Office of the Compliance Advisor/Ombudsman (CAO)

ADVISORY NOTE

IFC’s Policy and Performance Standards on Social and Environmental Sustainability and Disclosure Policy

Commentary on IFC’s Progress Report on the First 18 Months of Application

Distribution:
For public release
Introduction:
This advisory note provides the CAO’s comments on IFC’s Progress Report on the first 18 months of application of its new Policy and Performance Standards on Social and Environmental Sustainability (PPS) and Disclosure Policy. Following the CAO’s January 2003 Safeguard Policy Review, the CAO has stayed involved in IFC’s Safeguards Update and Disclosure Policy Review, both through discussions with IFC staff and comments on subsequent drafts to IFC, its Board and the public (available at www.cao-ombudsman.org).

The CAO welcomes this first Progress Report, which constitutes an important first step in IFC’s institutional accountability and reporting on the new policy framework. At this early stage – most projects that applied the new Performance Standards cannot be expected to have generated stable outcomes yet – the report’s focus on IFC’s application of the framework is appropriate and helpful. Our comments focus primarily on policy areas of most direct impact on project-affected communities, building on the CAO’s experience as IFC’s independent recourse mechanism for social and environmental aspects.

Summary of CAO comments on the Progress Report:
As the Progress Report demonstrates, IFC has significantly enhanced its environmental and social management systems, and a lot more information is now available regarding the environmental and social characteristics of IFC’s portfolio. This will significantly enhance IFC management’s ability to manage portfolio performance and allocate resources, especially if the management system will also be applied to IFC’s existing portfolio.

The CAO believes that CES could further strengthen its management system by monitoring indicators that capture project outcomes in addition to the project attributes. Perhaps this is already foreseen once projects processed under the new standards have matured. Further, we believe that there is considerable room for further IFC leadership in understanding, enhancing, and reporting of local development impacts, especially where anticipated risks and impacts on local communities are significant. We look forward to IFC’s comprehensive three-year implementation report, which promises to allow for a considered assessment of whether the new framework has indeed led to improved outcomes on the ground.

CAO comments:

1 Flexible policy application requires transparency around project processes and outcomes
In the new policy framework, IFC moved from a focus on detailed procedural requirements tied to a project’s environmental and social risk category to an outcomes-based framework that allows IFC and its clients greater flexibility in agreeing means to achieve desired outcomes based on project-specific risks. While the CAO has welcomed this new approach, we have maintained that increased flexibility and discretion necessarily need to be accompanied by greater transparency around each project’s agreed processes and outcomes, both in the interest of IFC’s own accountability, and to create predictability around processes and desired outcomes for affected communities.

2 IFC should monitor the quality of client disclosures to local communities
In the new policy framework, the responsibility for adequate disclosure and engagement about a project’s impacts and mitigation measures has been clearly placed on the client. IFC’s Progress Report presents data on the application of client community engagement requirements, including
‘disclosure of e&s information locally’, ‘disclosure of action plans locally’, and instances of the application of the ‘Free, Prior and Informed Consultation’ (FPIC) and ‘Broad Community Support’ requirement.

Going forward, further qualitative information is needed to be able to assess whether community engagements guided by the new policy framework are leading to the desired outcomes. Have client disclosures provided adequate and accessible information to communities? Do communities understand anticipated project risks and impacts? Has the new policy framework indeed led to earlier engagement with affected communities? Have clients consistently documented and addressed community concerns? Are grievance mechanisms being used and trusted by communities?

Now that community engagement requirements have been separated from a project’s risk category, categorization alone no longer serves to signal the degree and timing of public involvement around a project. In fact, some projects with significant potential impacts on local communities are processed as category B projects. No new mechanism has replaced this important signaling function, and it is the CAO’s experience that many external stakeholders do not clearly understand the purpose of categorization under the new policy framework. In the absence of a clear public signal, high-risk projects that are being processed as category B may not receive sufficient public attention. This requires careful supervision of the quality of client disclosure and engagement, and IFC may need to make additional efforts to clarify this aspect of the new policy framework.

2.1 Understanding local concerns and impacts is key to establishing and maintaining Broad Community Support

The client requirement to engage in processes of FPIConsultation for projects with significant adverse impacts is mirrored by IFC’s commitment1 to go ahead with such projects only where the project enjoys Broad Community Support (BCS). IFC reports that the FPIC/BCS requirement has been applied to nine projects so far. We look forward to IFC’s forthcoming implementation diagnostic regarding IFC’s experience with these projects.

While the policy framework sets up Broad Community Support as IFC’s concern, it is the client who maintains a relationship with the communities, and the importance of maintaining a social license to operate is now broadly understood among private sector operators. Securing the support of local communities is a complex task with significant challenges, and requires clients to understand and address community concerns.

2.1.1 IFC should disclose how it arrives at the determination of Broad Community Support

The CAO is concerned that ambiguity around IFC’s determination of BCS may prove to undermine relationships between clients and communities, potentially leading to lack of trust and even conflict between clients and communities once the relevant projects mature and adverse impacts materialize. For example, communities may feel that they were not fully aware of potential impacts when expressing their support for the project. Careful and well-documented due diligence on IFC’s part is important in this context (e.g. which sources in addition to the client’s records were used to determine Broad Community Support? Did local communities have an adequate understanding of the risks and benefits the project may yield for them?)

1 IFC Policy and Performance Standards on Social and Environmental Sustainability, Policy, para 20
IFC should disclose the indicators it uses to ascertain Broad Community Support, and also disclose project-specific information about how it arrived at its determination. Disclosure of IFC’s BCS criteria and determinations serves IFC’s accountability, informs the public debate around complex projects, and supports the development of practical solutions in this important area of responsible private sector practice.

An important aspect of the local communities’ informed participation is that they are informed about their rights and the client’s associated obligations, as determined by applicable laws and IFC’s policy framework, including their access to recourse and complaints mechanisms such as the CAO. How is this tested as part of the process of ascertaining BCS?

Clearly, it is in the interest of communities, clients and IFC alike to prevent conflict around projects in the first place. Companies that operate at the forefront of sustainable private sector practice are exploring ways to secure local support for their projects through ongoing engagement with local stakeholders around development impacts. We believe that there is considerable room for IFC to use its expertise and leadership position to support its clients and develop best practices in this area.

2.1.2 Local development impact should be monitored and reported to affected communities

PS 1 already requires clients to incorporate community views into their decision-making process on issues that affect communities directly, such as ‘sharing of development benefits and opportunities.’ IFC should advise clients to address anticipated local development impacts in community consultations alongside social and environmental risks and impacts. Community input should be sought on ways to enhance the project’s opportunities and benefits for local communities, and progress on local development outcomes and impacts should be monitored and reported to local communities against a number of indicators that are meaningful to them. Ongoing reporting of development impacts helps to build trust and can provide a factual basis to inform the public debate around – and create support for – complex projects.

Naturally, local communities are not the client’s only stakeholders, and client reporting on broader sustainability aspects and development outcomes and impacts to other stakeholders is equally important. IFC commits itself in the Sustainability Policy to “encourage the client to report publicly on its social, environmental, and other non-financial aspects of performance.” How is this commitment being implemented?

2.1.3 Where communities are concerned about impacts, participatory monitoring can help build trust

The CAO further believes that in many circumstances, participatory monitoring can be mutually beneficial for companies and communities, and lead to greater local acceptance and support for a project, especially where communities are concerned about specific impacts of the project. Participatory monitoring can address real and perceived risks before concerns — left unaddressed — may lead to conflict between communities and the client.

The CAO is producing an Advisory Note to provide further support on the important issue of project-level development impact reporting, available in the spring/summer of 2008.

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2 IFC Policy and Performance Standards on Social and Environmental Sustainability, Performance Standard 1, para 22, relevant for projects with significant adverse impacts on affected communities.
3 IFC Policy and Performance Standards on Social and Environmental Sustainability, Policy, para 26
4 Guidance Note 1 refers to participatory monitoring: para G 62
2.2 CES has significantly enhanced its management system

The CAO welcomes the significant progress that IFC has made in establishing management systems that support the implementation of the new policy framework, notably CES’ Environmental and Social Review Procedure (ESRP) and Document (ESRD), the establishment of the new Quality Assurance (QA) Team, and IFC’s Development Outcome Tracking System (DOTS). These systems promise to help IFC enhance its ability to develop projects and manage its portfolio in a way that leads to improved project outcomes.

Much useful information has been made available in IFC’s progress report regarding the application of the performance standards. It is particularly interesting to observe that many category B projects apply important process requirements, relating to, for example, environmental and social impact assessments (34/120), engagement of external experts to verify monitoring (23/120), or implementation of grievance mechanisms (44/120). This suggests that IFC has been successful in de-linking process requirements from categorization.

2.2.1 CES’ management system should be enhanced to capture project outcomes

The new framework helpfully shifted the focus of IFC and its clients to achieving project outcomes, away from working down a checklist of process requirements with little regard for their effect on the ground. In keeping with the policy framework’s core focus, the underlying management system equally needs to capture project outcomes. So far, the reported information captures project attributes rather than outcomes, understandably, given these projects’ stage in the project cycle. Once these projects mature, an assessment of the achieved project outcomes will shed further light on the effectiveness of the policy framework. Monitoring outcomes in addition to processes is essential in light of the increased flexibility granted under the new framework, and will require allocation of adequate supervision capacity and budget.

2.2.2 More information is needed to assess the effectiveness of the new management system

Further implementation data should be made available to the Board: are projects of similar nature treated comparably by different specialists, are system entries of consistent quality; are important policy decisions consistently logged in the system, and supported by rationales; does the system capture information regarding a client’s compliance with project requirements (e.g. we learn that 48 of 125 projects have implemented grievance mechanisms, but not how many projects were required to do so). If there are early application inconsistencies, as can be expected with any new system, how does the quality assurance team go about improving the overall quality of due diligence and system entries?

2.2.3 The QA function may require increased independence from line management

The Quality Assurance Team’s organizational position will determine the kind of benefit the institution can expect to gain from it. The organizational structure places the QA function within CES’ investment support group (CESIG). Now that the ESRP/ESRD system has been established, and the peer review process is functioning, it may be useful to reassess which organizational structure promises the highest benefit and least duplication. Does the positioning of the QA function currently have sufficient independence to be able to assure high quality policy implementation?

2.2.4 The new management system should be applied consistently to IFC’s entire portfolio

To maximize the positive impact of the new management system, IFC should apply the system, or at least its relevant aspects, to the entire portfolio, including projects processed under the
Safeguard Policies. This would have the additional benefit of making projects processed under the previous and the new policy framework comparable, allowing for informed judgment on whether the new policy framework is strengthening projects. CES’ new supervision process appears sound, but the envisioned risk-based approach should be applied to all projects, regardless of reporting requirements or whether equity only is left on IFC’s balance sheet. Further, we feel that 18 months after the adoption of the new framework, a deadline should now be set after which no further projects can be grandfathered under the old system.

2.3 IFC should use synergies between environmental & social due diligence and development impact reporting

IFC has equally made significant progress over the last two years in enhancing its systems for tracking and reporting the development outcomes of its activities, and IFC’s 2007 Annual Report presents useful information on aggregate development outcomes and developmental reach to different stakeholders of IFC’s investments. The information and indicators that are monitored and reported do not, however, address the information needs of local project stakeholders that want to know how they are being affected by a project. Particularly for sensitive projects, it is not clear whether local development impact information, such as the impact of a project on living standards of local communities, is being addressed by CES’ due diligence and data systems. Is local development impact information captured in either system? Could environmental and social impact assessments be used to identify locally relevant indicators for tracking local development impact in DOTS? Could locally tracked and reported indicators be captured in DOTS?

CAO appreciates IFC’s consideration of these issues and welcomes this important progress report on the first 18 months of application of its new policy framework.