



**Inter-American Development Bank
Draft Environment and Safeguards Compliance Policy**

**Preliminary Summary Record of the Consultation Meeting
Washington DC, February 7, 2005**

Background

The Washington DC consultation was the second of a series of face-to-face stakeholders meetings regarding the *Draft Environment and Safeguard Compliance Policy*. The meeting was a one day event held in the IDB headquarters on February 7, 2005. In total more than 40 people attended the consultation, including colleagues representing both international and regional NGOs, civil society groups, government officials and peers from The World Bank Group. The group's interventions were well articulated and of high quality and will provide IDB with important input into the Policy Revisions. A number of IDB staff attended the meeting in the capacity as observers.

Key comments regarding the IDB Draft Environment and Safeguard Compliance Policy

General comments:

- Implementation and Compliance: Implementation and Compliance issues were a key concern.

(1) Implementation

The Policy provides for a series of general aspirations of what the Bank should do, but it is not clear enough as to how this will be implemented (resources, staff, incentives, and changes in levels of commitment from management), what changes this new policy requires of the Bank, and what criteria will be used for deciding if and how mainstreaming will occur.

Regarding implementation of the policy, recommendations were made for either an increase in or reallocation of financial and technical resources for the environment division of SDS to ensure proper Bank-wide implementation of the policy. Finally, internal reforms, such as having environmental specialists serve on loan committee and in the legal department, were recommended.

(2) Compliance

There is need for clarity over the role of the guidelines and their mandatory status. Concern was voiced that if the guidelines are not subject to the Independent Inspection Mechanism, they will be much more difficult, if not impossible, to hold the institution accountable for. Thus, if important details are included in the guidelines and not in the policy directives, then either the guidelines need to be binding or the detail should be included in the directives.

It was suggested that an independent entity be in charge of overseeing compliance and that a three-year review of implementation performance be conducted by OVE. It was also requested that a new instrument that reviews environmental monitoring and compliance be

developed that is publicly available. In addition, the idea of civil society playing a role in official monitoring of compliance also arose.

- The issue of the Bank's environmental bottom-line, i.e., when to refuse to finance a project based on environmental and social impacts, was raised. There is a sense that the Bank has no bottom line, and regardless of the impacts, it will always move forward with projects and attempt only to mitigate these negative impacts.
- Developing some sort of process that documents the Bank's additionally to projects was recommended.
- The need for clear definition and a glossary was underscored.

Directives "A" -- Mainstreaming

A1. Country Programming

- The importance of SEAs as an instrument for mainstreaming was underscored.
- It was recommended that Country Strategies and other documentation related to the Programming stage be made available to the Public.
- Questions were raised about how this policy relates to new guidelines and procedures for reviewing country strategies.
- Participants requested clarity on:
 - the regional/sub regional programming and how this will be incorporated into country strategies;
 - the role of private sector in reinforcing the mainstreaming vision and the relationship between private and public sector;
 - What is meant by baseline indicators;
 - How to measure good governance.
- The importance of the involvement of other line ministries was underlined.
- The need to involve civil society more in the Programming Stage.
- Participants questioned the mandates of the central Environmental Division of the IDB, asking who controls mainstreaming outcomes and how it is enforced.

A2. Greater and Improved Investment in Environment and Natural Resource Management

- A comment was made to revise the use of the text 'if agreed with member country'

A3. Mainstreaming Environment in Non-Environmental Operations

- Participants raised the need to revise how net benefits are defined and measured.

A4. Supporting Countries to Meet National Obligations under Ratified International Environmental Agreements

- A comment was made that A4 should identify the commitment of the IDB to increase their grants, including GEF projects.

A5. Incorporating Verifiable Indicators to Track Country Level Environmental Performance

- Participants commented on the need for:
 - clarity on the distinction between monitoring/tracking information and base line data;
 - sources of funding;

- specific indicators on public participation, access to information and access to justice;
- reference to a common definition of key indicators (as WB does);
- involvement of other organizations to assist in building and conducting data sets/inventories and monitoring;
- give consideration to trends, not just baseline indicators;
- clarification on what ‘verifiable indicators’ are.

A6. Identifying and Addressing Environmental Risks and Opportunities early in the Programming Stage

- There is a sense that the Bank will always move forward on a project. Participants questioned whether the Bank will ever consider not moving forward, as the text in A6 does not leave any room for this option.
- Participants questioned whether sector strategic environmental assessments should be included.
- Questions were raised over the use of ‘as appropriate’.
- There is a need to define the term ‘environmentally sensitive and controversial projects’, and what mechanisms do we have to stop these projects.
- IDB was asked to revisit the language used in the Profile of the Policy as it was better than the text presented here.

A7. The Bank will Seek to Adopt Principles of Corporate Environmental Responsibility

- Clarity was requested on the following issues
 - the use of the term ‘wasteful’;
 - internalizing externalities;
 - The annual briefing review;
 - Investing in in-house capacity;
 - The indicators to be used.

Directives “B” -- Safeguarding the Environment

Introduction:

- Participants questioned the term ‘environmental viability’ suggesting that it was vague and ambiguous and that ‘environmental sustainability’ is a much more developed concept.
- There seems to be a presumption in the Bank that there is a clear solution to every significant environmental and social problem, which is not the case, and this presumption sets the tone for the rest of the document. Therefore the intention of the Bank and this Policy should be clarified.

B1. Bank Policies

- There is a need to clarify who in the Bank will be responsible for implementing these procedures and directives and this seems like the appropriate place to do this.
- A question was also raised about the time frame of environmental viability.
- Under “Procedures/Implementation” it is stated that, “the PCD should state the Bank’s strategy to comply with environmentally relevant provisions of the **applicable sectoral policies**”. It was recommended that this be revised to also include compliance with the Environment Policy and that the document where this compliance strategy is outlined should be available to the public.

- A recommendation was made for the Bank, in addition to the Indigenous Policy, to develop a Policy against racism that is suffered by people of African descent living in Latin America.

B2. Country Laws

- It was suggested that the directive be re-worked to improve its clarity and eliminate ambiguities and loopholes. For example, the term “deviation” should be clarified and if a deviation from international law occurs it should be justified in a stand-alone document.
- The question was raised as to what the Bank plans on doing to ensure that “deviations” do not exist.
- It was recommended that the Bank require that if a deviation exists, that the impacted communities be consulted regarding that deviation and if they are in agreement with going forward with such.
- The use of the term ‘deviation’ is not clearly understood (who is setting them up and why?).
- Participants mentioned that the directive needs to clearly list what numeric standards are required, and not leave this open under ‘such as’.
- IDB indicated that the text of the guidelines, related to B2, will be reviewed so that it does not read that the Bank will allow violations to international law.
- B2 was also seen as an opportunity for the Bank to add value by promoting MEAs where member countries are not yet signatories or have signed but not ratified an agreement. For example, if an MEA is signed but not ratified, the Bank could require its enforcement or push for ratification.

B3. In-Country Systems

- ? Participants were concerned that the Bank would put itself in a difficult situation by proposing to accept in-country systems as the Bank would have to demonstrate how national systems are weaker than international standards, a potentially difficult exercise.
- ? Several participants had serious reservations about this directive, in general, suggesting that it should be deleted.
- Other participants recommended that the Bank limit itself to the World Bank’s approach regarding the use of in-country systems (pilot projects, excluding specific sectors, in particular high risk environmental sectors, from use of in-country systems).
- It was stated that as the Directive reads now, there is no transparency in the process of determining the adequacy of in-country systems.

B4. Cultural Sites and Conservation Areas

- Participants encouraged the IDB to broaden the definition of “critical conservation” to include areas which are not legally protected but are critical habitats. The use of “critical conservation areas” and areas of ecological importance” here was criticized for being too limited.
- Several participants recommended that this directive should closely follow the terminology and scope of the World Bank OP404 Natural Habitats.
- Some participants questioned having cultural areas incorporated in the same directive as natural habitats and suggested having a separate directive on cultural property, whereas others thought that having both environmental and cultural sites under the same directive made sense as they require similar treatment.
- The breakdown of IUCN categorization should be revisited.
- It was recommended that the term “critical cultural sites” be replaced with “critical human sites”.

B5. Hazardous Materials

- Issues were raised concerning specific hazardous materials such as mercury and asbestos.
- The topic of genetic contamination as a risk to biodiversity was also raised.
- Comment was made to the effect that the Directive and/or Guideline should clearly state that if capacity does not exist to handle the materials mentioned in B5 that the Bank should not support it.
- One organization mentioned that they will provide detailed comments in writing on this directive/guideline.

B6. Screening and Classification

- Concerns were raised about the definition of Category “A” operations in the directive which is considered too restrictive compared to the categorization of pier institutions.
- More definition was requested on ‘who’ is going to do the screening.
- IDB commented that it will review this directive to clarify the intent of the definition.
- Recommendations were made to remove the term ‘as needed’ in the second paragraph of this directive.
- It would be useful to provide a list of type A projects
- It would be useful to provide an exclusion list (projects that will not be approved)

B7. Policy Based Loans and Financial Intermediaries

- Participants complimented the directive for going beyond the international standard.
- Recommendations were made to the effect that:
 - an “IDB Exclusion List” of activities be prepared and annexed to the Guidelines
 - indirect and unanticipated impacts of FI loans be addressed
 - the responsibility on enforcement of FI environmental compliance be clarified
 - clarification be given in the guidelines on IDBs responsibility regarding sub-projects and whether such information will be made public
 - clarification be given as to whether IDB intends to apply categorization to all FI projects.

B8. EA Requirements

- Participants requested
 - clarity in the guidelines on the process and minimally acceptable conditions for consultation;
 - that IDB consider FPIC in consultation requirements;
 - the articulation of environmental assessment requirements with key decision points in the Bank (Committees, Disbursement etc);
 - clarity on the availability of assessments and of technical material;
 - that environmental contractual provisions should be made available.
 - that greater emphasis be given to the need for environmental assessment to be conducted by an independent and uninterested party. Reference was made to the World Bank Environmental Assessment Policy OP4.01 regarding independent EA experts for Category A projects;
 - use the EIA process as an opportunity to evaluate in-country systems;
 - that a statement be included under “Consultation and Information Dissemination” regarding the “timely education of decision makers”.
- It is important that throughout the policy that a “project” be defined as the entire operation, and not just the component that the IDB is financing, and that these safe guards apply to the entire operation.

B9. Consultations

- Comments were raised concerning the inclusion of civil society participation in government planning activities, although such consideration should possibly be contemplated in the mainstreaming section of the policy.
- It was recommended that the language of this directive be tightened up, i.e., “as early as possible” is too vague.

B10. Category A and B Supervision

- Comments were made to the effect that poor oversight and supervisory capacity was a recurring problem in the region. How can the Policy take this into account and ensure that effective monitoring and supervision actually occur.
- This directive relies heavily on Bank field missions and internal reporting and documentation that is not available to the public.
- This directive/guidelines should have stronger language requiring visits to project sites and baseline indicators for high-risk operations. It was recommended that the wording in the second sentence under “Supervision of Category “A” and “B” Projects be changed from “This **typically involves** visiting project sites” to “This **must involve** visiting project sites”. In addition, the wording should ensure that baseline indicators are present.
- It was recommended that the third sentence in the directive state, “The Bank will include in the Loan Contract **and** operating regulations...” as opposed to “**or** operating regulations”.

B11. Regional and transboundary Impacts

- Recommendations were made to refer to the three conditions in World Bank Policy OP7.50.

B12. Existing Facilities or Operations under Construction

- Participants recommended that the text should clarify that the Bank will only finance projects in full compliance with environmental regulations and that non-compliance issues be addressed before the sponsor approaches the Bank;
- A comment was made that corporate lending may resemble FI operations, in that lending may be extended for future investments, not yet fully identified;
- Several participants recommended that the IDB should prohibit its involvement in Category A projects under construction, given that it limits the Bank's leverage in improving the design of projects.
- It was recommended that the wording clearly state that environmental audits are required.

B13. Multiple Phase Loans

- Recommendations were made to tighten the text regarding the requirements for audits. As drafted the directive only requires a remedial action plan when environmental risks are identified, allowing a subsequent phase of a loan to be approved even if there is non-compliance. It was emphasized that disbursement should not occur until environmental compliance has been demonstrated.
- There was also discussion regarding cases where all environmental commitments were complied with but where impacts were initially miscalculated or missed and how to address this (original intent behind requesting remedial plans). It was noted that if original assessments missed major environmental issues or impacts, that that should serve as a red-flag to not continue with a certain sponsor or operation.

B14. Co-financing Operations

- A recommendation was made that in harmonizing requirements the more rigorous EA is applied. However, it was pointed out that this already happens in practice, as organizations are required to comply with their own policies. It was then decided that where applying the more rigorous standard is an issue is primarily when different institutions are financing different components.
- Other comments were made regarding practical difficulties involved in opposing a single unified standard in complex project financing processes.

B15. Catastrophic Disaster Loans

- Participants made no comments

B16. Environmental Responsible Procurement

- The IDB indicated that it would clarify the language in the text of this directive.
- A comment was made to the effect that equal opportunities and non-disclosure language should be incorporated in Bank procurement documents and/or in the Mainstreaming part of the Policy, as other institutions have done.

Conclusions

In conclusion participants were asked to highlight the areas they felt were the most important. The areas highlighted included:

- Internal reforms in the IDB, especially regarding resource allocation, in order to ensure compliance and implementation of the Policy as well as quality assurance.
- Funds should be ear-marked for technical and financial resources for ENV for both safeguarding and mainstreaming.
- The mandatory nature of the Guidelines needs to be ensured and clarified.
- The Bank's Commitment to renewables should be addressed through an explicit statement within the Policy that commits to a portfolio shift away from fossil fuels to renewables.
- In-Country System Directive needs to be deleted or backed-up to where the World Bank is.
- Information should be made public on FI sub-projects and clarification should be made on whether category "A" and "B" regulations will be transferred to subprojects.
- It is important to clarify how the EIA will be fed into the Loan documents.
- It should be clarified that continued financing requires that compliance with ESMPs is demonstrated.
- The Policy should be revised so that whenever public disclosure is assumed, it is explicitly stated that it will occur.
- Civil Society Involvement should: (i) occur in all processes of mainstreaming; (ii) be accepted and integrated by the Bank when parallel processes for strategic planning are occurring; (iii) be emphasized in both the Region and Washington.
- Resolve the weaknesses in the terminology and language for defining critical and natural habitats and preferably replace with or model after World Bank policy on Natural Habitats.
- An evaluation framework should be set forth in the policy to evaluate compliance and implementation.
- Keep emphasis on compliance and accountability.
- Include a section in this Policy or create another policy for victims of racism and environmental injustice.
- An equal opportunity provision should be adopted for Procurement and become a part of this policy.

- Include explicit language in the policy that clarifies under which circumstances the Bank will not finance an operation
- Multi-phase operations or operations under construction that are out of environmental and social compliance should not be financed.
- Consider increasing the role of independent experts in EA process.
- Include specific reference to cumulative and associated impacts.
- Specify how the Bank will be adding environmental and social value, i.e., in mainstreaming, natural habitats, projects under construction (when and under which circumstances).
- Think on ways of how to build support from Upper Management in the implementation and compliance with the Policy.

Next Steps

Participants were encouraged to send written comments on the *Draft Policy* document and the *Draft Implementation Guidelines* before the end of the consultation period (comments should be sent to felipea@iadb.org by March 8th). Participants were also informed that this report will be made available on our website and a copy of the Bank response will be made available to the public following the consultation period. Any comments to this report may be sent to Natasha Ward (natashaw@iadb.org).