

International Finance Corporation
Safeguard Policy Update and Disclosure Policy Review
Regional Multi-Stakeholder Consultations

Final Report
Prepared by the Consensus Building Institute
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Purpose of this Report

During the period September-December 2004, the International Finance Corporation (IFC) held four regional consultation workshops to provide opportunities for dialogue with external stakeholders on planned changes to its Safeguard Policies and Disclosure Policy. (Information about the consultation process is available at www.ifc.org/policyreview.)

The four regional Consultations were

1. Latin America and the Caribbean: Rio de Janeiro, Brazil, September 27-29, 2004
2. Asia: Manila, Philippines, October 27-29, 2004
3. Sub-Saharan Africa: Nairobi, Kenya, November 29-December 1, 2004
4. Europe, Central Asia, and Middle East: Istanbul, Turkey, December 13-15, 2004.

The Report was produced by the Consensus Building Institute (CBI, www.cbuilding.org), which has been retained by IFC to facilitate and summarize the regional consultations. The Report summarizes key issues discussed, with a focus on comments and suggestions made by participants at the four Consultations. It is intended as a record of the primary topics and issues discussed at the Consultations, not a compilation of all items discussed.

In general, the comments summarized in this Report reflect views that were stated in one or more consultations by a significant number of participants on a particular issue. Unless explicitly stated otherwise, comments do not represent a consensus of Consultation participants on an issue.

IFC invited participants from private sector and civil society organizations, governments and international organizations to attend in their personal capacities. To encourage candid and open discussion, consultation participants agreed that neither the Consultation summaries nor this Report would not attribute comments made at the Consultations to individuals.

This Report was produced by the CBI facilitation team, using its professional judgment to summarize key issues discussed at the Consultations. All remaining errors or omissions are the sole responsibility of CBI.

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Executive Summary

The four IFC Regional Consultations on the Safeguard Policies Update and the Disclosure Policy Review addressed the following topics:

- The Policy Review Process
- The Social and Environmental Sustainability Policy
- Performance Standards 1 and 9: Social and Environmental Assessment and Management
- Socially-oriented Performance Standards
- Environment-oriented Performance Standards
- The Disclosure Policy Framework

Following are key questions and comments raised by participants on each topic. Participant comments are generally presented as suggestions to IFC (e.g. “provide additional guidance on who is qualified to conduct assessments”). Unless otherwise stated, no comment had the explicit support of all participants. Where there was clear divergence of views among participants, multiple viewpoints are noted.

THE POLICY REVIEW PROCESS

Core principles: Some participants thought IFC should clarify the core principles and goals guiding the review process, and the relative priority among improving compliance with social and environmental safeguards, promoting corporate social responsibility, and supporting sustainable economic development through the private sector.

Consultation Process: Some participants questioned the process for selecting consultation participants, the diversity of representation, and the amount of time available for the consultation process. Others thought that IFC had handled the selection process appropriately, and had achieved a good balance among different kinds of stakeholders.

THE SOCIAL AND ENVIRONMENTAL SUSTAINABILITY POLICY

Mandatory vs. discretionary guidance: Some participants felt that the Policy should have more explicitly mandatory elements, to minimize the risk of slippage between principles and their implementation. Others thought that a principles-driven approach, giving IFC staff and clients some discretion to interpret the Policy and Performance Standards, was appropriate. A number of participants suggested the need for a more explicit process to resolve conflicts among IFC, clients, affected communities and third parties.

Clarity and level of detail: Most participants thought the Policy and Performance Standards address the right topics, and generally provide good guidance to clients, but could benefit from greater clarity and specificity in a number of areas. There was a range of views on whether greater detail would be most useful in the Policy, in individual Performance Standards, or in the Guidance Notes.¹

¹ IFC staff distributed working drafts of “Interpretation Notes” for Performance Standards 1 and 9 at each of the regional consultations. Subsequently, IFC changed the title of these documents to “Guidance Notes,” and distributed draft Guidance Notes for the other seven Performance Standards (PS 2-8).

Implementation issues. Participants made the following suggestions:

- Ensuring and enforcing compliance: further clarify IFC, client, government and contractor responsibilities.
- Building client interest in and capacity to meet the Performance Standards: IFC will need to make the business case for the Policy to its clients, and provide technical assistance and ongoing implementation support to clients where necessary.
- Building IFC's own capacity IFC may need to review its staffing and its incentives for environmental and social staff as well as investment officers to implement the new Policy.
- Impact of the Policy on community participation: Some participants felt that the Policy does not go far enough toward increasing community participation in IFC project decision making. Others felt that the Policy may give too much weight to community consultation, adding time and cost to project development.
- Harmonizing with international standards: A number of participants urged IFC to require clients to meet relevant international standards in areas such as child labor, indigenous people's rights, and environmental protection. Others argued that only international standards enacted into law in the relevant country(ies) for an IFC investment should be requirements.

PARTICIPANT COMMENTS ON THE PERFORMANCE STANDARDS

Comments on the draft Performance Standards are summarized below. Performance Standards 1 and 9 (Social and Environmental Assessment and Management) were discussed together because they form the procedural framework within which IFC expects clients to meet the substantive social and environmental requirements of Performance Standards 2-8. Performance Standards 2, 5, 7 and 8 were discussed together because they cover predominantly social issues (labor; involuntary resettlement, indigenous and natural resource-dependent communities; and cultural heritage). Performance Standards 3, 4 and 6 were discussed together because they cover predominantly environmental issues (pollution prevention and control; community health and safety; biodiversity and natural resources).

SOCIAL AND ENVIRONMENTAL ASSESSMENT AND MANAGEMENT

Performance Standard 1: Social and Environmental Assessment

Participants made the following comments and suggestions:

Provide more guidance on conducting assessments, specifically on who is qualified to conduct assessments, when assessment should begin, when and how alternatives and risks should be considered, how to assess cumulative and positive impacts, and how to draft Action Plans.

Clarify key terms, including “significant impacts,” “area of influence,” “third parties” and other terms and concepts which are central to defining the scope of assessments.

Provide more guidance on community involvement, specifically on when and how communities should be involved in assessment, and specifically what process steps clients need to take to ensure “free, prior, informed consultation” (FPIC).

Performance Standard 9: Social and Environmental Management Systems

Participants made the following comments and suggestions:

Clarify requirements: specify core management systems, procedures and steps in more detail; provide more cross-references to management requirements in Performance Standards 2-8; clarify what to do when communities are divided on a management issue; and clarify the limits of client responsibility for the actions of third parties (e.g. contractors, government agencies).

Suggest/require additional actions: Some participants suggested that IFC require clients to create a “community plan” as part of their management plans; report periodically to stakeholders on key project issues, and/or report periodically to IFC on how they are meeting stakeholder involvement requirements. It was also suggested that the PS state more explicitly the role of labor in social and environmental management, and that it more strongly encourage or require early development and implementation of management systems.

Build client and stakeholder management capacity: IFC should provide examples of best practice in management systems, and help clients, government agencies and community leaders involved in management build their capacity to jointly manage social and environmental issues.

Ensure client compliance: IFC should clarify its own role in monitoring and enforcing client compliance with management requirements. Some participants thought that IFC should require and fund independent monitoring; others thought that clients and other stakeholders could jointly monitor impacts and decide what to do if there were compliance problems.

SOCIALLY-ORIENTED PERFORMANCE STANDARDS

Performance Standard 2: Labor and Working Conditions

Participants made the following comments and suggestions:

Sources of Standards on Labor and Working Conditions. Some participants strongly felt that PS2 should be explicitly linked to the International Labor Organization (ILO) core labor standards. Others felt that this may not be feasible since some countries have not signed on to the ILO standards. Most agreed that PS2 should clearly link to all applicable national laws and regulations.

Clarity on Labor Retrenchment. Provide greater clarity on what types of retrenchment situations this Standard would apply to. Explicitly link PS2 to national laws, encourage or require advance planning and disclosure of large-scale retrenchment decisions, and highlight the objective of minimizing the adverse impacts of retrenchment.

Third Party Contractors and Contract Labor. Provide clearer guidelines on the extent and limits of client responsibility. There were also suggestions for setting higher standards for contractors because contractors’ poor labor practices can be a source of high reputational risk for IFC clients, and by implication for IFC.

Implementation. Provide more guidance on monitoring systems and grievance mechanisms. Some felt that labor should have grievance access beyond the client itself, possibly to national mechanisms or the IFC. Many participants felt that audits can play an important role in promoting good performance; others were skeptical of their value. There was a range of views on internal versus independent auditing. Many participants thought that disclosure of audit information is important whether the audit is internal or independent.

Performance Standard 5: Land Acquisition and Resettlement

Participants made the following comments and suggestions:

Whether, when and how to use the resettlement option. There was a general consensus that to the extent possible, resettlement *should* be avoided. Where absolutely necessary, the community should be given a menu of options to choose from. Many felt that the preparation of a good Resettlement Action Plan and the provision of clear grievance and redressal mechanisms is critical. Many felt that the process of engagement with communities on resettlement should begin as early as reasonably possible.

Compensation. Participants felt that the decision to provide direct cash compensation is extremely situation specific. They suggested that multiple types of compensation should be considered including cash, kind, land, skills, insurance for longer-term post-project damages, etc., and there should be a transparent mechanism for disbursement, ideally monitored independently. It was suggested that compensation for non-monetary losses should also be considered and the rights of vulnerable title-less communities preserved.

Client responsibilities when government carries out resettlement. There was general agreement that lack of resettlement implementation, even when it is legally the government's responsibility, can have significant risks for the client and IFC. Participants highlighted the need to identify the different land acquisition responsibilities of various parties, including the responsibilities of the government. It was suggested that when thinking about the role of the government one should pay particular attention to the role of municipal and local government, which can be critical to effective implementation.

Performance Standard 7: Indigenous Peoples and Natural Resource Dependent Communities

Participants made the following comments and suggestions:

Definitional and Identity Concerns. There was unease with the term 'Natural Resource Dependent Communities' (NRDCs) and the suggestion that it be changed. Many participants felt that 'vulnerability' may be more appropriate than "dependence." It was also pointed out that there is a wide variety of indigenous peoples in different parts of the world and the issues related to them would differ greatly by region of the world.

'Free, Prior, Informed Consultation' (FPIC) and Broad Community Support. There was general support for the language of 'Free, Prior, Informed Consultation' and 'broad community support'. There was a call to define precisely what was meant by these concepts. A number of participants wanted clear guidance on how 'broad' community support is supposed to be. Participants highlighted the importance of continuous community consultation by appropriately trained people, and stakeholder mapping.

Performance Standard 8: Cultural Heritage

Participants made the following comments and suggestions:

Definition of Cultural Heritage. There was a general consensus that culture should be defined broadly and include 'Living Culture'. Assessment of cultural heritage should be required with

input from appropriate experts. International and national laws and standards to preserve cultural identity should be incorporated into the Performance Standard.

Project-related intellectual property. Many participants sought greater clarity on project use of culture-related intellectual property. There is a need to clarify how clients and others would ‘share’ the benefits of cultural heritage. Some participants argued that in cases where the cultural heritage in question is truly ‘irreplaceable’ the Standard should specify that no harm at all should be done.

ENVIRONMENT-ORIENTED PERFORMANCE STANDARDS

Performance Standard 3: Pollution Prevention and Abatement

Participants made the following comments and suggestions:

Assume a stronger role in motivating and demonstrating improvement of client pollution control, by providing incentives for client performance, and by educating both clients and government regulators about technology choices and their real environmental impacts.

Use more proactive wording to promote best practice in sustainable development, including language on reuse of waste and on efficient, responsible and rational use of natural resources.

Apply the “best available technology” standard in the developing country context on project-by-project basis: by requiring the client to evaluate the ambient conditions and risks; assuming best of the best technology as starting point; laying out clear guidelines for how clients can make improvements; clarifying what client procedures and actions are required; putting more attention on dialogue, training, and assessment; and developing higher technology standards.

Clarify how IFC, clients and others allocate costs of reducing ambient pollution, and how far IFC expects its clients to go in the absence of a clearly defined procedure. Participants recommend clear cross-referencing with other World Bank policies; accounting for ambient conditions within the baseline assessment; establishing a clear relationship between ambient standards and both international and national requirements; and building sector and regional cooperation and coordination.

Provide more guidance on specific issues, such as client responsibility for water management; accounting for carbon dioxide emissions; prohibited chemicals; defining integrated pest management (IPM); establishing gradual compliance measures and clear Guidance Notes for small to medium enterprises (SMEs); and odor pollution.

Performance Standard 4: Community Health and Safety

Participants made the following comments and suggestions:

Revise objective 1: the current language implies that the client must step in where government is deficient to “protect and promote the health and safety of the public.” It was suggested that the objective should more clearly define the client’s responsibility to minimize project health and safety risks and impacts/

Clarify that the standard applies to IFC financed projects and their area of influence: Some participants suggested expanding PS 4 to encompass project products and their impact – particularly with hazardous chemicals.

Address client responsibility for public health issues case-by-case, depending on assessment within each industry sector and the degree of project activity outside the immediate project area.

Highlight the need for clients to address several key issues: prevention of traffic and materials transport accidents; effect of supply chains and contractor impact; impact of migrant workers on the ability to maintain community health and safety standards; resettlement impact and labor issues that add to project risk.

Provide more guidance on key issues, such as the relationship and responsibility between the client and government for addressing public health and safety issues resulting from project impact; public health and safety criteria for IFC investment in biotechnology projects; and project induced crime issues, such as prostitution and sexual harassment.

Do not address the use of security forces in PS4. Many participants considered this a sensitive human rights issue that is outside the scope of the Performance Standards and has already been addressed in international human rights conventions. Instead, they suggested IFC emphasize community engagement, and development of good community relations.

Regarding disclosure of security threats, participants recommend clarifying the role of public sector (both local and national) in helping to share and distribute security information; focusing on threats to employees and the public at large; requiring that that labeling and instructions for dangerous materials be harmonized globally, with culturally appropriate wording to maximize public understanding; and including a generic list of project structures that can have negative community health effects.

Performance Standard 6: Conservation of Biodiversity and Sustainable Natural Resource Management

Participants made the following comments and suggestions:

Clarify the objectives and then derive specific requirements for biodiversity conservation. Many participants felt that the first objective of the draft Standard (“to protect and conserve biodiversity”) cannot be achieved in all cases. Instead, they suggest changing the objective to “minimize the impact on biodiversity.”

Update the overall terminology of PS 6 and the policy framework. IFC was asked to rethink the criteria for evaluating conversion and use of natural habitat. Participants recommended dividing the issues of biodiversity and sustainable natural resource management into separate Performance Standards; defining high value areas; noting that biodiversity value includes the positive value of ecosystem services; and clarifying the definition of critical habitat.

Clarify that there are no-go project activities but not necessarily geographically defined “no go areas.” Participants recommended making clear the concept of “no go areas” to be considered for *locality bound projects* (where the location is determined by immovable considerations) versus *non-locality bound projects* (where there is some choice in the project location); greater attention on the role and value of monitoring and feedback; focusing on non-renewable resources (e.g. mining closure and post-closure); clarifying what is meant by “significant biodiversity”; and

making sure that biological/conservation values are defined in accordance with internationally recognized standards and criteria (e.g. UNESCO).

Focus on biodiversity as the correct entry point for protecting natural ecosystems and fragile environments, and differentiate biodiversity from natural habitat. Participants also recommended addressing the distinction between global and local interests in biodiversity; better articulating why forest protection is singled out; articulating principles to guide company behavior in meeting the Standard; and clarifying what constitutes “significant conversion.”

PARTICIPANT COMMENTS ON THE DISCLOSURE POLICY

Participant discussion of the draft Disclosure Policy Framework focused on IFC’s Disclosure Principles and on investment-level disclosure policy issues, including disclosure of government contracts and disclosure policy for financial intermediaries.

DISCLOSURE PRINCIPLES

Participants made the following comments and suggestions:

IFC’s disclosure mandate as a public institution investing in the private sector: Some participants said that as a public institution with a development mandate, IFC should have a strong presumption in favor of disclosure. They argued that full disclosure would promote IFC accountability for its own operations and ensure that its private sector clients are operating in harmony with broader public values and goals. Others said that IFC should balance its commitment to disclosure with an appreciation of private sector disclosure practices and norms. In their view, IFC could undermine its ability to contribute to development if its disclosure requirements were so stringent that they posed competitive risks to companies.

Harmonizing IFC requirements with government disclosure laws/regulations: IFC should clarify whether and how it will harmonize its disclosure requirements with those of governments in countries where it invests. Some participants thought that IFC should require clients to meet its disclosure requirements even if they are more stringent than relevant national laws or regulations. Others thought that IFC should ask clients to disclose no more than required by national laws and regulation.

INVESTMENT-LEVEL DISCLOSURE

Participants made the following comments and suggestions:

Criteria for disclosure of sensitive information: There was general agreement that IFC needs to consider two criteria when deciding what information a client should disclose, and when to disclose it: a) the public’s need/right to know, and b) the potential risk to the client’s competitive position and the viability of the investment. However, there was not agreement on what IFC or the client should do when there is both a potentially significant negative impact, and a significant risk to the client/investment from disclosing that potential impact.

Community access to adequate, timely information: IFC should ensure that clients disclose information to communities in a locally accessible and understandable language and format, through media that potentially affected people regularly use; and through intermediaries/messengers who are credible to communities and other stakeholders.

Content to be disclosed and timing of disclosure: A number of participants thought that clients should disclose their rationale for rejecting alternatives to projects with potentially significant impacts, and their draft Action Plans, at an early stage. Some also suggested that IFC should disclose its rationale for project classification, especially for projects classified as having minimal impacts. This information should be disclosed as early as possible, in order to give potentially affected stakeholders an opportunity to raise questions and provide additional information about alternatives, potential impacts, and management strategies.

Disclosing actual development impact: Some participants thought that IFC should disclose not only the projected development impact of each investment, but also the actual development impact of each investment, in order to provide full information to affected stakeholders. Others thought that disclosure of actual development impact would not be appropriate or feasible in most cases, because it would require disclosure of financial results. That financial disclosure could have potential negative impacts on the client's competitive position. A middle ground was suggested: require as much disclosure as possible of development impact, along with social and environmental impact, without requiring disclosure of information that could harm the client's competitive position.

Building client commitment to and capacity for disclosure: To maximize clients' commitment to disclosure and their capacity to disclose information appropriately, IFC should provide clients with disclosure guidelines and examples, and technical assistance where necessary. IFC should also harmonize its standards with government laws and regulations to minimize duplication of reporting requirements.

Ensuring client accountability for following the Disclosure Policy: Several tools were suggested for ensuring client accountability: IFC could covenant disclosure requirements in investment agreements; require or provide for independent monitoring of client disclosures; and/or ensure that communities and other stakeholders are aware of their option to contact the relevant IFC investment officer and/or the IFC Compliance Advisor/Ombudsman if they are not satisfied with the client's disclosure.

Disclosure of government contracts: Participants generally supported the proposed requirement for extractive industry clients to disclose revenue-sharing terms, and for clients operating utilities with retail customers to disclose pricing terms of their government contracts. Some participants thought that IFC should extend government contract disclosure requirements to a broader range of contracts, e.g. licenses for use of land and other renewable natural resources, and contracts for procurement of goods and services. Their argument was that fuller disclosure would contribute to a greater level of transparency and reduce the risk of corruption in public-private partnerships.

Disclosure for financial intermediaries (FIs): Some participants thought that IFC should require FIs to track and disclose some aspects of the development performance of their portfolios. IFC could also require or encourage FI clients to disclose governance and risk management practices, e.g. procedures for addressing conflicts of interest among officers; percentage of non-performing assets, and involvement in projects with significant social and/or environmental impacts that could create financial liabilities.

I. OVERVIEW OF THE POLICY REVIEW PROCESS

At each of the four regional consultations, IFC staff stated several reasons for updating IFC's current Safeguards Policies and Disclosure Policy:

- responding to the evolving role of the private sector in the development process;
- increasing global understanding of the ways that business can achieve the “triple bottom line” of profitability, social responsibility and environmental sustainability;
- responding to internal reviews of IFC's current policies that suggested areas for improvement.

IFC staff also stated IFC's two main goals for the consultation process:

- 1) To present and discuss the Policy and Performance Standards and the principles and framework for a Disclosure Policy with IFC stakeholders;
- 2) To provide stakeholders with an opportunity to review, discuss, and suggest improvements, in order to
 - ensure high standards of environmental and social performance and transparency by IFC and its clients;
 - ensure that IFC policies can be implemented by IFC and its clients within reasonable time and cost.

Participant comments on the Policy Update/Review process:

IFC Guiding Principles

Some participants asked whether IFC was primarily committed to promoting economic development, social and environmental safeguards for investment, or corporate social responsibility. They felt that there is some ambiguity on this point in IFC presentations and discussions of the Policy Update/Review, and encouraged IFC to further clarify its basic stance.

Process timeline

Some participants raised concern about the length of time IFC was allowing for the consultation process. They felt that the process was happening too quickly over too short a time. They pointed out that consultation documents were not always ready well in advance of consultations, especially translations of those documents into languages other than English. They also noted that Guidance Notes for most of the Performance Standards were not yet available, and that this could limit the usefulness of their input. Finally, some participants felt that the timeline was so rushed that it limited opportunities for broad and deep consultation with a wide range of stakeholders. A number of participants had a different perspective. They felt that the timeline left enough time to review documents and to engage a diverse group of participants.

Selection of consultation participants

Several participants raised a concern that IFC's decision to select and invite participants limited the diversity of participants, and undermined the representation of civil society networks which would have preferred to choose their own representatives. Others felt that it was appropriate for IFC to select participants to help it improve the draft Policies, and IFC had achieved appropriate balance and diversity of participants at the regional consultation in which they participated.

II. DRAFT SOCIAL AND ENVIRONMENTAL SUSTAINABILITY POLICY AND DRAFT DISCLOSURE POLICY FRAMEWORK

At each Consultation, IFC staff presented an overview of reasons for updating the current IFC Safeguard Policies and Disclosure Policy, and an overview of the draft Social and Environmental Sustainability Policy and the Disclosure Policy Framework.

SAFEGUARD POLICIES UPDATE

IFC staff noted three reasons driving IFC's decision to update the current Safeguard Policies, which were adopted by IFC in 1998:

- Keeping IFC at the forefront of evolving best practices in corporate social responsibility;
- Providing clearer, more complete and more consistent policies for commercial banks that have adopted the Equator Principles (which commit them to adopt and implement IFC Safeguards in their own investments);
- Responding to internal and external reviews of the current Safeguard Policies that have identified areas for improvement (specifically the IFC Compliance Advisor/Ombudsman Review of IFC's Safeguard Policies, and the World Bank Extractive Industries Review).

Relative to the current Policies, the new SES Policy is intended to

- Improve project social and environmental performance, and IFC overall performance, through more effective oversight of the social and environmental aspects of projects and operations, and leadership in development finance for the private sector.
- Specify IFC and client responsibilities, and clarify that the client is responsible for meeting the Performance Standards;
- Create environmental and social safeguards better tailored to the private sector context, and harmonized with the World Bank Group's (WBG) policies and standards on the same issues.

PARTICIPANT COMMENTS

Who will ensure and enforce compliance with the Policy and Standards?

A number of participants were **pleased to see greater focus on achieving social and environmental outcomes** and less focus on procedural steps in the draft Performance Standards. Most thought that the **Policy and Standards address the right issues, and generally give good guidance on those issues**. However, many were concerned that the Policy and Standards are written in such **general and vague language** that it may be difficult for IFC to assess and enforce compliance. Others felt that the **new approach gives too much responsibility to the client**, essentially asking for self-enforcement. Another concern was that the policy and standards frequently reference compliance with national laws and regulations, but these **laws and regulations, and the agencies that are supposed to enforce them, are frequently weak**. A related concern was that the language is in some cases ambiguous on whether IFC and/or the client is responsible for the **performance of third parties**, including government agencies, contractors and other lenders.

How will IFC support clients and help build their capacity to meet the Performance Standards? How will IFC build its own capacity?

One concern was the potential **additional costs of compliance** with the Policy and Standards, which could be prohibitively high for small and medium enterprises. Another was the **need to convince clients that there is a good business case** for making the financial and organizational investments necessary to meet the Performance Standards. A related concern was whether and how **IFC will change internal incentives and monitoring systems to ensure that its own staff are committed** to and accountable for implementing the Policy and Performance Standards in their projects.

Will the new Policy and Performance Standards significantly increase the participation and influence of communities in IFC projects?

Some participants saw the language in the Policy and Performance Standards as a **helpful way to require clients to consult actively** with potentially affected communities throughout the project cycle, without giving too much procedural detail on how to do so. Others felt that the **language on community consultation is still too vague**, and may allow clients to ignore community input. Others were concerned that the **language may be too strong**, implying in some cases that community concern could stop a project from going forward despite the projects' compliance with all applicable laws and standards.

How well are the new Policy and Performance Standards harmonized with other relevant international and national standards?

Some participants felt that IFC should have essentially the **same policies and standards as the rest of the World Bank Group**, regardless of the distinction between IFC's private sector focus and the primarily public sector focus of other parts of the World Bank. Others urged more IFC to be more explicit in **requiring compliance with international standards** in areas such as labor rights and indigenous peoples.

DISCLOSURE POLICY REVIEW

IFC staff presented an overview of the Disclosure Policy Review at each Consultation. IFC noted that the current IFC Disclosure Policy developed in 1998 raises several concerns:

- The current Policy is primarily focused on the timetable for IFC's internal review and decision making, particularly Board discussion. It does not take account of the need for disclosure early in the client's own development of the project.
- It does not require any ongoing public disclosure during project implementation.
- It does not consistently promote consultation with key stakeholders either in project preparation or project implementation.
- It also does not set forth clear guidance for determining what constitutes confidential business information.

IFC stated that the new Disclosure Policy should meet several objectives:

- promote disclosure and transparency as a core value of IFC and as a preferred business principle for its clients;
- reduce risk, improve development impact and promote accountability and efficiency for IFC and its investments;
- make it easier for IFC and external stakeholders to assess the development impact of IFC-supported projects;
- ensure that project-affected communities have access to information in a timely fashion, in a way that is meaningful and useful to them, and in a way that facilitates dialogue among clients, affected communities and other stakeholders;
- ensure that there is a clear rationale for maintaining the confidentiality of sensitive business information;
- position IFC as a market leader that employs best practice.

At the Rio and Manila consultations, IFC staff noted that IFC was consulting on a Concept Paper meant to lay out general disclosure principles. At the Nairobi and Istanbul consultations, IFC noted that it was consulting on a draft Framework, including “principles” of disclosure as well as guidelines for investment-level disclosure and IFC institutional disclosure.

PARTICIPANT COMMENTS

Clarity of disclosure requirements

As with the Performance Standards, there was a range of views on whether the disclosure requirements were clear and specific enough to ensure that IFC and clients could be held accountable for meeting them. One issue was the **timing of disclosure at the project level**. Some participants felt that “encouraging” disclosure to begin “early” in the project development phase was too vague to be enforceable. Another issue was the **definition of confidential business information**; a number of participants felt that the criteria for determining whether business information need to remain confidential need to be much more clearly laid out in the Disclosure Policy.

Balancing community/stakeholder rights/needs to know with client’s rights/needs to keep some information confidential

A number of participants said that the Disclosure Policy should be more explicit about how to balance the competing priorities of a) informing communities early and fully about proposed projects, and b) maintaining the client’s competitive position by limiting disclosure of information that could help competitors. There was a range of views on how to strike this balance (the issue is discussed further below in the section on the Disclosure Policy Review).

Project-specific versus company-wide disclosure

Some participants questioned how much information clients would be expected to disclose about their company-wide environmental and social performance, as opposed to project-specific disclosures. A related question is how much and what kind of information IFC should require from companies in which it is making general corporate investments, as opposed to project

finance. IFC will need to develop disclosure policies that are specific to these kinds of investments, particularly investments in financial intermediaries.

Ensuring adequate disclosure

Some participants felt that IFC needs to create independent monitoring and reporting mechanisms for its investments, rather than relying on the client to disclose. NGOs were suggested as one set of possible monitors. It was also suggested that IFC inform potentially affected communities and other stakeholders about their rights to information about IFC projects independent of the client, and provide an IFC point of contact for community members who want to go to IFC with a grievance about disclosure and/or with information to disclose.

III. PERFORMANCE STANDARDS 1 AND 9: SOCIAL AND ENVIRONMENTAL ASSESSMENT AND MANAGEMENT SYSTEMS

At each of the Consultations, IFC staff explained that Performance Standards (PS) 1 and 9 are procedural standards that “bookend” the substantive standards (Performance Standards 2 to 8). Together, the two standards aim to clarify and give guidance on:

- Clients’ responsibility for assessing, managing and reporting on project impacts
- IFC’s responsibility to review the client’s assessment, Action Plan, and on-going implementation of the management system

PERFORMANCE STANDARD 1: SOCIAL AND ENVIRONMENTAL ASSESSMENT

IFC staff stated that the objective and rationale of PS1 is to: 1) identify social and environmental impacts and risks as early as possible in project design; and 2) provide a decision-making tool to help determine whether to proceed with the project, minimize risks and adverse impacts, and enhance opportunities for projects to provide social and environmental benefits.

PARTICIPANT COMMENTS

Participant discussion of the PS focused on three issues:

1. Clarity of key terms
2. Guidance on how to conduct the assessment
3. The role of community consultation in influencing project design and decisions on whether to proceed with the project

A number of participants encouraged IFC to address these issues in the text of the Standard itself; others thought that it would be acceptable to offer further definition and clarification in the Guidance Notes for the Standard.

Clarity of key terms

There was broad agreement among participants that the language of the Standard is not sufficiently clear. The following were mentioned repeatedly as terms and concepts that need clarification:

- **Qualitative descriptions of impact**, e.g. “significant adverse” impacts; “impacts and risks that are diverse, irreversible or unprecedented”: are there measurable criteria or indicators that can be used to define these terms?
- **Categorization of impacts by significance**: though the standard does give guidance to distinguish “significant” from “limited” adverse impacts, many participants felt that more guidance would be helpful, especially since these categories have a significant influence on the level of effort the client is expected to make to conduct the assessment
- **Area of influence** of the project: how should it be defined?
- **Third party activities and capacity**: which third parties and activities should be considered, e.g. contractors and subcontractors, local and national government agencies that may influence the project?

- **Use of the assessment for decision making:** the Standard should make it explicit how IFC will use the results of the client’s assessment in making a decision on whether or not to invest in the proposed project, including specificity on who at IFC will make the decision, and how community engagement will influence project decisions, including IFC’s decision on whether to invest.

Guidance on how to conduct the assessment

Many participants encouraged IFC to provide more guidance to clients on how to conduct assessments. Several issues were mentioned frequently:

- **Define what good assessment is and the steps involved doing it.** The Standard should lay out process guidelines. These could include language highlighting the need for integrated assessment or multi-system analysis so that tradeoffs can be incorporated in the assessment. This “quality control” guidance should clarify when data is not sufficient, not of good quality, or not available and when to use qualitative assessments versus quantitative assessments.
- **Set out some criteria for determining what qualifies an individual or organization to conduct a social or environmental assessment.** A number of participants were concerned that by removing the requirement for independent expert assessors, IFC may be opening the door to assessment by people who do not have professional expertise in this area.
- **Define the type of risks to be assessed.** Some participants felt that the standard needs to give more guidance on how extensive the assessment should be. For example, does risk include risks involved in not doing the project? Risks to clients in doing the project? Only direct risks or also its indirect risks?
- **Clarify how cumulative impacts should be assessed.**
- **Assess positive impacts/benefits along with risks/negative impacts.** Many participants stressed that the assessment process can substantially improve project design if it focuses explicitly on how to generate and increase the social and environmental benefits from the project, not only reduce risk/impact.
- **Make assessment of alternatives mandatory:** A number of participants appreciated the guidance to assess alternatives for projects with significant adverse impacts. Some also felt strongly that the assessment of alternatives should be mandatory for projects with limited impacts.
- **Make it a requirement to consider relevant international standards.** (See the discussion of environmentally- and socially-oriented Performance Standards for more issue-specific discussion on this point.)
- **Include a reference to IFC’s exclusion list,** and ask clients to confirm through the assessment that the investment will not support any excluded activities.
- **Include assessment of development impact.** The Standard does not specifically require assessment of development impact. A number of participants argued that IFC should require the client to assess development impact and specify how it should be assessed. Other participants agreed that it is appropriate to assess development impact, but argued that development impact is primarily IFC’s concern, not the client’s, and that IFC should take primary responsibility for that assessment. (See also the discussion of development impact in the section on the Disclosure Policy.)

- **Clarify when the assessment should be done if the goal is to complete it ‘as early as possible.’** It was noted that the timing will nearly always be debatable, and that in some cases clients may feel it advantageous to delay the assessment in order to protect sensitive business information. Some participants felt that IFC should lay out some explicit deadlines for beginning the assessment.
- **Include stakeholder mapping and analysis as part of the assessment process and as an ongoing part of the management system.** A number of participants pointed out that consultation with communities and other stakeholders is critical to effective assessment, and urged that the Standard require stakeholder mapping as an integral and early part of any assessment.
- **Give more guidance on how to develop an Action Plan,** and clarify whether and how the Action Plan differs from the Management Plan.

Community engagement and influence on project design and decisions on whether to proceed

There was substantial discussion at every consultation on the need for greater clarity about community engagement, consultation and influence on project design, decision making and ongoing management. (Other aspects of this discussion are summarized below in the section on Cross-cutting Issues.)

- **Give more explicit guidance on how the client should engage and respond to potentially affected communities and other stakeholders during the assessment process.** Community engagement and influence in the project design and decision-making stage is not described in enough detail. Participants emphasized that community involvement can lead to significant improvements in project design, including the provision of critical information about social and environmental issues, mitigation of potential negative impacts and development of positive impacts. **Some participants urged a more explicit definition of “free, prior, informed consultation,”** including community rights with regard to project decision making. **Others felt that the current language gave appropriate latitude to IFC and the client to develop appropriate community engagement processes on a case-by-case basis.**

PERFORMANCE STANDARD 9: SOCIAL AND ENVIRONMENTAL MANAGEMENT SYSTEMS

IFC staff stated that the objective of PS9 is to promote the client’s sound management of social and environmental risks and opportunities through the creation and implementation of an ongoing social and environmental management system. Specifically, PS9

- Draws on the performance management and project implementation elements of the existing Environmental Assessment policy
- Creates a requirement for ongoing, continuous management of Social and Environmental performance, including a requirement to address changes in project circumstances
- Specifies required components of a social and environmental management system appropriate to the size and nature of project activities.

PARTICIPANT COMMENTS

Participant discussion of PS9 focused on four issues:

1. Clarity of management requirements
2. Additional strategies and requirements that could enhance management
3. Building the capacity of clients and other stakeholders to implement management systems
4. Ensuring client compliance with management requirements

Clarity of management requirements

In general, participants supported the stated objectives and requirements for environmental and social management systems. However, a number of participants expressed concern that the requirements are stated in such general terms that they provide limited guidance to clients, and do not establish a clear Performance Standard to which IFC and other stakeholders can hold the client accountable. Participants suggested a number of clarifications:

- **The Action Plan should specify client management and organization changes required** to implement Action Plans, as well as existing systems and procedures that will be used to implement the plan
- **Include a more detailed list of management requirements in PS9, with further explanation of each**, for example 1) project management; 2) risk management; 3) training and awareness; 4) corporate social responsibility; 5) sustainable development; 6) contractor management; 7) documentation and communication - internal and external; 8) change of management; 9) continuous improvement (i.e. management review, best practice, auditing); 10) Environmental Management Information System.
- **Create a cross-referencing system between standards** to make it clearer how an individual client's management system should meet overarching social and environmental policy goals (Social and Environmental Policy), respond to issues identified in the assessment (PS1), and respond to key issues (PS 2-8).
- **Clarify the client's responsibility for emergency response planning.**
- **Clarify IFC and client responsibility for ensuring that contractors implement management plans.**
- **Clarify how clients should respond during project implementation when communities don't speak with one voice.**

Additional strategies and requirements that could enhance management

- **Put more emphasis on implementing the management system as early as possible**, ideally at very beginning of the project, with a focus on vulnerable areas.
- **Require reporting on an ongoing basis about stakeholder engagement** as well as substantive issues.
- **Require/encourage continuous improvement** linked to best practices, with flexible timelines. Private sector participants with experience implementing management systems encouraged IFC to be explicit about moving clients toward best practices, using a combination of capacity building and periodic reporting to facilitate organizational learning.

- **Explicitly require periodic reporting on the Action Plan and its implementation to local stakeholders**, including governmental regulators, affected communities and others. It was suggested that projects with more significant impacts and mitigation measures report more frequently to local stakeholders and IFC.
- **When there is need to address labor issues, give workers an explicit role in management plan implementation.**
- **Require a formal social, health and safety system** as part of management system, and enforce environmental auditing.
- **Require a communication plan**, specifying how the client will document community concerns, and specifying forums and mechanisms for two-way communication with stakeholders. IFC could specifically encourage the client to use the mass media to generate greater project awareness, and to promote a broader and deeper consultation process.

Building client and stakeholder capacity to implement management systems

A number of participants made the general point that effective management is highly dependent on the level of client capacity, which is itself dependent on the **client's commitment to internal skill building** (including leadership, adequate budgeting, and adequate time to create an appropriate system). Another general point was that **training for other stakeholders** will often be necessary to enable them to participate effectively in monitoring and reporting processes. Specific suggestions included:

- **Clients need to make early and sufficient commitments of staff and budget upfront to support social and environmental planning and implementation.** In many cases, client capacity building for social and environmental management will need to go well beyond the client's current capacity, which is likely to be strongest in financial and operational management.
- **IFC should provide clients with examples of successful Management Systems**, perhaps in the PS9 Guidance Notes.
- **In many cases, management systems will require the creation of multi-disciplinary teams.** These teams need to be created early enough to participate in Action Plan design, and maintained during implementation.
- **Encourage clients to work in partnership with others to build the capacity of communities and governments to participate in management.** One proven mechanism is the use of steering committees to connect affected stakeholders directly with the management process.
- **Explicit contracting with government and affected communities** can help build relationships necessary for both effective long term management.
- **IFC and the client should ensure that Action Plan language can be interpreted by the client, affected community, client employees, and third party stakeholders.**

Ensuring client compliance with management requirements

A wide range of participants commented that it is important to create mechanisms for IFC and other project stakeholders to hold clients accountable for meeting their social and environmental management commitments. There was general support for the ideas of regular monitoring and reporting set out in the Performance Standard. A number of participants urged IFC to go further

in defining accountability mechanisms. There was a range of views on how those mechanisms should work, including the following:

- **IFC should play a substantial a role it will play in project oversight.** Some participants advocated for IFC to play a major role in monitoring during project implementation. They **suggested that IFC create on the ground “validation systems,”** with unannounced random checks, and/or 3rd party certification of client performance.
- **The client should take responsibility for hiring independent monitoring groups.**
- **IFC should ensure that government regulatory bodies have the capacity and the information they need** to monitor client compliance with local laws and regulations. It was noted that in some cases, government regulators may have very limited capacity to oversee client activities. In these cases, participants suggested that IFC pursue both long term institutional strengthening (e.g. in partnership with World Bank public sector technical assistance) and alternative monitoring partners.
- **IFC should require clients to set up joint monitoring bodies** including other stakeholders, e.g. government agencies and affected communities.

A number of participants urged that whatever the monitoring and accountability mechanism, IFC should maintain **high standards for clients to meet social and environmental management commitments.** They said IFC should err on the side of caution and **suspend current funding (or deny future investments) to clients that do not meet their commitments.**

IV. SOCIALLY-ORIENTED PERFORMANCE STANDARDS

At each of the four regional consultations, one (of three) working groups discussed, in detail, the four Performance Standards (PS) that focus on predominantly social issues.

- **PS2 - Labor and Working Conditions**
- **PS5 - Land Acquisition and Resettlement**
- **PS7 - Indigenous Peoples and Natural Resource Dependent Communities**
- **PS 8 - Cultural Heritage**

PS 2 – LABOR AND WORKING CONDITIONS

IFC staff stated that the objectives and rationale of PS2 are to ensure sound management of worker relations and develop constructive relationships between clients and their workers; prevent unacceptable forms of labor; promote fair treatment of workers; and ensure a safe and healthy environment and promote worker health. Key policy points in the new Standard include:

- Restates principles of the current Forced Labor & Harmful Child Labor Policy
- Explicitly states that IFC will not invest in any project using involuntary or compulsory labor such as indentured or bonded labor
- Provides new provisions on key labor issues to protect workers, consistent with and respecting national law

PARTICIPANT COMMENTS

An overarching issue that came up during each of the four consultations concerned what the Source of Labor and Working Condition Standards should be.

- The discussions centered on whether national standards should be used as the yardstick by IFC or whether international standards, especially those from the International Labor Organization (ILO), should be the yardstick. It was often pointed out that national and international laws related to labor and working conditions may not always be complementary. There was broad consensus that as a general principle **all clients should, at a minimum, adhere to the national laws and regulations, including any international commitments already ratified by the country.** In all cases, the highest of the operable standards (including the national standards, the IFC Standards, and other international commitments ratified by the country) should guide client behavior.
- There was debate on whether to **explicitly link the proposed IFC Performance Standard to the ILO Core Labor Standards.** Some participants stressed that the ILO Core Standards should be mentioned directly and as the formal basis of PS2. Those stressing this view acknowledged that there are a few countries that have not yet ratified the ILO Standards but suggested that these cases are few and that even in these countries it is highly unlikely that IFC would ever invest in a project that did not meet the most basic ILO standards. Overall, there was support for IFC to work more closely with other international organizations, particularly ILO, in implementing PS2. However, there was

also a call to **recognize the limitations of IFC's leverage over its clients and not challenge national legislation.**

A second set of broad concerns that came up during all four consultations related to **Labor Retrenchment**:

- There was a general feeling that the text needs **clarity on what types of retrenchment situations this Performance Standard would apply to** (i.e., large scale retrenchments, for example in the process of privatization, or also to regular hiring and firing processes that are part of normal business operations). For example, some felt that clarification is needed in the text on the meaning of 'significant number' as the existing language is open to broad interpretation.
- It was suggested that PS 2 should **explicitly link to national laws regarding retrenchment**, which in some countries (e.g., South Africa) are fairly advanced. In all cases, clients should be required to meet the higher standard.
- There was general agreement that the Performance Standard and Guidance Notes should state more clearly the **client responsibility for advance planning and preparation for large-scale retrenchment**. This would include planning for anticipated retrenchment from the very beginning and creating capacity building programs to train the labor force for alternative livelihoods which could be pursued post-retrenchment or after the project's completion.
- Some participants called for an **explicit objective of minimizing the adverse impacts of retrenchment** when labor has to be laid off. It was pointed out that in many cases providing timely information to employees about their eventual retrenchment is as important as consultation. Other participants highlighted the need for retrenchment monitoring and a grievance mechanism for disputes related to retrenchment. It was also suggested that the Guidance Notes should clearly identify a role for employees and their representatives in the decision-making process related to large-scale retrenchment.

A third broad theme that attracted significant discussion at all regional consultations related to **Third Party Contractors and Contract Labor**.

- There was a call for IFC to provide **clearer guidelines to clients on dealing with their contractors, particularly the extent and limits of client responsibilities**. It was recognized that IFC's principal leverage was on its own client and this leverage diminishes significantly with contractors engaged by the clients. While some participants suggested that a client should not be held accountable for all actions of third party contractors, many participants called for **setting high standards for contractors** because contractors' poor labor practices can be a source of high reputational risk for IFC clients and, by implication for IFC. It was pointed out that workers working on a project tend to identify with the project (and with the fact that it is an IFC funded project) rather than with whether they are working directly for IFC, its client, or the client's sub-contractors. It was suggested that **concentric circles of responsibilities** should be incorporated into PS2, whereby on some critical issues (such as slave or child labor) the client should be responsible for the practices of its contractors, even if the client is not responsible for other less important contractor activities.
- There was a call for **definitional clarity** on a number of terms. Some participants felt that terms such as 'employee' or 'worker' can have somewhat different meanings in

different national contexts. Others sought more detail about distinctions between ‘direct’ and ‘indirect’ employees. It was suggested that employers could classify employees in one or the other category to bypass certain PS2 requirements unless these categories were unambiguously defined.

The fourth, and final, broad theme related to **Implementation**. (Some of these points also relate to the implementation of other Performance Standards).

- A key point on implementation that came up repeatedly was the need for the Performance Standard or the Guidance Notes to clearly identify a system of **monitoring and grievance mechanisms**. Some participants felt that in cases of labor-management dispute, labor should have grievance access beyond the client itself, possibly to national mechanisms or the IFC. A number of participants raised questions about how client compliance with this (and other Performance Standards) would be monitored, how the Action Plan specified in PS 1 would ensure monitoring, what type of penalties would be used for non-implementation, and the role of national and local government and of civil society in monitoring, including monitoring on compliance with relevant national laws.
- In relation to the **Role of Audits**, many participants felt that audits play an important role and that past auditing practices of the IFC have worked well. Participants felt that although internal audits are important, **independent outside verification** is also needed. It was suggested that the **disclosure of audit information** is important and that audit reports should be easily available to relevant public groups in appropriate and accessible formats. One idea was to create a three-step framework for auditing: (a) the client should create appropriate ongoing internal monitoring and reporting mechanisms; (b) this should be complemented by additional independent third-party monitoring and verification; and (c) an effective and transparent grievance mechanism should be available to ensure meaningful dispute resolution.

In addition to these four broad themes, a number of **other issues** were also raised.

- There was a general sense (not limited to this particular Performance Standard) during all four consultations that the text needed more **clarity and definition**. It was felt that the text would benefit from an explicit section on the definition of key terms and concepts. There was discussion on what might be the best approach to doing this. Some suggested that a Glossary or section on ‘definitions’. Others felt that the Guidance Notes should be used to elaborate the intent of the Standard and, where necessary, provide examples of best practice. Many felt that the inclusion of **cross-references** within and between various Performance Standards and the Disclosure Policy and a short ‘**users guide**’ would be beneficial. It was, however, generally agreed that the IFC should also remain wary to ‘over-definition’, which could have the effect of narrowing the scope of the Performance Standard.
- There was agreement that the inclusion of an objective to prevent **Unacceptable Forms of Labor** was commendable but significantly more clarity is required on the meaning of ‘unacceptable forms of labor.’ For example, it was suggested that the language of PS2 should be made much more precise on the issue of **child labor**. The question was raised whether the word ‘Harmful’ should be dropped as a prefix to the term ‘Child Labor’ because by doing so it was implied that some child labor is not harmful. It was proposed that the Performance Standard should specify that no form of child labor under 12 years

of age is to be allowed and to specify a higher minimum age for forms of labor that are more dangerous.

- It was suggested that PS2 should explicitly list specific grounds when **Discrimination** is not allowed, including race, sex, religion, political opinion, ethnicity and any other international standard ratified by the country.
- On **Collective Bargaining**, some participants suggested that PS2 should clearly push clients towards compliance with whatever international standards the country in question has already ratified. In some cases workers do not have sufficient information about their rights and employer responsibilities in terms of collective bargaining and suggested that clients should be encouraged to clearly and regularly inform workers about their rights in this regards. However, other participants suggested that clients should be principally responsible for following their national labor laws regarding collective bargaining.
- Some participants felt that PS2 should include language encouraging the **Employment of Local Labor**. The exceptions should only be where necessary skills are not available locally. Clients should be encouraged to enhance the local labor skill-base through **training and human resource development** (with a focus on career pathing, and training in alternative livelihoods).
- Finally, participants also raised some issues which are not covered in the current text but warrant attention. These included the need for an explicit discussion on the **role of gender** in labor; problems related to **procurement, contract standards and corruption**; client responsibility to **regularly inform workers of national laws and standards on occupational health and safety**, and to adhere to these national laws and standards; a need to link to related Performance Standards that deal with issues related to **HIV/AIDS and other community health challenges**; and identifying the **responsibility of other groups, including communities, labor, etc.** in implementing the Performance Standard.

PS 5 – LAND ACQUISITION AND RESETTLEMENT

IFC staff stated that the objectives and rationale for PS5 are to avoid or minimize involuntary resettlement and mitigate adverse impacts when they occur; to improve livelihoods and standards of living of those adversely affected by land acquisition and resettlement activities; and to involve displaced persons in the decision-making process of resettlement and help them to benefit from the project.

PARTICIPANT COMMENTS

In general, most participants felt comfortable with the language of PS5 and a number of people appreciated its contents and tone. However, a number of concerns and issues were identified, which are organized here around key themes:

A first broad theme related to **Whether, When and How to Use Resettlement Option**.

- There was a general consensus that **to the extent possible, resettlement *should* be avoided**. Some argued that PS 5 should explicitly state that involuntary resettlement is an option of the very last resort and that the most preferable option is to incorporate those affected by the project into the benefits of the project. It was suggested by some that the language of ‘involuntary’ resettlement should be avoided to the extent possible. However, it was also recognized that there are a number of situations where it will become necessary and possibly desirable.

- It was felt that **where resettlement is absolutely necessary, the community should be given a menu of options to choose from**. This would imply giving the community a set of different options to choose from and allowing different people or families to choose different options in light of what meets their needs and interests the best.
- Many participants felt that the preparation of a good **Resettlement Action Plan** is fundamental to PS 5 and that the elements of an acceptable ‘resettlement plan’ should be clearly described. There was a call for the appropriate use of **fact-finding (possibly joint/multi-stakeholder)** on resettlement as part of project assessment. Some participants also called for a meaningful **grievance and redressal mechanism** to be created.
- Many participants felt that the **process of engagement with communities on resettlement should begin as early as reasonably possible**. However, a few participants cautioned against starting the process too early and creating false expectations. Participants highlighted the need for **continuous consultations** so that surprises can be avoided and problems can be anticipated. Some participants suggested that during the consultations **all alternatives and all options should be explained to the community clearly**. It was suggested that it is important to **involve independent third-parties** in the consultation. It was also pointed out that significant effort should be made to ensure that **community consultations are in a form and format that is appropriate** to the needs and realities of the communities involved and that the **‘capacity’ for informed consultation and decision-making** includes the ability to negotiate equitably with other stakeholders who may have disproportionately more resources.
- Some participants suggested that the requirements section of this Performance Standard should **explicitly differentiate between the different capabilities of large and small companies**.

Compensation, and particularly Cash Compensation, was a key issue discussed in detail at all four consultations.

- One question was whether cash compensation is to be preferred over compensation in kind (for example, land-for-land). Participants provided examples across the spectrum and concluded that **the decision to provide (or not provide) direct cash compensation is extremely situation specific**. While some felt that cash compensation is the most preferable option because cash can be put to multiple uses, others were equally convinced it should be avoided to the extent possible, especially with communities not used to handling large amounts of cash. It was felt that even when cash compensation is used, the choice of the cash option alone is not enough and **multiple types of compensation** and means of livelihood support should be considered including compensation in cash, kind, land, skills, insurance for longer-term post-project damages, etc.
- Irrespective of the form of compensation, there should be a **transparent mechanism for disbursement**, ideally managed and monitored by independent third parties. Especially for cash compensation, there is a need to work with communities on **counseling and advice on using cash sustainably**. This is especially true in cases where large cash compensation is being made to communities that are not accustomed to large cash transactions.
- Some participants sought clarity on the question **when does the responsibility of a client (who has made cash compensation to a community) actually end?** It was suggested

that PS 5 should not only specify the process for compensation (including cash compensation) but also the extent of the client's responsibility. Some participants felt that the Performance Standard focused too much on client responsibility and not enough on the responsibility of other stakeholders.

- It was felt by many that **compensation should also be made for non-monetary losses** and PS 5 should detail what categories of non-monetary losses are to be compensated. It was suggested that there should be **a provision for accounting for assets that are community-owned and for compensating communities, rather than individuals, for such assets.**
- It was suggested **the resettlement and compensation rights of vulnerable title-less groups** (when they can demonstrate historical claim to the property) should be the same as for those who possess official titles to property. A number of participants felt that compensation for all settlers – including **informal settlers** – should include all assets that are displaced by the project (including livelihood assets). It was also suggested that **the focus of PS 5 should include all user groups (including trans-humant communities) whose user rights are affected.** It was pointed out that in some cases (for example, grazers and pastoralists) those whose user rights are seriously impacted by a project may not be either formal or informal settlers, but a different user group.

A third broad theme that was discussed at the four regional consultations related to the **Client's Responsibilities when Government carries out the Resettlement.**

- There was general agreement that **lack of resettlement implementation, even when it is legally the government's responsibility, can have significant risks for the client as well as for IFC**—including reputational risks, financial risks, risks of delays, etc. Therefore, it *can be* to the client's benefit to ensure effective resettlement implementation, and clients should play a proactive role in making sure that resettlement is undertaken efficiently, promptly and effectively.
- Some participants suggested that there are times **when IFC and/or the client should try to avoid or minimize government role in resettlement.** This is because government involvement can take more time and be less efficient. However, other participants pointed out that government has a legitimate and sometimes necessary role in resettlement decisions and implementation.
- Participants highlighted the need to identify the different **land acquisition responsibilities of various parties**, including the responsibilities of the government. It was suggested that when thinking about the role of the government one should pay particular attention to the **role of municipal and local government**, which can be critical to effective implementation.

Although not discussed as an explicit theme, a number of participants, at various consultations, highlighted the need to **Define a Set of Clear Guiding Principles** for all resettlement and land acquisition decisions. In this regard, four candidate principles emerged during the consultations. First, it was suggested that a broader '**Livelihoods Focus**' should be used in determining losses and possible means of compensation. This would require incorporating livelihoods losses in addition to property losses and also reaching out to those whose livelihoods are impacted by a project, even when they are not formal or informal settlers in the project area. Second, it was proposed that a '**Vulnerability Focus**' should replace narrower definitions of how affectees are

identified (formal or informal settlers) or of how compensation is defined (cash or land-for-land), because a narrow focus on settlers may have the effect of either insufficiently compensating those affected by the project or leaving some vulnerable user groups totally out of the compensation mechanism. Third, it was suggested that a **‘Sustainability Focus** should be added and an explicit Sustainable Development approach should be adopted in defining and framing this Performance Standard. Finally, it was suggested that an explicit mention should be made of the **‘Fairness Principle’** as an objective in all resettlement decisions and that this should be linked to the larger poverty alleviation and sustainable development goals of IFC.

PS 7 – INDIGENOUS PEOPLES AND NATURAL RESOURCE DEPENDENT COMMUNITIES (NRDCs)

IFC staff stated that objectives and rationale of PS 7 are to respect the dignity, human rights, cultures and customary livelihoods of Indigenous Populations (IPs) and Natural Resource Dependent Communities (NRDCs); minimize risks to IPs and NRDCs living in or using a project-affected area; obtain broad community support through free, prior and informed consultation (FPIC) with directly affected IPs and NRDCs; and realize social and economic benefits and opportunities for affected IPs and NRDCs.

PARTICIPANT COMMENTS

Discussions related to this Performance Standard tended to revolve around two overarching themes. The first related to definitional issues and the second issue related to the concept of Free, Prior, Informed Consultation (FPIC).

The **Definitional and Identification Concerns** related to whether the focus implied in the title of the Performance Standard -- on Indigenous Peoples and Natural Resource Dependent Communities – was appropriate and the need for definitional clarity.

- There was a level of unease at all consultations with the term **‘Natural Resource Dependent Communities’ (NRDCs)**. Although there was a clear call for the Guidance Notes to provide useful and clear definitions for key terms, many participants felt that **the NRDC terminology needs to be changed rather than just defined**. A number of participants felt that an alternative term was needed because this terminology, no matter how defined, could be construed as being so broad as to be nearly meaningless. Many participants felt that **the language of ‘Vulnerability’ may be more appropriate** and easier to define in terms of the practical implications of PS 7. Some participants suggested that **giving special treatment in PS 7 to certain communities (IPs and NRDCs in this case) could cause significant social tensions** amongst other communities that may not be Indigenous under strict definitions but may be equally vulnerable.
- It was felt that the Guidance Notes for this Performance Standard would need to be more detailed. It was also pointed out that there is **a wide variety of indigenous peoples and natural resource dependent communities in different parts of the world and the issues related to them would differ greatly by region of the world**. It was also noted that in some parts of the world the more appropriate focus would be on the rights of

‘minority groups’ as affected by an IFC supported project. Some participants argued that **the definition of either Indigenous Peoples or Natural Resource Dependent Communities should not be made too broad** otherwise these terms could mean everything for everyone. They felt that the rights of most communities are already covered under other Performance Standards and PS 7 should focus only on the rights of these special and most vulnerable groups. It was felt that the key defining characteristics that triggers this status should include vulnerability, uniqueness, direct dependence on traditional livelihoods, and lack of benefits from the formal economy.

- On the use of **the term ‘Indigenous Peoples’** the opinion was more divided, depending of the region. It was felt that in some regions of the world it was a very useful term (e.g., Latin America) but in others it was less useful and could be confusing (e.g., parts of Asia). Therefore, **clear definition was considered extremely important.**
- It was pointed out that the Performance Standard needs to focus on the vulnerability or “endangeredness” of these communities rather than just the vulnerability of their habitats and *what is important is not just the uniqueness of the area that Indigenous Peoples are attached to but the uniqueness of their attachment to those areas* (which, in and of themselves, may not be particularly unique or vulnerable). It was also suggested that the resettlement of IPs poses a special problem *because* they are IPs and tend to have special relationships with the place where they live.
- It was recommended that IFC should **consult directly with representatives of Indigenous Peoples and of NRDCs** on PS 7.

The notion of **‘Free, Prior, Informed Consultation’ (FPIC)** was discussed at great length, and much of this discussion also has bearing on other Performance Standards.

- There was **general support for the language of ‘Free, Prior, Informed Consultation’ and ‘broad community support’**. A number of participants suggested that **the FPIC and ‘broad community support’ language should be used consistently throughout all Performance Standards**, instead of being applied only to PS 7. Similarly, it was pointed out that **the language of human rights as used in PS 7 should be used throughout all the new Standards.**
- There was a call to **clearly define precisely what was meant by ‘broad community support’**. It was felt that the Guidance Notes **should detail responses to such questions**, including laying out the steps required in, and best practice examples of, what FPIC might look like in practice. A number of participants wanted clear guidance on **how ‘broad’ community support is supposed to be** to meet the FPIC Standard laid out in PS 7. It was felt that the requirement was probably less than unanimous support. However, the implementation of this Standard would require a judgment call on when the community support is ‘broad enough’ and that PS 7 should give clear guidance on how to determine when that point has been reached.
- Participants highlighted **the importance of continuous client consultation with the community**. Consultation should be repeated and continuous and in the form of an ongoing dialogue rather than a once-off event. Some participants pointed out that how questions were framed during a consultation is very important and can significantly influence what comes out of the consultation. Therefore, **due attention needs to be paid to the design of consultation processes and this should be done by appropriately**

trained people. There is also a need for the **client to have trained and sensitive staff.** It was pointed out that the **capacity of communities** also needs to be built to allow them to meaningfully participate in consultation processes. It was suggested that the first step in implementing FPIC should be an in-depth exercise in **stakeholder mapping** and that this should be done early on in the project cycle, possibly as part of the requirements of Performance Standard 1.

- A number of participants pointed out that in addition to being free, prior, and informed any consultation also needs to be **culturally appropriate.** This will be especially important in consultations with Indigenous Populations. Some participants suggested that **to meet the FPIC test, the community should be given a realistic chance of affecting the final outcome.** It was suggested that if this test is not met then the consultation would merely be *pro forma*. It was also pointed out that the disclosure needs for Free, Prior, Informed Consultations are high and **when dealing with indigenous peoples and NRDCs the disclosure mechanism would have to be tailored to their context and conditions.** It was suggested that in addition to disclosing and sharing relevant information, there is a need to make **a disclosure of the decision-making process** within the free, prior, informed consultation so that the relevant communities and indigenous peoples are fully informed of how decisions are being made.

PS 8 – CULTURAL HERITAGE

IFC staff stated that the objectives and rationale of PS8 are to avoid, reduce or mitigate adverse impacts from projects on cultural heritage; and to promote equitable benefits from use of cultural heritage in business activities.

PARTICIPANT COMMENTS

A number of recurrent themes emerged from the discussions, including the following:

- There was a general consensus that **culture should be defined broadly.** It was suggested that a specific objective should be added about maintaining cultural identity, including through the protection of intergenerational knowledge, architecture, etc. Some participants argued that throughout the Performance Standard, including in the Guidance Notes, livelihoods should be considered as a part of cultural heritage (for example, through systems of food and water management). Others highlighted the importance of **‘Living Culture’** in the language of the Performance Standard. This would imply using (and explicitly highlighting) a broader definition of cultural heritage, including things such as landscapes, language, geographic features, cultural practices, etc. It was also pointed out that focusing on ‘living culture’ can open up useful opportunities for policy and practice since **living culture can be protected not only through conservation but also through development.** It was also suggested that **genetic and plant protection should be required as part of cultural heritage protection.** This would need to be linked to the Performance Standard on biodiversity. Others stressed that the intergenerational value of culture and the value of a cultural find to people around the world and across generations should also be considered. However, a few participants cautioned against making the definition so broad that it becomes all-encompassing.

- The related question of **assessment of cultural heritage** came up at all four regional consultations. Many participants suggested that the time to undertake an assessment was at the inception stage of the project. Hence, it was suggested that **an assessment of the cultural significance should be a standard assessment requirement spelled out as part of Performance Standard 1**. There was general agreement that the most important aspect to be considered is uniqueness and irreplaceability. However, many participants felt that PS 1 (and especially its Guidance Notes) need to provide significantly more guidance on how this significance is to be determined. Some participants felt that determining cultural significance is a judgment call and is society-specific and should be done with **input from appropriate experts**. Others highlighted the importance of also involving community wisdom and knowledge in the process of determining cultural significance.
- Many participants stressed that PS 9 needed **more specific language and clear guidance on project-related use of intellectual property**. It was felt that the current language did not provide clarity on project use of culture-related intellectual property. It was suggested that PS9 should make explicit the conditions under which such use is appropriate or inappropriate. It was argued that the protection of cultural heritage – including indigenous customs and intellectual property – should be a project priority and contractual commitment for IFC supported projects. It was also suggested that the language of ‘sharing’ the benefits of cultural heritage and chance finds with the community could be misleading and needs clarity in the Performance Standard.
- It was suggested that **international and national laws and standards to preserve cultural identity should be incorporated into the Performance Standard**. A number of participants pointed out that in many countries the key player in terms of safeguarding cultural heritage is government as the official custodian of cultural heritage. As such the role of government should be incorporated into the discussion of this Performance Standard.
- Participants highlighted the need to consider the **issue of cultural intrusion and the risk of exposure** that comes when projects enter into indigenous communities in particular. It was suggested that this risk should be recognized and minimized wherever possible. It was also argued that there is a **need for cultural sensitivity in the use of local cultural symbols and of local information**. Moreover, this sensitivity should be nurtured within the client staff who are most directly involved in the use of such symbols or information.
- Some participants argued that in cases **where the cultural heritage in question is truly ‘irreplaceable’ the Standard should specify that no harm at all should be done**, as opposed to the current language that seeks no ‘significant’ harm for such ‘non-replicable’ cases.

V. ENVIRONMENT-ORIENTED PERFORMANCE STANDARDS

At each of the four regional consultations, one (of three) working groups discussed in detail the three Performance Standards (PS) that focus on predominantly environmental issues:

- **PS3 – Pollution Prevention and Abatement**
- **PS4 – Community Health and Safety**
- **PS6 - Conservation of Biodiversity and Sustainable Natural Resource Management**

PARTICIPANT COMMENTS

Comments on the environmental PS as a set

There was general agreement among participants that **the structure, objectives, and requirements of the draft Environment-oriented Performance Standards are an improvement** over previous IFC policy. However, many participants commented that detail is lacking about how each Standard will be implemented. As one participant noted, “the what is there, but the how is missing.” **Greater clarity is needed on how all the environmental PS connect to other policies** – such as World Bank policy, international environmental agreements, and national standards. It was also suggested that the **focus** of the PS could be broadened to address a wider range of investments and their related environmental issues. Some participants felt that the PS as currently drafted focus too tightly on extractive industries and large projects and the environmental issues that these investments raise.

Many participants also called for **better-defined terminology throughout the text, more examples** of application in the future Guidance Notes, and **clearer linkages across** the full range of PS 1-9. It was suggested that the Performance Standards need to address a number of **additional environmental issues** – including artisanal mining; thermal pollution (e.g. dumping of hot water); and management of both non-renewable and renewable resources.

Finally, some participants thought the Standards rely too heavily **on the client’s willingness to implement and its financial capacity to carry the work out** (e.g. to conduct monitoring). Others suggested that IFC will need to leverage client commitment and management skills early in the project in order to increase compliance and ensure appropriate mitigation.

PS 3 - POLLUTION PREVENTION AND ABATEMENT

IFC staff stated that the objectives and rationale of PS3 are to minimize pollution stemming from project-related activities and to raise the principles of the World Bank’s Pollution Prevention and Abatement Handbook (PPAH) to the policy level.

PARTICIPANT COMMENTS

Regarding PS3, many participants felt IFC should play a stronger role in motivating and demonstrating improvement of client pollution control. IFC can do this by educating local governments and taking proactive measures to incentivize clients. IFC could also disseminate studies about technology choices to build government and client understanding of their environmental impacts and their potential to reduce impacts and improve environmental quality.

Participants also asked for **more proactive wording to promote best practice in sustainable development.** Others suggested language on the reuse of waste and rational use of natural resources within the objectives. IFC was also asked to address the efficient, responsible and rational use of natural resources, such as water.

A number of **issues areas** were pointed out as needing further attention:

- Client accounting for **carbon dioxide emissions**, and encouraging them to utilize renewable energy resources;
- Including a **list and terms for chemical prohibition**, with no flexibility on the use of certain dangerous chemicals --particularly persistent organic pollutants (POPs);
- Defining **integrated pest management (IPM)** within the requirements;
- Establishing gradual **compliance measures and clear Guidance Notes for small to medium enterprises (SMEs)**; and
- Addressing **odor pollution** (e.g. from pulp production) and **thermal pollution** caused by discharge of heated water.

The following questions were also discussed in depth with respect to PS 3.

Should projects in developing countries have the “best of the best” pollution control technologies?

There was broad agreement that the use of best technology in the developing country context is a project-by-project decision and that IFC and the client must be mindful of regional constraints.

Participants specifically recommended:

- **Requiring the client to evaluate the ambient conditions and conduct good risk assessment** before making a choice of technology (important for SMEs);
- **Assuming best of the best technology as starting point** and requiring clear justification for permitting something of lesser quality;
- Laying out clear **guidelines for how clients can make improvements** toward compliance and simultaneously build capacity to make good technology choices.
- Clarifying **what is required regarding client procedures and obligations** for compliance (e.g. “balancing best technology” with “economic feasibility”).
- Putting **more attention on dialogue, training, and assessment** to improve implementation.

- **Developing higher technology standards**, emphasizing policy compliance, as well as linking these efforts to IFC’s sustainable development commitment.

How should ambient requirements be implemented?

Participants concurred that more clarity is needed on **how IFC expects its clients and others to allocate fairly the costs of reducing ambient pollution**, and how far IFC expects its clients to go in the absence of a clearly defined procedure for determining relative responsibility for improving ambient environmental quality. Participants suggested linking this issue to better client understanding of national standards. They also suggested more explicitly connecting the PS to the World Bank Pollution Prevention and Abatement Handbook. **More practical examples** are needed in the Guidance Notes to show how clients might manage this issue effectively.

Several **deficiencies** in the PS were noted.

- **Insufficient cross-referencing** with other World Bank policies that address cumulative impacts.
- Before IFC supports a project, the **client should account for ambient conditions within the baseline assessment**. If conditions are such that additional pollution will go beyond available “headroom”, the project should not be allowed.
- With respect to monitoring, a **clear relationship should be established between ambient standards and both international and national requirements**. IFC leadership can play an important role in making this connection.
- **IFC could go further to build sector and regional cooperation and coordination** among stakeholders to address this issue – including the client, civil society organizations, and regulatory agencies.

PS 4 COMMUNITY HEALTH AND SAFETY

IFC staff stated that the objectives and rationale of PS4 are to minimize and manage health and safety risks to local communities from project related activities, equipment and infrastructure; and to protect and promote public health and safety.

PARTICIPANT COMMENTS

Most participants felt that Objective 1 of the Standard -- to minimize and manage health and safety risks to local communities from project related activities -- is too broad. The current drafting of PS 4 implies that the client must step in where government is deficient in addressing community health and safety issues. IFC was asked to clarify that the PS refers to project-related activities that directly impact community health and safety. The responsibility of the company to address these issues was noted as a complex issue given cost and project scale. Most agreed that the onus is on the client to monitor and assess what is needed to mitigate risk.

Participants suggested that several issues need more attention in the Performance Standard: 1) prevention of traffic and materials transport accidents; 2) effect of supply chains

and contractor impact; 3) impact of migrant workers on the ability to maintain community health and safety standards; 4) resettlement impact and labor issues that add to project risk -- such as working conditions, discrimination.

Participants also called for clarification regarding how PS 4 applies to IFC-financed projects and their area of influence. Some participants suggested expanding PS 4 to encompass project products and their impact – particularly when the product is hazardous chemicals.

Participants also discussed the following questions in depth regarding PS 4.

What specifically should private sector clients be required to do to address public health issues?

Most participants agreed that client responsibility to address public health issues is a case-by-case issue that depends on assessment within each industry sector; and on the degree to which project activity extends outside the “project fence.” It was suggested that the client’s community health and safety and emergency plans should consider public health impacts where assessment has indicated that they may be significant.

Participants specifically recommended:

- **Establish a community health baseline and ongoing monitoring programs** in order to identify emerging trends. Consider company liability to help define the issues clients need to address.
- **Be explicit in the Guidance Notes** about the use of preventative medicine, education, prophylaxis and other adaptive mechanisms available to address PS 4.
- **Clarify the IFC requirement for assuring responsibly produced products**, and specify the need to use eco-friendly production processes.
- **Clarify IFC’s role in project review and supervision with respect to structural safety, and strengthen the requirements language.**
- **Strengthen the transparency and accountability principles of the Standard.**
- **Project documentation should clearly state contingency plan procedures in case of health and safety emergencies, and should be distributed in the local language.**
- A key to addressing public health issues is **effective community and worker training about project-imposed dangers** (e.g. such as construction, road accidents from increased transport activity, etc.). More detail is needed concerning criteria and procedures of CHS and emergency plan training.

Other PS4 issues needing clarity are:

- The relationship and **responsibility between the client and government** for addressing public health and safety issues resulting from project impact;
- Public health and safety criteria for IFC **investment in biotechnology** projects;
- **Project induced crime issues**, such as prostitution and sexual harassment;
- Release of **CHS monitoring reports.**

Should the use of security forces be addressed in this PS?

Nearly all participants agreed that the use of security forces should not be addressed in PS 4. Moreover, most consider this a **sensitive human rights issue that is outside the immediate scope of the Performance Standards** and has already addressed in international human rights conventions. Instead, **emphasis should be on community engagement, and development of good community relations.**

Since the issue cuts across many sectors, **some participants suggested that a cross reference be made** instead of having a specific policy. Others thought that the issue of **contractor-supplied security needs more attention in the overall PS, given social conflict** with outsiders and client control concerns.

To what extent should the client be required to disclose matters of security that could endanger the community, its employees or its assets?

Participants recognized that this is **issue cross-cuts the Disclosure Policy, and is difficult to manage because of the company's right to protect its business interests.** Many noted that **an iterative process is needed to clarify and respond to community concerns,** and that this requires significant and deliberate multi- stakeholder consultation and community engagement.

Participants specifically recommended:

- **Clarify the role of the public sector (both local and national)** in helping to share and distribute security information.
- **Orient the question of security toward threat to employees and the public at large.** (If the client is moving hazardous materials, they must be obligated to fully disclose information about it. The client also has a responsibility to build a response strategy for upset conditions.)
- **Require that that labeling and instructions for dangerous materials be globally harmonized and culturally appropriate** to maximize public understanding.
- **Clarify what IFC thinks is acceptable use of security forces.** (e.g. should they be armed or unarmed, and under what conditions?). At a minimum, **clients need clear action plans, training, and established norms** for use of all forces.
- **Include a generic list of project structures that can have negative community health effects;** this list should be more fully detailed in the Guidance Notes.
- **Clarify the health provision section** under the Community Health and Safety Plan (CHS).
- **Clarify the term natural hazards** for characterizing extreme weather. Note that the concept of extreme weather events is changing (given global conditions).

PS 6 - CONSERVATION OF BIODIVERSITY AND SUSTAINABLE NATURAL RESOURCE MANAGEMENT

IFC staff stated that the objectives and rationale of PS6 are to protect and conserve biodiversity, and to manage natural resources sustainably through approaches that integrate conservation needs and development priorities.

PARTICIPANT COMMENTS

Regarding biodiversity, **many participants recommended that IFC put forth a clear set of objectives and then derive specific requirements** (such as for forest and water protection). Many felt **that the first objective of the draft Standard (“to protect and conserve biodiversity”) cannot be achieved in all cases.** Instead, they suggest changing the objective to “minimize the impact on biodiversity.”

The overall terminology of PS 6 and the policy framework were seen by many participants as outdated. IFC was asked to reframe and rethink the criteria for making determination about value of conversion and use of natural habitat.

Participants specifically recommended:

- **Divide the issues of biodiversity and sustainable natural resource management as separate Performance Standards.** This is because biodiversity is a global issue in scale, while sustainable natural resources management pertains more to local resource management.
- **Clarify the definition of high conservation value areas.**
- **Strengthen the language on biodiversity value include the positive value of ecosystem services.** The objective should explicitly acknowledge the importance of ecological services and their value to a healthy environment.
- **Clarify the definition of critical habitat.**
- **Clarify how PS6 and other Performance Standards apply to indirect financing scenarios.** Participants inquired whether IFC would have to take into account biodiversity impacts of associated facilities or only “ring fenced” projects.
- **IFC should take on a clearer leadership and decision-making role in ascribing biodiversity value.**

Should projects be required to observe no-go geographic areas? Are there “no-go activities”, meaning activities that IFC would not finance regardless of any mitigating measures planned by the client?

There was general agreement that there **are no-go project activities** (such as riverine and submarine tailing) **but not necessarily geographically defined “no go areas.”** **Determining no go areas and no go circumstances is a process that demands a high level of public consultation.** The PS Guidance Note needs careful drafting to articulate both procedure and examples.

Participants specifically recommended:

- **Make clear the concept of “no go areas” to be considered for *locality bound projects* (where the location is determined by immovable considerations) versus *non-locality bound projects* (where there is some choice in the project location).**
- **Put greater attention on the role and value of monitoring and feedback.**
- **Focus on the issue of non-renewable resources** (e.g. mining closure and post closure).
- **Put forth sensitive area project criteria**, e.g. require community support in sensitive areas; do not allow development where there is weak client capacity to closely manage and mitigate; and do not fund projects in IUCN priority natural resource and biodiversity protection areas # 1-4* or World Heritage Sites.
- Clarify what is meant by **“significant biodiversity.”**
- **Make sure that biological / conservation values are defined in accordance with internationally recognized standards and criteria** (e.g. UNESCO).
- For trans-boundary issues, **specify that the client is responsible for assuring that the entire project area of influence is conserved.**

Should PS6 focus only on natural habitats or biodiversity as a whole?

Participants generally thought that the orientation of the Standard toward **biodiversity is the correct entry point** for protecting natural ecosystems and fragile environments. However, the terms biodiversity and natural habitat must be further differentiated and defined. The concept of natural habitats is not sufficiently broad to account for the importance of ecosystem health and stability.

Participants specifically recommended:

- **Address the issue of global versus local interest in biodiversity.** In the developing country context, biodiversity protection may not be a high priority and may even be rejected at the local level.
- Better **articulate why forest protection is singled out** as a key issue of biodiversity protection.
- **Articulate principles to guide company behavior in meeting the Standard.**
- **Clarify what constitutes “significant conversion.”** Project impact cannot be measured by economic analysis alone. There needs to be both qualitative and quantitative data.

Are there other threats to biodiversity that need to be addressed?

Participants noted a number of additional threats to biodiversity:

- **GMOs: while this issue is covered adequately with reference to alien species, their invasive quality into pristine ecosystems should be highlighted.**

* IUCN categorizes protected areas by management objective and has identified six distinct categories of protected areas. The first four are: I. Strict Nature Reserve/Wilderness Area: protected area managed mainly for science of wilderness protection; II. National Park: protected area managed mainly for ecosystem protection and recreation; III. Natural Monument: protected area managed mainly for conservation of specific natural features; IV. Habitat/Species Management Area: protected area managed mainly for conservation through management intervention.

- **There should be more guidance on managing project-driven in-migration, to reduce population-related threats to biodiversity.**
- **Category B projects may have significant biodiversity impacts;** they should not be overlooked because they are not high impact projects.

CROSS CUTTING ENVIRONMENTAL ISSUES

Hazardous Waste Management

Participants noted that the issue of hazardous waste management is complicated by lack of client or government understanding of new issues in waste management and absence of knowledge about available disposal technologies. **IFC can assist by promoting appropriate reuse, recycling, and storage of hazardous materials.** IFC should **explore the use of technical assistance grants to projects and promote opportunities for regional development of technologies and management systems.**

Are there other climate change requirements that can be incorporated in the Performance Standards?

There was general agreement that more can be done to address climate change in the environmental Performance Standards.

Participants specifically recommended:

- **Address climate change adaptation as a project risk (e.g. sea level rise) and integrate it more fully into the environmental standards.** Climate change monitoring could be driven by level of quantification / annual monitoring and significant land use change.
- **Account for impacts of greenhouse gas** producing agricultural activities and land use. For example, large animal farms may contribute methane emissions. In addition to GHGs, there also needs to be clearer articulation of ozone depleting substances (ODS) within the Pollution Prevention and Abatement Handbook.
- **Address mitigation of GHGs.** The policy appears heavily focused on quantification and monitoring. Technology improvement (e.g. via power plant carbon emission control) is an important element in addressing the GHG problem, but the limits and opportunities of the developing country context must also be taken into account.
- Address **photochemical and long-range transport pollutants (e.g. sulfur dioxide, NOx).**

How are IFC Standards managed when they are at odds with national standards?

Participants strongly recommend **setting the country-level pollution standard as the clear minimum** requirement for the client, but also encouraging clients to go beyond it to meet higher international standards. While this principle is clear, an IFC judgment call is required to manage the choice of standard on a project-by-project basis. **More clarification is also needed about relevant international standards and cross-referencing within the policy.**

VI. DISCLOSURE POLICY FRAMEWORK

At each of the four consultations, IFC staff presented the rationale for changing IFC's current Disclosure Policy. At the Rio and Manila consultations, IFC staff then presented a Disclosure Policy Concept Paper, outlining disclosure principles and elements of a new policy. Those elements included client roles and responsibilities for disclosure of investment-specific information (with subsections on disclosure of government contracts and disclosure for financial intermediaries); IFC roles and responsibilities for disclosure of investment-specific information; and IFC corporate-level transparency. At the Nairobi and Istanbul consultations, IFC staff presented a working draft Framework for the Disclosure Policy, covering general principles, disclosure of IFC institutional information, and disclosure of investment-specific information.

Though the ordering of issues and the level of detail changed from the Concept Paper to the draft Framework, the core issues remained the same, and most were addressed at all four consultations:

- Disclosure Principles
- Disclosure of IFC institutional information
- Disclosure of information about specific investments
- Disclosure of information about clients' government contracts
- Disclosure policy for financial intermediaries

DISCLOSURE PRINCIPLES

IFC staff outlined the core principles driving IFC's Disclosure Policy:

1. the need for IFC to make its policies and the development impact of its operations transparent and accountable to both its shareholders and other stakeholders;
2. the need for IFC's clients to ensure that communities and other stakeholders at the local and national level have timely access to information about planned investments, and about ongoing operations that may have significant impacts on other stakeholders.

They also noted that because of IFC's unique mandate as a public financial institution investing in the private sector, and IFC's multiple roles and responsibilities in pursuing this mandate, the principles must be applied in ways that reflect IFC's particular mandate and institutional design.

PARTICIPANT COMMENTS

IFC's disclosure mandate as a public institution investing in the private sector

In each of the consultations, there was a range of views on how IFC should interpret its disclosure mandate. A number of participants, predominantly from civil society, argued that **IFC's primary responsibility should be to the public in the countries where it operates, rather than to the clients to whom it lends.** From this perspective, IFC's Disclosure Policy should promote the fullest possible public disclosure of information related to its investments.

Rather than assuming that client information should be kept confidential except information the public “needs to know,” IFC should assume and ensure that the public has a right to know

In contrast, other participants, predominantly from the private sector, argued that IFC’s **clients also have a right to confidentiality for business information that does not affect the public but could adversely affect the client’s competitive position**. They said that if IFC’s Disclosure Policy requires much more disclosure of client information than the policies of other private sector lenders, IFC could lose a substantial portion of its clientele. IFC would therefore become less effective in pursuing its public development mandate. From this perspective, there is not a contradiction between IFC’s responsibility to its clients and its public development mission. **The key is for IFC to exercise leadership on disclosure issues that is also compatible with market realities and the competitive nature of private enterprise.**

Balancing IFC’s public disclosure responsibilities and its responsibilities to clients

In several of the consultations, the discussion of the Principles turned specifically to the apparent tension between the principles of public disclosure and protection of clients’ confidential business information. This topic was also discussed extensively with regard to investment-specific disclosures.

One perspective was that IFC should **make all investment information public except in cases where disclosure would clearly damage the client’s commercial position**, and there is not an overriding public interest at stake. This perspective follows from the view that in principle, IFC’s primary responsibility is to the public, and that there should be a presumption in favor of full disclosure.

Another perspective is that IFC should **provide the public with information about potentially significant economic, social and/or environmental risks or impacts** associated with its investments, **while maintaining the confidentiality of client business information that is not needed to assess or explain the public impacts of IFC investments**. This perspective follows from the view that in principle, IFC needs to meet its development mandate in ways that are compatible with market realities and private sector practices.

Both of these views (as well as several “middle ground” variations) were elaborated as operational suggestions during participant discussions on disclosure of investment-specific information (see below).

The role of government

Participants noted that **governments play a key role in setting disclosure standards**. A number of participants recommended that the principles should **acknowledge this role**. There was not full agreement on what principle IFC should follow in cases where government disclosure standards are lower than IFC’s.

One view **cautioned IFC against “raising the bar” too high in countries with lower national standards**. In doing so, IFC might find itself at odds not only with private sector clients, but also with governments that want IFC to harmonize with their standards and help them maintain a “business-friendly” environment. Another view was that IFC should **exercise leadership by**

requiring clients to meet its higher standards, and in doing so demonstrate that there are usually private and social benefits from substantial disclosure. Some participants commented that IFC needs to be a leader in promoting disclosure, but should do so in **dialogue with government and the private sector, along with civil society advocates**. It was also suggested that IFC should **allow some flexibility** in applying its disclosure requirements in different national and sectoral contexts.

Other comments on the draft principles

- The draft principles state IFC’s commitments to “disclosure,” “consultation” and “participation” in several places. These terms should be defined and distinguished from each other. IFC should also clarify the relationship between the requirements of the Disclosure Policy and the disclosure and consultation requirements stated in Performance Standards 1 and 9.
- The term “non-public information” is vague and needs further definition. IFC needs to clarify how it will balance the client’s desire for confidentiality with the public’s need to know about potential impacts of proposed investments.
- Since the Performance Standards make it clear that there will be greater disclosure requirements for investments with potentially higher social and environmental impacts, the principles could also state this as a principle.
- The principles could commit IFC to greater disclosure for investments where governments are co-investors, and/or are potentially liable if the investment is in financial distress.
- IFC should name “technical assistance” as a key role, along with the others mentioned.

DISCLOSURE OF IFC INSTITUTIONAL INFORMATION

In the Disclosure Policy consultations, the term “disclosure of institutional information” refers to IFC’s commitment to make information about its policies, operations and performance available to a wide range of stakeholders around the world, in addition to its member government shareholders.

PARTICIPANT COMMENTS

Disclosure of Board decisions and policy documents

IFC staff explained that IFC is planning to continue disclosure of basic information about IFC, and may also increase disclosure of information about Board decisions and about IFC policies.

Most participants supported the disclosure of Board decisions and IFC policy documents, including draft policy documents circulated for public consultation. **Some participants felt that IFC’s public credibility and trustworthiness would be greater if IFC disclosed more of its Board decision making on “politicized” projects**. They explained that there is a perception in some quarters that IFC Board decisions are often driven as much by political considerations as by financial and technical criteria. Disclosing Board minutes could make it harder for the Board to politicize its decision making.

Development impact reporting

IFC staff explained that IFC currently assesses development impact primarily through the work of its Operations Evaluation Group. IFC is planning to increase this reporting by providing a description of expected development impact for each investment, as part of the Summary of Proposed Investment (a new investment-specific document that will replace the current Summary of Project Information). IFC is also planning to report on the actual performance of its portfolio at an aggregate level (not at the level of individual investments) on an annual basis, using a set of impact indicators that assess e.g. financial, economic, social, environmental and private sector development impact.

In participant discussions on institutional development impact reporting, three points predominated:

- Some participants thought it was **essential for IFC and/or the client to provide information about how well individual investments are achieving their development goals**. They said that affected communities, governments and other stakeholders have a right to know whether a project is achieving its stated development goals, and to respond to information provided by the client and/or IFC on development impact; they would not be satisfied by aggregate DI reporting. They pointed out that IFC and its clients could still limit disclosure of truly sensitive financial information on a case-by-case basis. (This issue was discussed further in reference to investment-specific disclosure; see below.)
- Others thought that **project-specific reporting is not necessary for assessing IFC’s overall institutional performance, but urged IFC to commit to providing sectoral and regional breakdowns of development impact**, rather than just a global aggregate report. They thought that sectoral and regional breakdowns would provide more meaningful and relevant indicators of impact, and would allow more targeted and effective responses by IFC sector and regional managers.
- Regardless of the level of aggregation, a number of participants thought it would be very important for IFC to **develop a strong set of development impact indicators to use at the aggregate level**. They suggested that IFC draw on existing metrics, such as UNDP’s Human Development Index, or the “transition impact” indicators of the European Bank for Reconstruction and Development.

Public access to information about IFC

IFC staff presentations noted that IFC currently makes information about its mandate, policies and operations available to the general public through its website and the World Bank Infoshop. They asked participants to suggest ways to increase public access to information about IFC.

Participants made a number of specific suggestions in response:

- IFC should **increase the use of country offices for disclosure of information**. Specifically, IFC should make more materials available to take away in local languages (in hard copy and CD ROM); encourage more openness from staff, and hire more local staff; and open more offices in more countries.
- IFC should make **more use of email to help people who have access to the internet, but have difficulty accessing websites**. IFC could create email lists of people who indicate an interest in specific countries, regions and/or sectors of IFC’s work, and send

them tailored email texts with news and notifications of new documents, with information on how to get those documents in electronic and paper formats.

- IFC and the World Bank Group should **create a single point person or clear referral mechanism within the World Bank Group for information about IFC** (“one-stop shopping”).
- To provide non-Internet access to information about IFC’s operations at the national level, **IFC should put ads in national newspapers for each new IFC investment.**

INVESTMENT-SPECIFIC DISCLOSURE

At each consultation, IFC staff noted that the primary responsibility for disclosing information relating to individual IFC investments rests with the client. IFC’s goal in revising the Disclosure Policy for individual investments is to clarify what information the client is expected to disclose, when it should be disclosed, and what additional disclosures IFC will make.

PARTICIPANT COMMENTS

Disclosure of sensitive business information

There was general agreement among the participants on two basic points:

- **Disclosure requirements should be greater where potential project impacts are more significant, and more people are potentially affected.** The more these conditions are met, the more information should be disclosed, and the earlier disclosure should occur.
- **Disclosure requirements should be more limited when disclosure could seriously jeopardize financial viability of the project.** Disclosure may come later in cases where the timing as well as the nature of the information is sensitive. Early disclosure should be handled with special care when it might jeopardize the potential client’s ability to obtain finance from other investors.

However, **there was not agreement on how to judge between these competing criteria when impacts are potentially significant *and* disclosing information about the project could jeopardize the financial viability of the project.** Some participants commented that IFC has a duty to the publics of the countries where it invests to maximize transparency in its operations. Others suggested that as long as the client was in compliance with relevant national laws (including any applicable right to know laws), IFC should not require disclosure of any information other than what is contained in the Social and Environmental Assessment and the Summary of Proposed Investment.

Ensuring adequate disclosure to communities and other stakeholders

In several of the consultations, participants suggested that **the Disclosure Policy should explicitly require clients to follow the disclosure requirements contained in PS 1 and PS9.** They noted that PS1 and PS9 contain fairly good guidance on disclosing information about proposed investments, involving communities and other stakeholders in the assessment process, providing them with Assessments and Action Plans, and providing them with ongoing

information as part of the investment's Management System.

Other participants felt that the **Disclosure Policy should give more detailed guidance to the client on how to make information accessible to communities**. It should specify what the client must do to provide information in a “timely” fashion, and what the client must do to make sure that information is “accessible,” beyond making sure that the information is in the local language. There were several specific suggestions on guidance IFC could give to clients to ensure accessibility:

- Create a culturally sensitive disclosure/communication/consultation plan and strategy (preferably as part of an integrated social and environmental management system);
- Ensure appropriate language and distribution channels (e.g. through small group meetings and radio, not only print media);
- Ensure that the information is presented in a way that is not so technically complex or dense that it is intimidating to community;
- Use community-based leaders/facilitators (respected individuals) as two-way channels of communication between the community and the client.

A number of participants felt that **the Policy should also require disclosure of different kinds of information**. Some participants suggested that disclosure of **alternatives to a proposed investment** should be required. From a public interest point of view, they argued that disclosure and consultation on alternatives is an important tool for maximizing the development impact of a proposed investment, and for promoting public debate on important policy issues (e.g. whether to privatize an industry). It may also help address public concerns about a project with significant impacts, by demonstrating that there is no feasible alternative. Disclosure of the criteria used to evaluate alternatives is also important (e.g. some stakeholders would want to know whether poverty reduction was used as a criterion). **Others noted that there are situations where disclosure of alternatives may jeopardize or undermine the client's business position**. For example, disclosing an alternative way to manufacture a product might give a competitor information it could use. Three criteria were suggested to drive the decision on disclosing alternatives:

- Potential for significant and irreversible impacts;
- Likelihood that the project will be controversial (either because of its direct impacts or because it reflects a broader policy debate, e.g. on privatization);
- Likelihood that disclosure of alternatives will have a serious negative impact on the potential client.

Other participants suggested that **IFC needs to make greater disclosure of the rationale for its investment classifications**. They thought it was especially important for IFC to disclose the reasons why a project has been categorized as “no significant impact” (perhaps in the SPI) and to give stakeholders an opportunity to challenge that classification, in order to minimize the risk of mis-categorization. Another view was that the **classification system should include specific disclosure requirements for each category of investment, with very limited disclosure requirements for lower impact (category B and C projects)** that are shown to comply with all applicable laws and regulations.

Another suggestion was for IFC to **require clients to disclose draft Action Plans** (as distinct

from the finalized Action Plan), especially for high-impact projects. Disclosure of draft Action Plans would help educate potentially affected stakeholders and give them a concrete focus for consultation.

Development impact

There was **broad support for IFC to disclose the expected development impact of its investments as part of the SPI**. There were several suggestions on how development impact should be assessed, what kind of information should be part of development impact disclosure, and on the timing of disclosure:

- Development impact should be defined in terms of public and community goals. Therefore, **governments and affected communities should participate in the process of defining development impact**.
- To support its statement of anticipated development impact, IFC should disclose its own **economic analysis of investment benefits**.
- In order to set appropriate expectations, IFC and the client should clearly distinguish between expected sectoral or national development impact and expected benefits to community. In most cases, the **SPI will not be the appropriate place to set expectations about benefits to the community**. At the time the SPI is released, no decision will have been made on the investment, so it would be premature for it to state expected benefits to the community.
- In some cases, disclosing anticipated development impact early may pose competitive risk to client. For example, a bank planning to open many new branches may not want that fact to be disclosed until after it has finalized its investment agreement with IFC, to avoid giving competitors advance information about its plans.

There were **several points made on whether and when to disclose information about the actual development impact of individual investments**:

- One view was that **communities and other local and national stakeholders have a right to know the extent to which the investment is delivering the core economic and societal benefits it was supposed to produce**. Monitoring the social and environmental impacts of the investment is also important, but it is not a substitute for monitoring the economic and related development impacts. For example, many stakeholders may want to know about the economic performance of a privatized utility.
- Another view is that **it is often very difficult to separate out the financial performance of an investment from its economic performance, and there are good business and public policy reasons for limiting disclosure of information about financial performance** when that information could harm the client's competitive position.
- A third view is that **IFC should follow national government disclosure requirements for financial information relating to development impact**. In many countries government securities regulations require publicly traded companies to disclose information about their financial performance. Information about the financial performance of privately held companies is not generally made available to the public, and IFC should not impose higher disclosure requirements on these companies, because that would create a significant disincentive for them to seek IFC financing.

Building client commitment and capacity to disclose

A number of participants emphasized that businesses have legitimate concerns about disclosure, and that **IFC should make it easier for clients to meet its disclosure requirements**. They suggested that IFC

- harmonize its disclosure requirements to the fullest extent with what clients are already required to disclose to government agencies and other lenders;
- In situations where the proposed investment is expected to be in full compliance with all applicable local and national laws, IFC should give the client some flexibility on whether to disclose less-than-full compliance with relevant international standards;
- offer assistance to clients in disclosing to and consulting with external stakeholders, e.g. by providing technical assistance for consultation;
- create a checklist for clients to follow, to ensure that they have met the basic disclosure requirements for their investments;
- provide clients with samples of SEAs, Action Plans and other documents that are regularly disclosed;
- reward clients whose practice of consultation and disclosure are outstanding with public recognition, and perhaps reductions in the cost of IFC finance.

Ensuring client accountability for meeting disclosure requirements

A number of participants suggested that **IFC has a responsibility to provide information directly to potentially affected people and the broader public** about its disclosure requirements, and to inform them **about what recourse they have (via IFC and/or government agencies) if they believe the client has failed to meet those requirements**. It is not appropriate, in this view, for IFC to rely on the client to provide this information, since some clients may not be fully committed to meeting the requirements.

Several additional suggestions were made for ensuring that clients are held accountable for meeting disclosure requirements:

- **Where the social and/or environmental risks of an IFC investment are substantial**, IFC should **covenant disclosure requirements** with the client in the investment agreement. IFC should also **prioritize these investments for supervision**, and include supervision of client disclosure along with supervision of social and environmental performance under the client's Action Plan.
- IFC could **require independent financial, social and environmental performance audits of its investments, and disclose those audits to the public**. For example, IFC could require independent audits of clients' reports on implementation of their Action Plans.
- As an alternative or supplement to IFC's own supervision, **IFC could encourage and support NGO monitoring of client disclosure**, and could work with NGOs to raise business and public awareness of the social benefits of disclosure.

DISCLOSURE OF INFORMATION ABOUT CLIENTS' GOVERNMENT CONTRACTS

IFC staff explained that IFC plans to require clients in the extractive industries sector to disclose their revenue-sharing arrangements with government. These requirements are part of the World Bank Group management response to the Extractive Industries Review (EIR). Consideration is

also being given to government contracts in the private sector that impact the retail price of key services such as water and energy supply. The goal of these disclosure requirements is to increase the transparency of financial arrangements for extraction of depletable natural resources, and for private use of government-granted monopoly rights.

PARTICIPANT COMMENTS

- IFC should **require disclosure of the key terms of any contract or license that gives private parties the right to use a natural resource controlled by a government** on behalf of the public. For example, IFC should require disclosure of the key terms of contracts and licenses that allow agribusiness firms to use large areas of public land to grow cotton, or to use groundwater for irrigation.
- IFC should require disclosure of the **key terms of any government contract or license related to an IFC investment, including licenses granted for use of natural resources, awards of monopoly or quasi-monopoly rights** (e.g. water, energy or telecoms utilities), and procurement agreements, to achieve the underlying goal of increasing transparency in government-business relationships, to.
- IFC should **define “revenue payments” broadly**, so that the public can see all major payments from governments that relate to IFC-financed investments.
- IFC could require clients to **disclose government procurement contracts**, since these contracts are also significant uses of public revenue.
- **In some exceptional situations (e.g. high risk of terrorism, bandits, etc.), there may be good business and public safety reasons to limit disclosure of contracts.** IFC should have a fairly strict test of whether disclosure would pose any significant political or safety risk.
- **Where governments restrict public access to information** about the terms of their contracts with firms in the extractives and utilities sectors, **IFC should give clients and governments a limited time to move to full disclosure**, over a period of 2-5 years.

DISCLOSURE POLICY FOR FINANCIAL INTERMEDIARIES

IFC staff noted that IFC works with a broad variety of financial intermediaries (FIs), including commercial and investment banks, insurance companies, investment funds, and micro-finance institutions, among others. IFC staff explained that IFC is interested in strengthening disclosure requirements for FIs. However, it is not clear what IFC should encourage FIs to disclose, especially where the IFC investment in the FI is supporting the full range of the FI’s operations, rather than a specific project.

PARTICIPANT COMMENTS

One view was that the **disclosure requirements imposed on FIs by central banks and other government regulatory agencies are generally adequate in most countries.** However, IFC could require independent audits and disclosures in situations where national supervision is weak.

Another view was that IFC should not necessarily limit its disclosure requirements to those of

central banks or other FI regulators. Building on IFC's interest in institutional disclosure for FIs, some participants suggested that IFC **encourage or require FIs to disclose on institutional issues that could have a material impact on FI financial performance and development impact**, such as:

- governance structures and procedures (including procedures for identifying and disclosing conflicts of interest among managers/directors);
- risk management indicators:
 - staff training in risk assessment
 - loan categorization (particularly the percentage of bad loans)
 - environmental and social impacts of the portfolio
 - portfolio concentration
 - lending to state owned enterprises (including political risks)
- debt collection methods (particularly the use of coercive methods)

Participants also suggested FIs should disclose

- **their institutional reporting, disclosure and community engagement policies and practices**, without mandating any additional disclosure requirements. In this way, IFC could create some competitive pressure among FIs to be seen as “good citizens” in their disclosure and engagement practices;
- **their commitment to development, and the development impact of their lending**. This would also be useful for IFC as it begins to track development impact more closely. It would probably require IFC to develop specific reporting formats and build FI capacity to use those formats.

Some participants thought it would be helpful to **differentiate disclosure requirements based on the FI's size and/or impact**. They suggested several criteria for differentiation:

- **by the scale of the FI's impact on a sector/economy**: e.g. the largest banks and funds in a country, whose insolvency or failure might have economy-wide impacts, should have higher disclosure requirements;
- **by the type of FI investor/depositor**: banks with many depositors should have higher disclosure requirements; banks with fewer depositors and/or more sophisticated investors should have fewer;
- **by the on-lending portfolio**: e.g. FIs investing primarily in extractive industries might have higher requirements than FIs investing primarily in telecoms.

To build FI interest and capacity in disclosure, participants suggested that IFC **increase outreach, education and training on disclosure issues and methods** for FI staff, focusing on the potential competitive advantages of building a reputation for transparency and integrity, and for effective risk management. Requiring disclosure is a form of risk management and due diligence. Carried out systematically, it may reduce the risk of making bad loans or investments. As with other types of IFC client, participants also suggested that IFC **recognize and reward FIs who demonstrated good disclosure practice**.

VII. CROSS-CUTTING ISSUES AND IMPLEMENTATION CHALLENGES

The final half-day of each of the four regional consultations was deliberately kept open-ended to allow participants to bring up additional (and especially cross-cutting) issues that they considered particularly important. It also allowed time for the IFC team to respond to the various issues brought forth during the first two days of each consultation, and to explain the dimensions of the larger consultation process of which these regional workshops were one part. Although there was no pre-defined agenda for these sessions, they were based on a full-plenary brainstorming at the end of the second day, to identify some key themes that the group wanted to explore further. The discussion itself was held in small groups and then reported back to the full group.

Although a wide variety of issues and concerns were raised in these sessions, it is worth noting that **the single theme that dominated the concerns raised was about the challenges of implementing the proposed Performance Standards and Disclosure Policy**. Consistently, there was a strong desire from the participants to explore how the various Standards and the Disclosure Policy were linked to each other, how these were linked to larger IFC (and national and international) policies, and what type of guidance would be available from the IFC to promote implementation of and compliance with the new Standards and Disclosure Policy.

The issues raised at the various consultations can be divided into four broad and recurrent themes:

1. Clarity and Policy Coherence
2. Community Engagement and Consultation
3. Capacity Development
4. Compliance and Conflict Resolution

CLARITY AND POLICY COHERENCE

A large number of participant comments and concerns related to the desire to make the substance and structure of the proposed policies clear. The focus here was not restricted only to the text but also on how the various elements of the proposed Standards and Disclosure Policy fit together and how they fit with other policy contexts, for example, other IFC policies, other international regulations and commitments, national legislation, etc.

- As the IFC team had itself indicated, the ‘bookend’ Performance Standards (PS 1 and PS 9) are different from the more issue-focused standards (PS 2 to PS 8) in that they create (along with the Disclosure Policy) the conditions needed for the implementation of the overall requirements. Some participants felt that this can be rather confusing. It was suggested **that it may be appropriate to separate Performance Standards 1 and 9 from the other Standards and link these more directly to the Disclosure Policy**. It would help if a ‘users guide’ was appended to the beginning of the documents. The user guide could clearly lay out a glossary of key definitions, highlight inter-linkages between various elements of the new Standards and Policies, provide information about other relevant standards and policies, and provide a clear sense of when a particular Standard is

to be triggered. It was pointed out by IFC that the Social and Environmental Policy and Standards, and the Disclosure Policy, are applicable to all clients and all situations; however, IFC will work with clients in different project contexts to determine how to meet the Standards in their particular contexts. Contextual flexibility is built into PS 1 and PS 9 through the requirement for an Action Plan and Management Plan.

- There was a strong and consistent sense that **the draft Social and Environmental Policy and Standards lack sufficient detail to provide guidance on how to implement them**. There was a general call for greater clarity of concepts, breaking out the operational steps for the client, and indicating a timetable for the project cycle. It was also suggested that **IFC should keep the policy language and messages of the documents simple**. Although the participants acknowledged that the desire for flexibility required some vagueness in the terminology, there was a consensus that a greater degree of definition was required for effective implementation.
- Participants highlighted the **need for more guidance on situations where the IFC Standard is different from the relevant national or international standard**. IFC commented that in such cases, it generally expected that the highest applicable legal standard should be met. However, participants felt that there were significant grey areas that need clarification. Some participants felt that there are inconsistent references to national, international, and IFC standards and that where international agreements are ratified, but not yet in national statutes, IFC should require compliance with ratified agreements even if not translated into international law.
- A number of discussions during these sessions focused on **the basic intent of the new set of policies**. Many agreed that the Policies and Performance Standards should help IFC to **better meet its mandate of assisting the poor** through private sector development. Some participants felt that the overall draft is still ‘compliance oriented’ and that **IFC needs to move beyond a ‘do no harm’ approach to a more proactive approach that focuses on constant improvement**. Some other participants argued that the framing the policy revision in the context of a sustainability exercise is fine for the consultation process, but sends the **wrong message about the nature of the institution. IFC’s basic goal is promoting effective development that returns a profit**. Yet others felt that the draft policy seems largely self-oriented and focusing on what IFC seeks to achieve. To be an instrument of effective development partnership, the policy should also be written from the perspective of **helping clients to meet their objectives** and also on the social concerns of civil society.
- A number of comments suggested that IFC should **reframe the standards in more positive language, focusing not only on the costs of non-compliance but on the benefits of compliance**. In particular, the business case for compliance should be emphasized, including capacity building for clients to help realize the triple bottom-line. Participants pointed out that the ability of IFC to meet its commitment is strongly linked to the ability of the client to meet theirs.

COMMUNITY ENGAGEMENT AND CONSULTATION

A second broad theme that emerged from these discussions related to how community engagement and consultation can be undertaken meaningfully, particularly in the context of ‘free, prior, informed consultation’ (FPIC).

- There was broad consensus that **the first step is effective problem and stakeholder identification and this should be incorporated into PS 1 and PS 9**. A number of participants cautioned against reducing issue and stakeholder analysis to the immediate project area only. They suggested broad stakeholder mapping, and the use of GIS and other advanced resource mapping technologies to help capture social and environmental data critical to issue identification. Moreover, **assessment, consultation and management processes should be flexible enough to incorporate new and emerging information**.
- Participants discussed the question of **“how early is early enough” to launch a public consultation process** that is legitimate and remains consistent throughout the project’s life. Participants stressed the importance of ensuring consultation at several stages of the project cycle including: scoping and review of the assessment; licensing/permitting decisions; design of the Action Plan and Management System; and throughout the life of the project. Some suggested that one good approach is to have the consultation process managed by a multi-stakeholder committee for the life of project, composed of directly affected stakeholders and including government.
- Many participants felt that **designing useful mechanisms for communication between communities and clients is a key to consultation success**. It was suggested that communication should be regular, consistent, accessible to all stakeholders, culturally appropriate, reliable, and should not be unidirectional. All stakeholders should have support for capacity building. Capacity building should “level the playing field” by helping affected communities engage. Consultation processes should have clear ground rules and a guiding group mission statement that all stakeholders can agree to, and reliable information should be exchanged in a manner accessible to all involved, using methods adapted to stakeholder capacity.
- A number of issues related to the **management of consultation processes** were also raised. It was pointed out that in many cases the client finds itself taking on very broad responsibilities for consultation, because government regulatory agencies and local government bodies lack the capacity to create and manage effective public forums for consultation. It was suggested that local and national government should be involved early and consistently to achieve consultation and governance objectives and to assist with managing the overall process. It was stressed that consultations can be an expensive proposition and IFC should be clear about funding responsibilities and opportunities for IFC financial and technical support for consultation.
- It was felt that **IFC should play a key role in the consultation process, by:** (a) developing clear policy requirements and criteria for community consultation, including roles and responsibilities for the client, the government and other stakeholders, (b) specifying the need for early stakeholder identification and engagement, (c) developing more specific guidelines on when and how to bring stakeholders together, (d) supporting, reviewing and validating individual consultation processes as part of project fact-finding

- and design.
- There was a suggestion for **IFC to work jointly with the client to provide, monitor and report on actual development benefits to the local community and other stakeholders**. Delivering and documenting development benefits can strengthen both client commitment and community support for the project, and may lead to additional business opportunities for the client and the community.

CAPACITY DEVELOPMENT

The importance of capacity building was identified across the various discussions on particular Performance Standards and on the Disclosure Policy. A number of participants brought up the issue again during the crosscutting discussions.

The IFC team explained IFC current practice on capacity issues. During project design IFC provides advice and training to clients, as needed, to lay the groundwork for project implementation and management. IFC can provide financial and technical support to clients through the Corporate Citizen Facility and the Sustainable Financial Markets Facility. This support is usually one-time, and not ongoing. To build the capacity of other project stakeholders, IFC will assist where it can. With respect to government capacity building, IFC's role is limited given its mandate. However, the World Bank may be helpful to government agencies, and IFC may be able to serve a liaison role. It was also pointed out that the client usually pays for capacity building support unless agency resources are available.

Participants offered a number of **suggestions for IFC on capacity building**.

- Some suggested that a set of **capacity building guidelines be added** to the appropriate sections of the Social and Environmental Sustainability Policy and the Disclosure Policy.
- Others suggested that for the Performance Standards to be implemented properly, **IFC will need to provide advisory services on project sustainability, resource leveraging, and overall institutional capacity building**.
- It was suggested that IFC has a unique role in shaping the way the client values capacity building and that significant effort should be made to **convince the client about value of capacity building** before asking them to pay the costs. IFC has a significant role in facilitating this understanding.
- In relation to the **capacity needs of other stakeholders**, some participants highlighted the need to **identify capacity gaps in the project assessment phase, as part of stakeholder analysis**. IFC should consider how sector-specific NGOs can assist in this process. It was pointed out that IFC and clients need to assess the capacities of **often-underrepresented stakeholder groups** (e.g. women) at the project level, as well as other, less obvious categories of affected people. Others pointed out that **government capacity** is an important element of successful project implementation. IFC should make clear suggestions to World Bank on how it can assist in this regard.

COMPLIANCE AND CONFLICT RESOLUTION

The issue of compliance and how to resolve disputes about compliance was one of the most discussed cross-cutting issues.

The IFC team described the various aspects of its compliance mechanisms, including the workings of the Compliance Advisor/Ombudsman (CAO). IFC explained that it must be fully satisfied with the project's compliance with the relevant policies and standards before IFC goes to the Board for project approval. IFC also uses project supervision to review compliance. If IFC finds that client is out of compliance, it informs the client, and IFC may also invoke project covenants. IFC then attempts to get client back in compliance through corrective action. In extreme cases, IFC will call the investment (i.e. require immediate repayment of a loan, or liquidation of its equity) if the project continues in violation of its performance agreement. However, IFC emphasized that its leverage over the client to ensure compliance is greatest before financial support is given. Once a loan is disbursed or equity is provided, IFC leverage may decline significantly.

- Many participants called for a **more detailed description of monitoring, compliance and grievance mechanisms** to be included in Performance Standard 9 and/or the Guidance Notes. It was pointed out by many that the **Action Plan is the key tool** in terms of specifying what is needed to ensure compliance. Therefore it needs to be explicit about roles and responsibilities. It is also relevant to making sure the management system is effectively designed. IFC and the Action Plan should also **make it clear what happens if there is a compliance problem**.
- **Some participants cautioned that IFC compliance policies should not be very different from those of other private banks.** They said that many potential IFC clients are unlikely to take on substantial additional monitoring requirements and potential penalties for non-compliance with IFC social, environmental and disclosure standards.
- IFC should work to improve the chances of compliance by **maintaining consistent communication with the client**. There should be a clear and upfront scheduling of interactions. IFC should assess client commitment very early in project development and solidify commitment through relationship building and technical assistance. IFC should continue dialogue with senior client management to ensure that high-level commitment is being maintained, and to continue strengthening client commitment through the project life.
- IFC should **seek government involvement** to create support for both the project and the Action Plan. This requires assessing and recognizing the political climate for compliance, including the possibility that national regulatory authorities may not have the will or capacity to ensure compliance. Where there is a real risk of government failure, IFC and the client can ask the government for a formal commitment to monitor, e.g. using an MOU. They can also build explicit partnerships with government for service provision (such as health clinics). If government's capacity to provide services is weak, then they can ask the government to play a long-term role in providing project resources and ensuring revenue transfer. Where appropriate, IFC should leverage the World Bank Group to build stronger government commitment to transparency and monitoring in project implementation.

- IFC should **help the client engage with NGOs and other civil society groups to create independent channels for monitoring, build the capacity of affected communities to engage, and provide social services**. Some suggested a requirement for **independent audits** by NGOs and other types of community and civil society organizations. They argued that monitoring should be a participatory, institutional mechanism that is budgeted appropriately. It was also noted that NGOs can provide substantially more than a “watchdog” function, if effectively engaged to work with the client, affected communities and government agencies.

Appendix A

CONSULTATION PARTICIPANT LIST

Note: Unless otherwise stated, each person listed participated in his/her personal capacity, and his/her organizational affiliation is listed for information only.

Regional Consultation Workshop for Latin America and the Caribbean

Rio de Janeiro, Brazil, September 27-29, 2004

George Blankenship, Blankenship Consulting, USA
Nelson Bustamante, El Paso Energy International, Brasil

Manuel Fernando Castro, Departamento Nacional de Planeación Grupo de Inversiones Especiales, Bogota

Maria Chappuis, Dirección General de Minería, Ministerio de Energía y Minas, Peru

Ocimar De Camargo Villela, Grupo Andre Maggi, Brasil

Juan Carlos Enriquez, Servicios Ambientales S.A., Bolivia

Jaime Giraldo, PROMIGAS SA ESP, Mexico

Luis F Guadarrama, Centro Mexicano de Derecho Ambiental, Mexico

Carlos Manuel Herrera Santos, ANDI-Asociacion Nacional de Industriales, Columbia

Beethoven Herrera Valencia, ICFTU/ORIT, Bogota

Juan Carlos Hoyos Rendon, Grupo Bavaria Colombia

Diego Jalon, Aceitera General Deheza, Argentina

Rodrigo Justus de Brito, State government, Brazil

Pascual Kunchicuy, FUNSSIF - Fundacion Intenacional Shiwar Sin Fronteras, Ecuador

Sergio Leao, Odebrecht, Brasil

Fidel Lopez, Fundacion Natura, Ecuador

Santiago Madriñan de la Torre, CECODES, Colombia

Victorio Mattarozzi, Unibanco SA, Brazil

Joseph C Milewski, IADB, USA

Nilda Minutti, EDF Branch Americas, Capital Federal. Brasil

Juan Pablo Orrego, Alianza Aysen Reserva de Vida, Chile

Cristiana Pereira, Bovespa, Brazil

Carla Maria Pires Rangel, COPESUL - Companhia Petroquimica do Sul, Brazil

Jose Francisco Rodriguez Garcia, Banco Cuscatlan, El Salvador

Jose Denis Rojas Alvarez, Asociacion Civil Labor - Amigos de la Terra, Peru

Eduardo Rubio Roach, Minera Quellaveo SA, Peru (participating on behalf of Peru's National Society of Mining, Petroleum, and Energy (SNMPE))

Joe Sellwood, Attitude Susentavel, Brasil

Roberto Smeraldi, Amigos da Terra-Amazonia Brasileira, Brazil (Attended only first day)

Timothy Synnott, Estudios Forestales Synnott S.C., Mexico

Jorge Daniel Taillant, Centro de Derechos Humanos y Ambiente (CEDHA), Argentina

David Tingey, Comsur, Bolivia

Jaime Ubilla Fuenzalida, Carey y Cia, Chile

Christopher Wells, ABN AMRO (Banco Real), Brasil

IFC TEAM

Motoko Aizawa

David Cowan

Robert Horner

Rachel Kyte

Suellen Lazarus

Julia Lewis

Jean-Marie Masse

Harvey Van Veldhuizen, MIGA

CBI FACILITATION TEAM

David Fairman

Adil Najam

Merrick Hoben

Yann Duzert (Brazil)

Francisco Ingouville (Argentina)

Regional Consultation for Asia and the Pacific

Manila, Philippines, October 27-29, 2004

Rochman Achwan, LabSosio, University of Indonesia, Indonesia
Marie Apostol, Verite, Philippines
Khadk Bisht, Khimti I Hydropower Project, Nepal
Melissa Brown, ASrIA, Hong Kong
Allan Borreo, Planters Development Bank
Nguyen Ngoc Chung, Asia Commercial Bank
Maricel De Jesus, Environmental Science for Social Change, Philippines
Nguyen Duc Tu, BirdLife International, Vietnam
Stephen Frost, City University of Hong Kong, China
Donald Gitlin, **Dragon Capital**,
Job Jacob A. Gonzales, Philippines Pollution Prevention Roundtable, Philippines
Nguyen Manh Ha, *Interpreter, Sacombank [Note: did not participate on substance]*
Niven Huang, Business Council for Sustainable Development, Taiwan
Muhammad Jamil, Board of Investment, Government of Pakistan
Ahmed Jawad, Government of Pakistan Economic Affairs Division, Pakistan
Ruwani Jayewardene, ADB, Philippines
Varut Kajonvakin, Government Pension Fund, Thailand
Somporn Kamolsiripichaiporn, Chulalongkorn University, Thailand
Arvind Kumar Kejriwal, National Campaign for People's Right to Information (NCPRI), India
Aqueel Khan, Association For Stimulating Know How (ASK) /Verite, India
Sophie Le Clue, Civic Exchange, Hong Kong
Simon Lee, Shanghai Krupp Stainless Co., Ltd., China
Xiaoying Ma, Asian Development Bank, Philippines
Cindy Malvicini, Asian Development Bank, Philippines
Michael Mann, RMIT University, Vietnam
Alit Merthayasa, Center for Local Government Innovation, Indonesia
Allan Montano, Philippines
Joel Pagsanghang, CODE-NGO, Philippines
Steven Rood, The Asia Foundation, Philippines
Armi Santos, Manila Water Company, Philippines
Surya Sethi, Energy, Planning Commission, India
Jeric Sevilla, Manila Water Company, Inc., Philippines

Eko Sri Wibowo, PT Astra International Tbk., Indonesia
Jun Talegon, University of Asian and the Pacific, Philippines
Han Tran Trong, Sacombank, Vietnam
Dominador Truvera, Asian Labor Network on IFIs-Philippine Chapter
Vo Van Khoi, Vina Kyoei, Vietnam
Minh Hoa Vu, IUCN The World Conservation Union, Vietnam
Eri Widayanto, Dharma Bhakti Astra Foundation, Indonesia
Wijian Zhang, Economic Legal and Social Consultancy Center, Shanghai Academy of Social Sciences (ELSCC), China
Uchita de Zoysa, Centre for Environment & Development, Sri Lanka

IFC TEAM

Motoko Aizawa
Jesse Ang (Philippines)
David Cowan
Julia Grutzner
Robert Horner
Rachel Kyte
Julia Lewis
Jean-Marie Masse
Bill Bulmer
Peter Neame
Anne Copeland Chui (Hong Kong)
Stella Manalansan (Manila)
Karina Jacinto (Manila)
Frank Lysy, MIGA

CBI FACILITATION TEAM

David Fairman
Adil Najam
Merrick Hoben
Conchita Rraggio (Philippines)
Junio Rraggio (Philippines)

Regional Consultation Workshop for Sub-Saharan Africa

Nairobi, Kenya, November 29-December 1, 2004

Mr. Dicko Abdrahamane, USAID/MALI, Mali
Mr. Carilus Ademba, KUSCO, Kenya
Ms Christine Agimba, Organization of Women in International Trade (OWIT), Kenya
Mr. Jonathan A. Allotey, Environmental Protection Agency, Ghana
Dr. Ted Avis, Coastal & Environmental Services Environmental Planning and Impact Assessment, South Africa
Mr. Samir Chebil, World Bank, USA
Mr. Sammy Chepkwony, Magadi Soda, Kenya
Mr. Pelekelo Chipango, Celtel Zambia Limited, Zambia
Ms. Carla Denizard, Opportunities Industrialisation Centre International (OICI), Ghana
Mr. Ralph Hamann, African Institute of Corporate Citizenship, South Africa
Mr. Paul Hollesen, AngloGold Ashanti (former AngloGold Ltd), South Africa
Mr. Hemsing Hurryng, *Development Indian Ocean Network – DION, Mauritius*
Ms. Aida Kiangi, Barrick Gold Corporation, Tanzania
Mr. Sheila Kihumoru Greenwatch Uganda, Uganda
Mr. Georgius J.A. Koppert, Koppert Museum National d'Histoire Naturelle, Cameroon
Mr Vip Kumar, Honeycare, Kenya
Mr. Nikis Lesufi, Chamber of Mines of South Africa, South Africa
Dr. Oumar Makalou, Centre D'Etudes et de Recherche pour la Democratie et le Developpement Economique et Social (CERDES), Mali
Mr. Christopher Manu, FOE Ghana, Ghana
Mr. Frank Muramuzi, National Association for Professional Environmentalists (NEPA), Uganda
Mr. Boniface Mwangi, National Environmental Mgt Authority, Kenya
Mr. Paul Mwasinga, Decorum Capital Partners (NAMF), South Africa
Mr. Nathaniel Nmadu, Bureau of Public Enterprises, Nigeria
Mr. Mohamoud Osman, Africare, Chad
Ms. Cathy Reichardt, School of Mining Engineering, University of the Witwatersrand, Johannesburg, South Africa
Mr. Michael Steyn, Gold Fields Ghana Limited, Ghana
Ms Wendy Taylor, Kenya
Mr. David Tipping, United Nations Human Settlement Programme, Kenya

Professor Shem O. Wandiga, Kenya National Academy of Sciences, Kenya
Mr. Peter Mathuki, Intl Confed of Free Trade Unions (ICFTU), Kenya
Mr. Soumaila Mamadou, ICFTU-AFRO, Kenya
Mr. Kele Zidana, Intl Confed of Free Trade Unions (ICFTU), Kenya
Mr. Cliff Nyandoro, CFC Bank, Kenya

IFC TEAM

Lakhdeep Babra (Nairobi)
Sabina Beg
Bill Bulmer
Rachel Kyte
Darius Lilaoonwala
Jean-Marie Masse
Shiela Michuki (Nairobi)
Kevin Njiraini (Nairobi)
Ann Pasco
Judith Pearce, MIGA
Ted Pollett
Jonathan Richart
Jean Philippe Prosper (Nairobi)

CBI FACILITATION TEAM

David Fairman
Adil Najam
Merrick Hoben
Patrick Karani (Nairobi)
Clive Wafukho (Nairobi)

Regional Consultation Workshop for Europe, Central Asia, and Middle East Istanbul, Turkey, December 13-15 2004

Selda Celik, Oyak Bank, Turkey
Basak Cilay, Akbank, Turkey
Maria Diakanova, Lukoil Overseas Service Ltd.,
Russia
Okan Ermetin, Borcelik, Turkey
Fadil Erten, Soktas, Turkey
Koray Eti,Beko, Elektronik A.S. (Koc Holding),
Turkey
Essam Farid, Merlon Pet Company, Egypt
John Groom, AngloAmerican, UK
Dila Aksoy Hasan, Koc Holding, Turkey
Goran Jovanovic, Tigar M.H., Serbia & Montenegro
Rania Khouri, Union of Arab Banks, Jordan
Elena Kompasenko, Lukoil Overseas Service Ltd.,
Russia
Martin Lednor, BTC Co., UK
Moushira Ramadan, Egyptian Cement Company
(ECC), Egypt
Samim Saner, Environmental Platform for
Sustainable Development, Turkey
Steven J. Whisker, Mott MacDonald, UK
Yegor Yurkin, Komi Aluminium, Russia
Sabit Baghirov, Center for Economic and Political
Research, Azerbaijan
Irina Balashova, Environmental Center "Tau",
Kazakhstan
Mumtaz Bayram, Rural and Urban Development
Foundation, Turkey
MohsencBen Chibani, ICFTU, Belgium
Cholpon Dyaikanova, Community Business Forum,
Kyrgyz Republic
Pavel Filin, Ecoline – EIA, Russia
David Giorgadze, Association for Protection of
Landowners Rights (APLR), Georgia
Azay Guliyev, NGO Forum, Azerbaijan
Nana Janashia, Caucasus Environmental NGO
Network (CENN), Georgia
Daniyar Nurmagenbetov, EcoCenter, Kazakstan
Olexi Pasyuk, National Ecological Centre of
Ukraine, Ukraine
Stephen Stec, Regional Environmental Center for
Central and Eastern Europe, Hungary
Abdel Rahman Sultan, Friends of the Earth Middle
East, Jordan
Cigdem Baykal, AGRIN, Turkey
Ruslan Ajalov, Ministry of Ecology and Natural
Resources of Azerbaijan, Azerbaijan
Ekaterine Ediberidze, Minister of Environment and
Natural Resources, Georgia
Selim Kaplan, Ministry of Environment and
Forestry, Turkey

Ziya Pala, Ministry of Environment and Forestry,
Turkey
Bakhyt Yessekina, Institute of Economics of
Ministry of Education and Science, Kazakhstan
Lambertus Van der Toorn, EBRD, UK
Wolfgang Weiler, DEG - Deutsche Investitions &
Entwicklungsgesellschaft, Germany
Ebru Yildiz, EBRD, UK
Lee Swebston, International Labour Office,
Switzerland

IFC TEAM

Motoko Aizawa
Sabina Cosic
Sabina Beg
Bill Bulmer
Jean-Marie Masse
Jonathan Richart
Ken Chin
Julia Lewis
Richard English
Martyn Riddle, (Istanbul)
David Harris, (Istanbul)
Didier Fohlen, (Paris)
Elena Sterlin, (Istanbul)
Federica dal Bono, MIGA
Burak Egemen, (Istanbul)
Isik Guven, (Istanbul)

CBI FACILITATION TEAM

David Fairman
Adil Najam
Merrick Hoben

APPENDIX B: REGIONAL CONSULTATION AGENDA
Note: The consultation agendas varied slightly from region to region.

DAY 1	Social and Environmental Sustainability Policy and Performance Standards (SES PPS) Consultation	Consultation on Review of the Disclosure Policy
9:00-10:15am	<p align="center">Introduction & IFC Background Participant Introductions, Overview of IFC and Purpose of Policies Consultation Goals, Ground Rules and Agenda</p>	
<i>10:15-10:45am</i>	<i>Coffee Break</i>	
10:45-1:00pm	<p align="center">Overviews of SES Policy and Disclosure Policy <u>Discussion:</u> IFC Top Priority Issues and Questions Participant Top Priority Issues and Questions</p>	
1:00-2:15pm	<i>Lunch</i>	
2:15m-4:00pm	<p align="center">Overview of IFC Project Cycle Overview and Discussion of IFC Performance Standards 1 and 9 PS 1: Social and Environmental Assessments and Action Plans PS 9: Management Systems</p>	
<i>4:00-4:30pm</i>	<i>Coffee Break</i>	
4:30-6:00pm	<p align="center">Overview and Discussion of IFC Performance Standards 1 and 9 - <i>Continued</i> Case Study</p>	
6:00pm	Adjourn Day 1	
<i>7:30pm</i>	<i>Dinner hosted by IFC</i>	

DAY 2	Safeguards Consultation	Disclosure Consultation
9:00-10:30am	Begin Review of Performance Standards in Social & Environmental Breakout Groups	Overview of Disclosure Issues; IFC Corporate Transparency
	<p>SOCIAL</p> <ul style="list-style-type: none"> • Labor and Working Conditions • Land Acquisition and Resettlement • Indigenous Peoples and Natural Resource Dependent Communities • Culture and Heritage 	<p>ENVIRONMENTAL</p> <ul style="list-style-type: none"> • Pollution Prevention • Community Health and Safety • Biodiversity and Natural Resource Management
10:30-11.00am	<i>Coffee Break</i>	
11:00am-12.30pm	Continue Performance Standards Review in Breakout Groups	<p>Project Level Disclosure and Consultation</p> <ul style="list-style-type: none"> • Overview of project level Disclosure issues <ul style="list-style-type: none"> ○ balancing confidentiality and disclosure
12:30-2.00pm	<i>Lunch (participants mix)</i>	
2:00-3:30pm	Continue Performance Standards Review in Breakout Groups	Disclosure of Government Contracts; Disclosure by Financial Intermediaries; Access to IFC Information
3:30-4:00pm	<i>Coffee Break</i>	
4:00 – 5:30pm	<p>Joint Session</p> <ul style="list-style-type: none"> • Reporting out by Social, Environmental and Disclosure Groups <ul style="list-style-type: none"> • Full Group Discussion • Agenda Setting for Day 3 	
7:30pm	<i>Dinner hosted by IFC</i>	

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DAY 3	Safeguards Consultation	Disclosure Consultation
9:00 – 9:30 am	Decisions on Priority Issues for Further Discussion	
9:30 – 11:00am	Discussion of Priority Issues in Plenary and/or Breakout Groups	
11:00-11:30am	<i>Coffee Break</i>	
11:30-12:00pm	Review and Summary of Consultation IFC’s Plans for Next Steps	
12:00-12:15pm	Participants complete evaluation forms	
12:15pm	<i>End Consultation; Lunch and Departure</i>	

APPENDIX C: CONSULTATION GROUNDRULES

International Finance Corporation Safeguards and Disclosure Policy Regional Consultation

I. Consultation Goals

The Regional Consultation has three goals:

- 1) to provide IFC with an opportunity to present and discuss its draft update to the Safeguards Policies and its Disclosure Concept Paper with knowledgeable stakeholders representing IFC clients, civil society, governments and international organizations in Europe, Central Asia, and Middle East.
- 2) to provide IFC Regional stakeholders with an opportunity to review, discuss and suggest improvements to the draft Safeguards policy/Performance Standards and Disclosure Concept Paper.
- 3) To provide an opportunity for IFC and Regional stakeholders to jointly explore ways to improve IFC's Safeguards and Disclosure policies, both to ensure high standards of environmental and social performance by IFC and its clients, and to ensure that the policies can be implemented by IFC and its clients within reasonable time and cost.

II. Consultation Ground Rules

A. Roles and Responsibilities of IFC, Participants and Facilitators

IFC

Prior to the consultation, IFC staff are responsible for

- providing participants with the draft policy documents, supporting background information, and the consultation goals, ground rules and agenda
- assisting with participant travel and logistics;
- responding to participant questions, comments and suggestions about the consultation in a timely fashion.

At the consultation, IFC staff are responsible for

- presenting the draft update to the Safeguards Policies and the Disclosure Concept Paper;
- explaining the rationale for revising these policies, and explaining the rationale for the treatment of specific Safeguards and Disclosure issues in the draft policy documents;
- identifying and explaining what policy issues and questions are most important from IFC's perspective, and why;
- engaging actively with consultation participants (with the assistance of the facilitators) to understand their perspectives, concerns, and suggestions;

- responding with an open mind to comments, suggestions and concerns raised by consultation participants, in order to seek improvements to the draft policy documents;
- noting policy and implementation areas where IFC may have limited flexibility and explaining why;
- clarifying how IFC will respond to points of agreement and disagreement and outstanding questions that emerge at the consultation.

After the consultation, IFC staff are responsible for

- continuing to provide Istanbul consultation participants with updates on the development of the Safeguards and Disclosure policies after the consultation, and continuing to solicit their input on the policies;
- providing Istanbul consultation participants with a written explanation of the final Safeguards and Disclosure policies after they are approved by IFC's board, including a response to comments received in the consultation process.

Participants

Prior the consultation, participants are responsible for

- reviewing the consultation draft documents;
- reviewing the consultation goals, ground rules and agenda; and raising any serious concerns about the goals, ground rules or agenda with IFC and/or the facilitators.

At the consultation, participants are responsible for

- providing their perspective on the safeguards and disclosure issues under discussion, based on their personal and professional experience, acting either in a personal capacity or as an organizational representative;
- engaging actively with IFC staff and other consultation participants (with the assistance of the facilitators) to understand their perspectives, concerns, and suggestions;
- responding with an open mind to comments, suggestions and concerns raised by IFC and other consultation participants, in order to seek improvements to the draft policy documents.

After the consultation, participants have no further formal responsibilities, but are requested and encouraged by IFC to continue participating in the policy review process by reviewing and commenting on later and final draft policy documents and guidelines.

Facilitators

Prior to the consultation, the facilitators are responsible for

- working with IFC and participants to develop the consultation ground rules and agenda, in order to maximize the potential for useful and constructive dialogue;
- responding to IFC and participant questions, comments and suggestions on the draft ground rules and agenda in a timely fashion.

At the consultation, the facilitators are responsible for

- managing the agenda and facilitating group discussion to maximize opportunities for productive dialogue on the issues;
- ensuring that all participants (including Europe, Central Asia, and Middle East stakeholders and IFC staff) have opportunities to speak;
- ensuring that discussion is not dominated by a small number of participants (either Europe, Central Asia, And Middle East stakeholders or IFC staff);
- summarizing key points of agreement and disagreement, and outstanding questions for further discussion that emerge during the consultation.

After the consultation, the facilitators are responsible for

- drafting a summary of the consultation that reviews the key issues discussed and the main points of agreement, disagreement and outstanding questions;
- providing the summary to IFC and participants in draft form for comment and allowing participants at least 7 days for comment;
- finalizing the summary to reflect comments received, with the understanding that the facilitators take final responsibility for the content of the summary.

B. Consultation Workshop Summary

As noted above, the facilitators will prepare a summary of the consultation in English. All participants will have at least 7 days to review and comment on the summary, and the facilitators will finalize the summary to reflect comments received. The facilitators will use their professional judgment as to how to reflect comments received in the final summary. The final summary will be the responsibility of the facilitators.

The summary will note the range of stakeholder views expressed on an issue, but will not identify any individual by name or organization. For example, it will use language such as “some private sector participants commented X, while others thought Y.”

The summary will include a list of individuals who participated in the consultation. Participants will be asked whether they would like their organizations listed as well as their names, and whether they would like it indicated that they were participating in a personal capacity.

C. Communications with the Media and the Public

IFC will not announce the names of the consultation participants or the location of the consultation. However, IFC may provide the names of participants if requested by representatives of the media or the interested public. **Any participant who does not wish his/her name to be disclosed should inform IFC of this fact prior to the Consultation.**

The consultation will not be open to the media or the public. Participants are free to communicate about the consultation with whomever they choose. However, participants are requested not to quote any other participant by name or organization in communications with the media or the public.

APPENDIX D: ABBREVIATIONS AND ACRONYMS

ADB - Asian Development Bank
CAO – Compliance Advisor Ombudsman
CAO Report / The Report – CAO Review of IFC’s Safeguard Policies
CCG – Corporate Consultative Group
CES – IFC’s Environmental and Social Development Department
CODE – Committee on Development Effectiveness
CSO – Civil Society Organization
EA – Environmental Assessment
EBRD – European Bank for Reconstruction and Development
EIA – Environmental Impact Assessment
EIR – Extractive Industries Review
EITI – Extractive Industries Transparency Initiative
ERS – Environmental Review Summary
ESSD – World Bank Environmental and Social Development Department
GRI – Global Reporting Initiative
IDB – Inter-American Development Bank
ILO – International Labor Organization
MIGA: Multilateral Investment Guarantee Agency
NGO – Non-Government Organization
OECD – Organization for Economic Co-operation and Development
OEG – IFC’s Operations and Evaluations Group
PPAH – Pollution Prevention and Abatement Handbook
Safeguard Polices – The current set of environmental and social Safeguard Policies applied by IFC since 1998
SEA – Social and Environmental Assessment
SPI – Summary of Project Information (current IFC usage); Summary of Proposed Investment (proposed in draft Framework for IFC Disclosure Policy)
WBI – World Bank Institute
XPSR – Expanded Project Supervision Report