropriately mitigated.
- 7) Clarify that the phrase “**largely reversible**” in the Category B definition means that (i) few if any impacts are irreversible; (ii) those impacts that are irreversible will not be significant impacts; and (iii) the time frames for reversing the impacts would not result in significant interim impacts.

### ***Broad community support/free prior and informed consultation***

- ***Implementation.*** We encourage the IFC to consider including procedures and minimal standards for “broad community support”. The IFC Environmental and Social Procedures and Guidance Notes (“Review Stream 1”) identify items for material consideration and validation methods, but there is no guidance on (a) appraisal standards; (b) scoring; or (c) benchmarks or minimal standards for determining whether the consultation is adequate.

<sup>2</sup> The “significance decision” refers to whether a project has significant impacts/requires and EIA (PS 1, para 9).

- **Information for affected people.** We suggest establishing requirements, including timing, for clients to inform affected people about the IFC's "free, prior and informed consultation" and "broad community support" provisions.
- **Disclosure.** We suggest elaboration of the information that the IFC should disclose about its determination of broad community support, including the basis of key assessments and, if an assessment is based on client information, efforts to verify such information.
- **New technologies.** We encourage the IFC to consider new technologies as a tool for more effective outreach and assessment of community support.

### ***Extractives' contract and revenue transparency***

- **Contract disclosure:** We understand that the IFC is considering disclosure of Extractive Industry contracts and look forward to IFC recommendations.
- **Revenue disclosure:** We encourage consideration of developing more specific requirements that can be consistently applied across projects, elaborating in greater detail the material payments that must be reported as well as the frequency, timing, level of government paid, and level of (dis)aggregation.
- **Risk:** We recommend that the requirement for a risk benefit review, mitigation of risks and the explicit statement that "where the balance of benefits and risks is not acceptable, IFC does not support such projects" apply to all EI projects, not just "significant" ones.
- **"Significant" projects:** For these, the policy currently requires disclosure of relevant terms of key agreements that are of public concern. The current threshold for determining whether a project is significant (10% or more of government revenues) is too high. If such a threshold remains, we recommend that it be reduced to no more than 1%. This threshold captures important contracts while establishing a reasonable *de minimus* level.
- **Host country standards:** We recommend that the IFC document the extent to which the host country has in place functioning systems for transparency and accountability with respect to EI revenues.

### ***Financial Intermediaries and other operations with sub-projects***

- **Financial intermediaries:** We recommend that the IFC clarify that any assessment of risk of FI operations should be based on the FI's anticipated portfolio, not its current portfolio, and should be based on the riskiest elements of the portfolio, not a portfolio "average." Also, to the extent that greater elaboration of client requirements in PS 1 affects the IFC role, the IFC should similarly modify the existing provisions in the Sustainability Policy.
- **Corporate operations:** The Sustainability Policy should include provisions comparable to the existing and proposed FI provisions for corporate loans and equity investments (including equity funds) where environmental and social risk management/due diligence functions are carried out by the client.

### ***Climate change***

- We propose that the IFC add a new section on climate change to its Policy on Environmental and Social Sustainability. The section would discuss the sequence of actions that IFC would take from pre-appraisal to Board consideration to work with clients to

minimize greenhouse gas emissions from proposed coal projects. The new section should reference the more detailed points elaborated in the separate document (see footnote 1). For example, at the pre-appraisal phase, IFC should coordinate with the public lending side of the World Bank Group to ensure that, in conjunction with the IFC operation, appropriate measures are planned or in place to address policy and market barriers to low carbon energy resource options.

### III. Performance Standards

#### *PS 1 – Social and Environmental Assessment and Management Plans*

- **Quality assurance.** The IFC should establish or strengthen systematic guidance, standards and tools for assuring quality, timeliness, adequacy and completeness of baseline data and impact analysis. We recommend, further, that this include different sources of baseline data as well as different types of impacts, including direct, indirect, cumulative and associated facility impacts.
- **Associated facilities.** The definition of associated facilities is too narrow to be consistent with good practice. We recommend that it be broadened to a one-way definition where the facility in question is essential for the MDB-financed project to function. Specifically, we propose that the IFC adopt the following IDB definition of associated facilities:  
*“Associated facilities in the context of environmental assessment, refer to new or additional works and/or infrastructure, irrespective of the source of financing, essential for a Bank- [IFC-] financed project to function, such as: new/additional access roads, railways, power lines, pipelines required to be build for the project; new/additional construction camps or permanent housing for project workers; new/additional power plants required for the project; new/additional project effluent treatment facilities, new/additional warehouses and marine terminals built to handle project goods.”*
- **Cumulative impacts.** The definition should be expanded to include impacts of all reasonably foreseeable activities in the area and not be limited to project-related activities. This would include reasonably foreseeable third party operations, regardless of the degree of borrower control over such action. The current definition of cumulative impacts results in an incomplete assessment of risks. *Further*, cumulative impact analysis should include cumulative *indirect* impacts as well as direct impacts. For example, the cumulative spillover development effects of multiple projects in the Amazon can have devastating effects if not identified and mitigated well.
- **Trans-boundary impacts.** We recommend that the IFC clarify requirements for the management of trans-boundary impacts, including informing the other affected country (ies), possibly along the lines of the original safeguard policy.
- **Alternatives analysis.** We recommend that the ESIA scope include an analysis of project alternatives, including the “no project” alternative, and justification/discussion of the recommended alternative. The “no project” alternative establishes the baseline of environmental conditions against which project impacts can be compared.
- **Ecosystem services.** We recommend that the ESIA scope include impacts on ecosystem services generally (not only in the case of significant impacts on biodiversity), including such ecosystem services as provisioning services such as timber and water and regulating services such as water purification and erosion control.

- ***Protection and conservation of biodiversity.*** We recommend that IFC requirements clarify that in identifying impacts, the assessment process should pay attention to ecosystems known for high levels of biodiversity and endemism, natural habitats that have become degraded and fragmented over time, habitats that are critical for survival of threatened and endangered species, and habitats that serve important ecological roles such as wetlands. Baseline data to assess impacts should be of sufficient duration to record variations in biodiversity (including diurnal, seasonal and year-to-year variations).
- ***ESIA robustness.*** Whether the IFC is required to evaluate the robustness of the client-produced Environmental and Social Impact Assessment (ESIA) at any point is unclear. We recommend clarification that the IFC's responsibilities include a critical evaluation of the robustness of the ESIA (not just its scope) and should provide appropriate guidance to staff.
- ***Financial feasibility (para 9, footnote 1)*** We recommend that this concept explicitly take into account not only potential incremental costs but also potential benefits.
- ***Disclosure.*** IFC should clarify what constitutes adequate disclosure at the local community level, particularly for Category B and C projects and for FIs. We also recommend that the IFC update the Stakeholder Engagement Handbook to provide more specific guidance linking form of disclosure to project risks. For example, if the impacts of a project do not extend beyond the facility boundary and the host country publishes notice of all environmental licenses, does the client have to undertake a separate disclosure?
- ***Community engagement.*** We encourage the IFC to consider (i) extending the current consultation process requirement to include clients informing affected people of IFC engagement, of the disclosure/consultation requirements and of the grievance procedure options (project level, CAO) that apply; and (ii) developing materials (e.g., hand-outs) on these requirements that clients can provide to affected people. We also recommend that the IFC clarify the extent to which local communities must be consulted on smaller projects, particularly when project impacts are unlikely to extend beyond the facility perimeter. Is consultation required if the project is screened as Category C?
- ***Community consultation/engagement for brownfield projects.*** We recognize that community consultation/engagement in brown-field projects may pose additional challenges, and recommend that the IFC establish guidance. This may include internal procedures for assessing pre-existing community engagement and guidance in the case of existing community conflict.
- ***High-risk Category B projects.*** We are concerned that public consultation and disclosure may be inadequate in the case of some high-risk Category B projects that have the potential to have significant impacts on local populations (but which may not get the same level of attention or resources for consultation and disclosure as a Category A project). Moreover, recourse may not be readily available to local communities and other stakeholders if the quality of client disclosure and engagement is insufficient. We recommend that these requirements and IFC oversight be reviewed and strengthened to ensure strong and timely client disclosure, and we encourage the IFC to consider establishing a mechanism for communities and/or clients to get IFC help in addressing concerns about client disclosure.
- ***Grievance mechanism.*** We are concerned that there are circumstances in which affected people do not or cannot take advantage of project level grievance mechanisms. These include instances where project-affected people are afraid to speak out (e.g., Laos, Vietnam), are not aware of the mechanism, do not understand their rights or do not have the resources to approach the grievance mechanism or, alternatively, the CAO. We encourage the IFC to



consider how grievance mechanism procedures and requirements can be strengthened to address these concerns. For example, perhaps there could be a mechanism modeled after the CAO's role in working with affected people to build capacity.

- **Monitoring reports.** We recommend that the IFC explicitly require regular disclosure of project-level environmental and social monitoring reports and any necessary corrective and preventive actions in a form, manner and language accessible to affected people and interested stakeholders (including the Board). Frequency of disclosure will depend on project nature and risks and monitoring schedule.
- **Community participation in monitoring.** We recommend that the IFC encourage clients to provide opportunities for communities to participate in the monitoring of high-risk projects, as appropriate. We recommend, further, that the IFC consider the challenges that arise in such participation and consider what guidance or resources for clients and communities it might develop.
- **Financial Intermediaries (FIs).** We welcome the IFC's efforts to elaborate the environmental and social review procedure for FIs, and recommend that this be done throughout the project cycle. Requirements should be clear about when projects should be referred by the FI back to the IFC. A separate Performance Standard might be helpful (following the EBRD's example).
- **FI-funded sub-projects.** At the FI-funded "sub-project" level, we recommend disclosure of information throughout the project cycle, especially on sub-projects with potentially significant impacts. Some disclosure and consultation requirements may vary by type of operation or level of risk. For FI subprojects with potentially significant impacts, we recommend that the IFC specify a single, across-the-board minimum disclosure period for social and environmental due diligence documents and, further, that this minimum be 120 days before the FI's decision on whether or not to proceed with the subproject. We also recommend clarifying the extent to which FIs are required to engage local communities, particularly when their investment in a company is very small when compared to the company's overall capital. Similarly, if the IFC makes a loan to a financial institution for working capital purposes, is that financial institution required to hold a public meeting or place a notice in the local newspaper?
- **Corporate loans, equity investments (including equity funds).** We recommend the Performance Standards and Guidance Notes clearly articulate the E&S review procedure throughout the project cycle, including both the IFC's responsibilities and those of the corporate entity, in the same manner as proposed for FIs.

### ***PS 3 – Pollution Prevention and Abatement (including EHS)***

***EHS Guidelines.*** The following are our key concerns and recommendations:

- Maximum effluent discharge standards were dropped from the general EHS guideline. While allowable discharges should be based on the assimilative capacity of the receiving water body, in many projects (particularly smaller ones) there are no baseline data or model output available to set allowable discharge levels. We recommend that, at a minimum, the general guideline include a framework (e.g., criteria, guidelines) to assist investors in establishing maximum discharge limits.

- We recommend that the general EHS guideline state explicitly the investor responsibility for appropriate waste treatment/disposal, and also that it include options (e.g., building new facilities, contracting, transporting elsewhere, etc.).
- The IFC's maximum air emission levels for thermal power plants are unclear, giving rise to questions of interpretation and complicating judgments on whether they are more stringent than OECD country standards, cost-effectiveness, adoption of technologies, and costs vs. benefits. We recommend clarification of the standards.

**Cost-effectiveness.** (para 3, footnote2) We recommend that this concept explicitly take into account not only potential incremental costs but also potential benefits.

**GHG emissions.** We recommend that:

- IFC provide its clients with a methodology for quantifying GHG emissions developed in conjunction with the World Bank (i.e., a World Bank Group methodology).
- PS3 state that the GHG quantification requirement applies to the full range of projects and sectors.
- The requirement to quantify indirect emissions be broadened to capture a broader range of indirect emissions than power generation. This would include but not be limited to the off-site production of electricity, steam, heating and cooling, and, where feasible, *also* forestry and agriculture that result in loss of carbon in soil. We recommend that the concept of "indirect sources" in the footnote be equally broad.
- IFC clients be required to identify and evaluate options to reduce project-related GHGs prior to project design and operation, including options for best-available low-carbon technologies to achieve project goals, with the IFC's role in engaging with the client to identify such options described in the Sustainability Policy.
- The environmental assessment report required in PS 1 document the analysis of low carbon alternatives that was undertaken.
- IFC require clients to identify specific measures that they will implement to reduce or offset project-related greenhouse gas emissions, that the PS 3 requirement state that the preferred option is to eliminate or reduce GHG emissions, and that offsets be used only after all feasible measures have been taken to eliminate or reduce such emissions. IFC should adopt transparent standards for what actions will be recognized as offsets.

### ***PS 5 – Land Acquisition and Involuntary Resettlement***

- ***Livelihood impacts of economic displacement.*** We recommend that PS 5 be strengthened to better maintain livelihoods in the case of economic displacement (as opposed to physical displacement) and that attention be given to strengthen the implementation of the PS 5 provisions for economic displacement. For example, in both cases, ecosystem services, including non-timber forest products, need to be evaluated and loss of these assets included in the compensation and livelihood packages.
- ***Significantly adverse impacts – client requirement.*** We recommend removing the client discretion in the last sentence of Paragraph 6 by dropping the word "consider."
- ***Significantly adverse impacts – livelihood restoration.*** We recommend adoption of the requirement (adopted by the ADB in its 2008 safeguard update), that in the case of significantly adverse impacts from activities other than land acquisition, the borrower/client

will be required to develop and implement a management plan to restore the livelihood of affected person at least to pre-project level or better.

- **Benefit-sharing.** We recommend that the IFC adopt a more explicit approach to ensuring that project benefits are shared with affected people (“benefit-sharing”), building on its current policy and that adopted by the ADB in its 2008 safeguard update. Resettlement action plans should be developed and implemented as part of a broader development program in which displaced people are provided opportunities to share in project benefits.
- **Compensation rates.** We are concerned that in some cases government resettlement compensation rates are inadequate, and would welcome IFC proposals to address this circumstance.
- **Compensation for land takings.** We recommend strengthening language as needed to ensure that, for affected people with land-based livelihoods, cash compensation is provided instead of land only as a last resort. We encourage use of the same standard for acceptable land in both paragraphs 17 and 20, either revising 20 to match 17 (“equal or higher value, equivalent or better characteristics and advantages of location”), or incorporating into both the concepts of “commensurate in quality, size, value and location or better.”
- **Economic and financial analysis.** Rigorous economic and financial analysis should underpin the assessment of displacement/resettlement impacts and the necessary mitigation/social development measures. Better up-front analysis by clients and due diligence by the IFC would help achieve more satisfactory outcomes. We recommend the following key elements: (1) a requirement for economic and financial feasibility analysis and sensitivity analysis as the basis for client-produced Resettlement Action Plans and Resettlement Frameworks and (2) development of stronger IFC analytic approaches for assessing draft Resettlement Action Plans/Frameworks and determining if/how they should be strengthened.
- **Client role in implementation assessment and redress.** We recommend that PS 5 articulate client responsibilities with respect to (i) periodic assessment of the conditions of the displaced population and effectiveness of compensation, livelihood assistance and benefit-sharing mechanisms, and (ii) identification and implementation of measures to redress any non-achievement of agreed outcomes.

#### ***PS 6 – Biodiversity Conservation and Sustainable Natural Resource Management***

- **High value areas.** We recommend that the IFC avoid supporting extractive or infrastructure projects that could negatively impact IUCN I-IV, marine V protected areas and other high value areas maintaining biodiversity and ecosystem integrity and services.
- **Critical habitat.** We recommend clarification of the latitude and limits of acceptable critical habitat impacts and of the required mitigation. In addition, the definition of “critical habitat” includes the concept of non-biological factors (“...areas having biodiversity of significant social, economic or cultural importance to local communities”). It is not clear that the protections of paragraph 10 apply to these areas (are they a “function?”). The language should state that these areas are covered.
- **Areas important to local communities.** The IFC should consider benchmarks as to what constitutes “significant” importance in the reference to “significant social, economic or cultural importance to local communities.” Moreover, the IFC should consider whether appropriate attention is given to community dependence on biodiversity, in the assessment and management of biodiversity impacts.

- **Footnote 1.** We recommend that Footnote 1 include the results from small, incremental cumulative impacts, if significant.
- **Preconstruction and construction prior to financing.** We recommend that the IFC explore options for ensuring that a client does not undertake irreversible pre-construction or construction activities prior to financing approval for projects with potentially negative impacts on critical habitat and biodiversity.
- **Standards.** We recommend that the IFC develop standards for the critical habitat criteria, e.g., for ecosystem integrity and maintaining genetically viable populations. This will clarify the requirements, facilitate evaluations of compliance and strengthen accountability.
- **Natural and plantation forests.** We recommend that the IFC consider language to ensure that natural forest harvesting or plantation development will not negatively impact any adjacent or downstream critical natural habitat.

#### **PS 7 – Indigenous People**

- **Scope of assessment.** We recommend ensuring that the scope of IP impacts include cumulative and associated impacts.
- **Human rights.** The first objective refers to “respect for the dignity, human rights and aspirations ... of Indigenous People.” Indigenous persons/individuals have human rights but not the collectivity. We recommend revision of this phrase to read, “respect for human rights and the dignity, aspirations ...”

#### **IV. Extractives**

- **Mine management.** The IFC should upgrade the requirements for environmental management of mines, mine expansion, and resource extraction, including water management. Specific issues related to water include how to improve selection and design to reduce impacts on water supply, water quality, water-dependent downstream ecosystems and aquifers, water-dependent agriculture, water consumption and exposure to water-based public health risk.
- **Regulatory capacity.** We recommend that the IFC put a greater emphasis on working with the World Bank to strengthen government regulatory capacity where appropriate. The IFC should strengthen its oversight of projects in countries with weak regulatory environments.
- **Equity operations.** The IFC should strengthen its requirements to include compliance with IFC performance standards and disclosure requirements for Category A- and B-equivalent activities (sub-projects) if this is not already required, and stronger oversight and disclosure by the IFC, such as notification to the Board and on the IFC website of future site development and the availability of relevant documentation.
- **Closure/post-closure.** The IFC should require planning for mining closure and post-closure monitoring and the cost of these activities should be included in the costs and financing of the operation.

## V. Disclosure Policy

- ***Presumption of disclosure.*** We recommend that the IFC adopt the changes recently considered in the IBRD/IDA. These changes strengthen the presumption of disclosure by moving from a positive list to a general presumption in favor of disclosure that allows for certain well defined exceptions and a robust appeals mechanism. In the case of the IFC, any exceptions should reflect the IFC’s private-sector mandate. We also recommend that such information be released earlier in project and policymaking cycles.
- ***Project and institutional documents.*** Recommendations include the following, while maintaining protections for information that could violate client confidentiality and/or is market sensitive: (i) simultaneous disclosure of project appraisal documents to the Board and public; (ii) disclosure of project supervision and monitoring documents, and project completion reports, including information on project-level performance indicators ; (iii) simultaneous disclosure of policy proposals to the Board and public; (iv) minutes that include a more detailed summary of the conversation, including areas of disagreement and/or concern; and (v) a broader approach to historical information, including the eventual release of Board papers and deliberative information.
- ***Development impact reporting.*** We recommend that the IFC commit to report publicly on development impacts of individual projects.
- ***Disclosure specifically related to safeguards.***
  - ***Category A ESRS public disclosure.*** We recommend an effective minimum disclosure period for Category A Environmental and Social Review Summaries (ESRS, which include EIAs) of 120 days. This might be achieved by a written requirement of “120 days” or “before appraisal;” or “120 days or before appraisal, whichever is earlier” or other text appropriate to the IFC.
  - ***Category rating and EIA disclosure early in the project cycle.*** We recommend two early disclosure steps, before the ESRS. First, for those projects determined (per PS 1, paragraph 9) to have potential significant adverse impacts that are diverse, irreversible, or unprecedented, and for which the client is required to prepare an EIA, when the IFC makes that determination, it should post a preliminary category rating (presumably “A”) and a statement that the IFC will require an EIA. Second, for these projects, the IFC should post the EIA when available (not waiting for full ESRS documentation).
  - ***Disclosure of categorization assessment.*** Written explanations of categorization decisions should be project-specific and informative (not merely restating the category criteria). The discussion should address any changes from preliminary categorization ratings and any discrepancies from co-financing partners.
  - ***EIA disclosure in a co-financing situation.*** The IFC should post links to environmental and social due diligence information posted by co-financing partners.
  - ***EIA hardcopy disclosure.*** We recommend an explicit requirement of local hardcopy availability of Category A EIAs. (This is important in areas of low computer access.)
  - ***Safeguard-specific project documents:*** Consistent with the recommendation above on project documents, documents such as Corrective Action Plans (CAPs), CAP implementation reports, Environmental and Social Review Documents, key documents specific to oversight and evaluation of FI and corporate Environmental and Social Management systems, and safeguard monitoring reports, should be disclosed by the IFC on a timely basis. We recommend that this reporting address any project-level performance indicators specifically pertaining to safeguard commitments.

## **Implementation**

The safeguards and disclosure policies themselves will be of little value without effective implementation. This is a continuing challenge, particularly with respect to the safeguards policy since they depend to a great extent on actions taken by the client. In this regard, we underscore the need for assurance of compliance at the time of Board consideration and strong client commitment to continued compliance, coupled with continued IFC oversight and the availability of appropriate and timely remedies in the event of non-compliance, including possible IFC disengagement. The IFC should also have an effective system for assessing a project's initial and ongoing risk and the relevant risk management capacities of the client, the host country government and the IFC itself. Moreover, the IFC should ensure appropriate procedures to verify client data, especially for key determinations, such as whether a project has significant impacts; what to address in action plans; and whether client commitments are being met in a timely manner, particularly with respect to corrective action plans.

Since client compliance with the safeguards is affected by government policies and actions, we recommend strengthened IFC engagement with the World Bank to promote appropriate reforms. Finally, we would expect that IFC staffing for safeguards implementation would be sufficient to carry out the policy in an effective manner.