

Update of IFC's Policy and Performance Standards on Environmental and Social Sustainability, and Access to Information Policy
May 12, 2011

The U.S. welcomes the culmination of an almost-two year effort by the IFC to review and update its Sustainability Framework and is pleased to be able to support Management's recommendations. The U.S. commends the broad consultation process and the thoughtful efforts by staff to address complex issues. The U.S. also thanks the Compliance Advisor Ombudsman (CAO) and the Independent Evaluation Group (IEG) for their input to the process. The result is, on balance, a strong framework that raises the bar for addressing social and environmental impacts as well as for transparency and disclosure, and does so in a way that is sensitive to the needs of IFC clients. Because the Performance Standards are used by many private sector actors, including the Equator Banks, these proposed changes will have a profound and positive impact in the field of development finance.

The revised framework includes a number of important changes, including new provisions in the Sustainability Policy and Performance Standards on climate change, water, ecosystem services, human rights, and financial intermediary (FI) categorization, as well as a commitment to apply the framework to all IFC activities. The U.S. welcomes the stronger provisions on extractive industry contract transparency, supply chains and key definitions; the broader application of the performance standards to FI subprojects; and the enhanced supervision of FI investments. In this regard, it would be helpful if the IFC could clarify which type of FI subprojects are considered "higher risk" subprojects. The U.S. also appreciates the efforts of the IFC to better align its categorization process with the World Bank and other development finance institutions.

The new Access to Information Policy aligns the IFC with the World Bank by adopting a presumption of disclosure. It also supports greater disclosure throughout the project cycle, not only on environmental and social risks and impacts, but also, for the first time, on development results. The U.S. also appreciates the progress on GHG accounting and disclosure. Finally, the U.S. welcomes the language in the Sustainability Policy and Performance Standard 1 regarding treatment of adverse human rights impacts, especially in high risk circumstances. The U.S. recognizes the difficult discussions on this particular issue and commends the IFC Management for an approach that balances the needs of all stakeholders in this final draft. Overall, the U.S. welcomes the proposed changes and believes they will improve both the IFC's development impact and the private sector's risk management systems and transparency. The U.S. supports the Sustainability Policy, Performance Standards and Access to Information Policy as currently worded and would strongly oppose any effort to further revise or edit.

There are areas where the U.S. would have liked to see further changes. In Performance Standard 6 on biodiversity, the U.S. would have liked to see stronger protections for critical habitat and legally protected areas, a prohibition on offsets for impacts in critical habitat, and a broader scope with respect to ecosystem services. The U.S. is especially concerned about the risk of irreversible damage to critical habitat and urges the IFC to be on solid scientific ground before agreeing to any projects in or affecting critical habitat, and to use offsets for critical habitat only on a truly exceptional basis, if at all. The U.S. would appreciate Management's confirmation

that, under this policy, offsets would be used only on an infrequent basis and would require the involvement of internationally recognized experts. The U.S. had also recommended greater disclosure of information for financial intermediary subprojects and while the U.S. understands that there are binding constraints, the U.S. encourages the IFC to continue to promote the maximum disclosure allowed within the law.

The U.S. supports improved participation by and protection of indigenous peoples. With respect to the concept of Free, Prior and Informed Consent (FPIC), as the U.S. explained at the time it announced its support for the UN Declaration on the Rights of Indigenous Peoples, the U.S. understands the concept of “free, prior and informed consent” or “FPIC” to call for a process of meaningful consultation with tribal leaders, but not necessarily the agreement of those leaders, before the actions addressed in those consultations are taken. In the context of the Sustainability Policy and Performance Standards, the IFC has proposed a higher threshold for some projects. The U.S. supports additional protections for indigenous peoples in the context of certain projects with special circumstances. However, the U.S. does not believe there is an international consensus in favor of a definition of FPIC that requires the agreement of indigenous peoples.

Looking forward, the success of this policy will ride on its implementation, and the U.S. supports the implementation action plan proposed by the IFC. The U.S. welcomes the commitment to increase supervisory staff, including for FIs, and looks forward to revised guidance notes, where the U.S. hopes further clarity can be provided as needed. The U.S. welcomes Management’s proposal to monitor progress on a bi-annual basis and undertake a broad review of experience under the revised framework in five years. Monitoring and reviews should take into account the framework’s contribution to development (which was not directly incorporated in this review due to insufficient data), along with relevant results from the CAO’s recently launched review of the environmental and social impact of financial intermediary investments.