Review and Comments on the IFC Draft Policy on Social and Environmental Sustainability and Performance Standards

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Review and comments were prepared on request of CEE Bankwatch Network
Review of the
IFC Draft Policy on Social and Environmental Sustainability
and Performance Standards

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1 INTRODUCTION

This document aims at reviewing the quality of the IFC’s Draft Policy on Social and Environmental Sustainability (SES Policy) and its Performance Standards (PSs). The process of drafting and designing, the process of public participation (“external consultation”), and the contents of the SES Policy and the PSs has been analysed. The recommendations and the detailed analysis are following, in the sections below.

2 RECOMMENDATIONS

The Draft Policy on Social and Environmental Sustainability (SES Policy)

Document Hierarchy

The hierarchy and relations between the existing and proposed IFC and WB documents (Directives, Policies, Manuals, Guidelines, Handbooks) should have been clearly explained. It is stated that the proposed policy and standards have the aim to upgrade the existing ones. However, the existing documents are much stricter and more detailed requiring the obligations of the WB, IFC, and their clients.

The proposed SES Policy and Performance Standards are lacking concrete provisions, targets and threshold levels, and have no specifications on abiding to the provisions of existing documents. This can only result in loose interpretation of proposed documents, and weak environmental and social sustainability performance of IFC’s clients.

It is nowhere stated whether the client is obliged to follow the practices and attain levels set in the Pollution Prevention and Abatement Handbook (PPAH) and Environment, Health and Safety Guidelines (EHSG).

The proposed documents should have had explicit requirements for abiding to existing policies, manuals, and guidelines. The SES policy should have required general compliance with existing WB and IFC documents. Each Performance Standard should have listed specific WB and IFC documents to be complied with, as outlined below.

It should have been clearly stated that each IFC’s clients and approved projects are bound to comply to practices and levels set in EHSG and in WB/IFC’s Safeguard Policies, as a minimum. Furthermore, the PSs should have been bound to existing relevant international conventions and standards, as outlined below.

Also, there should have been a provision that all the clients and all approved projects should be certified under one of the international environmental management certification systems (e.g. ISO 14000).
Procedure, Timing, and Public Participation

First of all, a distinct Policy Impact Assessment (PIA) process should have been applied in parallel with the SES Policy and Performance Standards (PSs) drafting and design process, from the very beginning.

There should have been two independent, but cooperating teams in the process:
- Policy and Standards Design Team
- Policy Impact Assessment Team

The External Advisory Panel was certainly useful, but could not replace a Policy Impact Assessment Team.

The SES Policy and Performance Standards drafting and design process has begun in April 2003, however, proper public participation (“external consultation”) begun only in September 2004, allowing for it only about 20% of the total procedure time. The process of public participation should have been initiated at the very beginning, and carried throughout the safeguard policy update process, as commented for previous phases, in order to provide feedback on all key stages of the process.

Also, the SES Policy and PSs design should have been synchronized with the design of other important documents: the IFC’s Disclosure Policy Update, the IFC’s Corporate Procedure, and the Implementation Guidelines should have been prepared and subject to public participation in parallel with the SES Policy, in order to avoid loopholes between different documents.

IFC’s responsibilities are bound only to the pre-investment and project operation periods. Both IFC and the client should be responsible for project decommissioning and post-project monitoring, as well as applying remedy measures during the post-project phase if necessary.

The Social and Environmental Sustainability Performance Standards (PSs)

The PSs are not standards as such, since there are no tangible performance indicators, criteria, and limits set. Without performance criteria and indicators, there is no ground for determining compliance.

Vague language has been used, subject to flexible interpretation. There should have been clear statements, definitions of key terms, and binding references to existing WB and IFC Policies, Guidelines, as well as International Conventions and Standards.

Proposed specifications for each Performance Standard are listed below. The PS1 and PS9 are listed first, as they are procedure related. The performance related standards PS2 to PS8 are following.
**PS1: Social and Environmental Assessment (SEA)**

The PS1 should have been bound to:

- Environmental Assessment Safeguard Policy (OP4.01)
- Espoo Convention on transboundary Impact Assessment

The PS1 should have had provisions and specifications for:

- clearer **project categorization** (for enabling the “screening” process)
- **public involvement** in the screening process
- clearer classification of **assessment types**, linked to project categories
- mandatory **environmental auditing** for projects involving existing infrastructure / facilities
- formal **alternatives analysis** procedure, with public input
- public involvement in the **impact “scoping”** process (determination of significant impacts that will be assessed).

- method for determining the competence of the **SEA Experts**
- existence of Draft and **Working SEA Report** with public input in between
- formal **SEA Report Quality Review** process (by a special IFC review body)
- independent SEA Report Quality review (by interested parties)
- **decision** on project based on the results of SEA Report Quality formal and independent Reviews
- project decision **explanation provided** to the **public**

- hazard and **risk assessment** studies included in the **SEA Report**
- **human rights impact assessment** included in the **SEA Report**

- existence of Draft and **Working Social and Environmental Action Plan (SEAP)**, included in the draft and final **SEA Report** respectively, with public input in between (for minimum SEAP contents see PS9, below)

- direct **complaints mechanism** from the public to the IFC’s **CAO**
- **IFC’s role** in Action Plan **compliance** and project performance **monitoring**
- IFC’s **corrective mechanisms** and actions, in case of client’s non-compliance
PS9: Action Plans and Management Systems

The PS9 should have been bound to:

- Environmental Assessment Safeguard Policy (OP4.01)
- An existing environmental management certification system (e.g. ISO 14000)
- Espoo Convention on transboundary Impact Assessment

The PS9 should have had requirements and specifications for:

- Social and Environmental Management System (SEMS) on the client’s corporate level (not just related to the approved project), with provisions and specifications for:
  - environmental policy
  - objectives and targets
  - project management
  - product / service life-cycle analysis
  - risk management
  - documentation
  - information and communication management
  - personnel capacity, training and awareness management
  - community capacity, training and awareness management
  - contractors management
  - official external auditing and certification

- Draft and Working Social and Environmental Action Plan (SEAP), on the (approved) project level included in the draft and final SEA Report, bound to provisions from OP 4.01 Annex C, containing:
  - objectives and targets, linked to the SEA Report findings
  - mitigation and compensation measures programs
  - monitoring programs involving public authorities and NGOs
  - ongoing public participation programs
  - biodiversity protection and enhancement programs
  - relocation and resettlement programs
  - community, personnel, and contractors communication, capacity, training and awareness management programs

- reporting form and frequency
- community involvement in the SEAP
- direct complaint mechanisms from public to IFC
- IFC, and IFC’s CAO roles in case of client’s non-compliance
- decommissioning, and post-project monitoring
PS2: Labor and Working Conditions

The PS2 should have been bound to:

- Forced Labour, Discrimination, and Child Labour, and other ILO Conventions.
- IFC’s Environmental Health and Safety Guidelines
- IFC’s Child and Forced Labour Policy Statement

The PS2 should have had requirements and specifications for:

- independent, third party monitoring
- direct transfer of responsibility from third parties to the client
- unacceptable forms of labor
- minimising impacts and compensating for retrenchment, post-construction and post-operation laying-off
- protecting the affected communities from the impacts of the immigrant working population, such as crime, alcohol and drug abuse, and HIV/AIDS.
- complaint mechanism for labourers and affected communities, directly to the IFC, that would involve the IFC’s Compliance Advisor Ombudsman (CAO).
- IFC’s responsibilities and actions in case of client’s non-compliance

PS3: Pollution Prevention and Abatement

The PS3 should have been bound to:

- Environmental Assessment Safeguard Policy (OP4.01)
- Pest Management Safeguard policy (OP 4.09)
- IFC Environmental, Health and Safety Guidelines
- IFC Position Paper on Persistent Organic Pollutants
- WHO’s Standards for Pesticides
- EU Integrated Pollution prevention and Control (IPPC) Directive
- IPCC Convention and the Kyoto Protocol

The PS3 should have had more detailed specifications for:

- best practice in sustainable development
- compliance and continual improvement in pollution control through SEMS (PS9), not only on project level, but also on client’s corporate level
- pollution minimisation
- resource use minimization
- reuse of waste
- carbon intensity reduction, not only on project level, but also on client’s corporate level
- prohibition lists and terms of use of hazardous chemicals, and precursor chemicals and/or binding references to such documents
- corrective mechanisms and IFC’s role in case of client’s non-compliance

PS4: Community Health and Safety

The PS4 should have been bound to:

- Safety of Dams Safeguard Policy (OP 4.37)
- Pest Management Safeguard Policy (OP4.09)

The PS4 should have had provisions or specifications for:

- hazard and risk assessment studies for projects and products to be performed during project design, and included in the SEA Report (see PS1)
- mechanisms for communicating project safety and community health
- list of projects that can cause serious negative or binding reference to such list
- draft and working Community Health and Safety Plan (CHSP) to be included into the draft and final SEA Report with public input in between
- direct grievance mechanism from public to IFC’s CAO
- corrective mechanisms and IFC’s role in case of client’s incompliance with CHSP

PS5: Land Acquisition and Resettlement

The PS5 should have been bound to:

- Environmental Assessment Safeguard Policy (OP4.01)
- Involuntary Resettlement Safeguard Policy (OP 4.30)

The PS5 should have had provisions or specifications for:

- project location and design alternatives analysis process, documented in the draft and final SEA Report
- Inclusion of multi-stakeholder fact-finding groups in the process of alternative identification and analysis
- Draft and working Resettlement Plan (RP), included in the draft and final SEA Report with public input in between
- Minimum requirements for RP contents
- RP monitoring and evaluation relevant public authorities and NGOs participation
- direct grievance to IFC’s CAO and mechanisms and roles in case of non-compliance

**PS6: Conservation of Biodiversity and Sustainable Natural Resource Management**

The PS6 should have been bound to:

- Convention on Biodiversity and the Biosafety Protocol
- Natural Habitats Safeguard Policy (OP 4.04)
- Forestry Safeguard Policy (OP 4.36)
- Pest Management Safeguard Policy (OP 4.09).

The PS6 should have had provisions or specifications for:

- biodiversity baseline studies
- ecological services cost / benefit analysis
- Biodiversity Action Plan (BAP), included in the draft and final SEA Report with public input in between
- Minimum requirements for BAP contents, including monitoring provisions
- direct grievance, and corrective mechanisms

**PS7: Indigenous Peoples and Natural Resource Dependent Communities**

The PS7 should have been bound to:


The PS7 should have had provisions or specifications for:

- customary ownership of lands or resources
- project impacts to community migration patterns and natural resource use
- specific consultation techniques with indigenous peoples.
- baseline studies, to be part of the SEA Report
- Indigenous Peoples Development Programs (IPDP)
- Compliance monitoring and corrective mechanisms
PS8: Cultural Heritage

The PS8 should have been bound to:

- Convention for the Protection of Cultural Property
- Cultural Property Operational Manual (OPN 11.03).

The PS8 should have had provisions or specifications for:

- maintaining cultural identity
- protection of
  - intergenerational knowledge
  - architecture, livelihoods
  - indigenous customs
  - intellectual property
  - genetic pool and species
- respecting national laws and standards linked to the Convention for the Protection of Cultural Property.
- cultural heritage baseline studies
- Cultural Heritage Protection Programs (CHPP)
- Compliance monitoring and corrective mechanisms
3 DETAILED ANALYSIS

The IFC’s website contains a dedicated web page on the safeguard policies update process, available at:
http://www.ifc.org/ifcext/policyreview.nsf/Content/SafeguardPolicesUpdate

The “Process and Timetable” sub-page outlines the main phases of the safeguard policies update process:

**Background Phase** comprises a Compliance Advisor Ombudsman (CAO) Report ‘A Review of IFC’s Safeguard Policies’ issued in April 2003. However, it is not stated at which point in time this report became publicly available. Since the dedicated web page was not created until January 2004, it is likely that the CAO Report was not widely available before that point in time.

**Phase 1** “Preparatory Steps and Identification of Gaps” has been performed from October-December 2003, and it included the following steps:

1. Articulate current IFC minimum environmental & social requirements
2. Identify, analyze & prioritize issues and gaps
3. Finalize & release IFC’s response to the CAO Review
4. Begin to plan communication & engagement
5. Brief Senior Management on gap analysis results

However, there is no reference to any publicly available documents that would contain the main results and conclusions from these steps. Such documents (or one encompassing document) should have been made available to the public for review and procedures for comments and concerns submission should have been arranged, before the commencement of phase 2 (January 2004). The public feedback on the main conclusions and results from Phase 1 should have been taken into account at the beginning, and during Phase 2.

**Phase 2** “Safeguards Structure, Drafting and Internal Consultation” has been performed from January-May 2004, including the following steps:

1. Report to the IFC Board on the Management Response to the CAO’s Review of the Safeguard Policies
2. Release IFC's response to the CAO Review
3. Website established
4. Determine issues to be addressed as safeguards
5. Develop a conceptual policy framework
6. Determine key content for minimum requirements
7. Draft a policy framework  
8. Draft minimum safeguards  
9. Consult internal stakeholders within the World Bank Group  
10. Seek external expert input  
11. Refine policy draft  
12. Presentation to Senior Management  

Again, there is no reference to any publicly available documents that would contain the results and conclusions from the most important steps. A document summarizing conclusions and results from steps 4 to 8, should have been made available to the public for review and comments before the commencement of step 9, and taken into account from step 9 onwards.  

**Phase 3**. “Board Briefing and External Consultation” has been initiated in June 2004 and is ongoing. However, proper public participation (“external consultation”) process has begun only in September 2004, one and a half year after the commencement of the policy update process. The process of public participation should have been initiated at the very beginning, and carried throughout the safeguard policy update process, as commented for previous phases.  

**The Draft Policy on Social and Environmental Sustainability (SES Policy)**  

In the Draft Policy on Social and Environmental Sustainability (SES Policy) it is stated that ‘In line with IFC’s commitment to transparency and community engagement, IFC will act in accordance with IFC’s Disclosure Policy (update forthcoming)… [and that] detailed procedural requirements consistent with this Policy can be found in IFC’s corporate procedure (forthcoming).’” (Policy, page 1). The IFC’s Disclosure Policy Update and IFC’s Corporate Procedure should have been prepared and subject to public participation in parallel with the SES Policy.  

It is stated that “The Implementation Guides provide guidance on implementation of the Performance Standards” however, it is not clear whether the Implementation Guides are ready or under preparation, nor where and when they will be available.  

It is also stated that “Technical guidelines on sector and industry practices and levels normally applied under the Performance Standards are contained in the World Bank Group’s Pollution Prevention and Abatement Handbook [PPAH] published in 1998 and IFC’s Environmental, Health and Safety Guidelines [EHSGs] (or the forthcoming updates of these).” (SES Policy, page 1). This sentence does not state whether the client is obliged to follow the practices and attain levels set in the PPAH and EHSGs. In this paragraph, it should be clearly stated that each IFC’s client and project is bound to comply to practices and levels set in EHSGs and in WB/IFC’s Safeguard Policies, as a minimum.
On the web page for Environmental, Health and Safety Guidelines, at http://www.ifc.org/ifcext/enviro.nsf/e11ffa331b366c54ca2569210006982f/f067bebe3af7995e85256d87005087e9?OpenDocument it is stated that:

1. “IFC is using all the environmental guidelines contained in the Pollution Prevention and Abatement Handbook (PPAH).”
2. IFC is also using a series of [additional] environmental, health and safety guidelines that it has been preparing since 1993… for which there [are] no parallel guidelines in the PPAH.”

First, the term ‘using’ is not defined and, therefore, it is impossible to deduce whether these guidelines are of a binding character. There should be a clear statement whether the application of the guidelines is mandatory or not.

Second, it is not specified whether IFC is ‘using’ only its own additional guidelines (a total of 28), or does it use WB’s additional guidelines as well (a total of 41 in addition to IFC’s 28 guidelines).

It is stated, on the same web page that “Where no sector specific guideline exists for a particular project then the World Bank General Environmental Guidelines and the IFC Occupational Health and Safety Guideline will be applied…” as well as two additional guidelines on underground, and open pit mining and milling.

It is also stated that “Ultimately the PPAH will be revised and it will incorporate the IFC guidelines” at an unspecified date.

IFC’s Responsibilities

On page 3, it is stated that “[IFC will] categorize the project in accordance with the level of social and environmental risks and impacts in order to determine the scope of social and environmental appraisal and institutional resources required”. At this point, there should have been and explanation of the categorisation method (A,B and C projects), or a specific reference to the Safeguard Policy on Environmental Assessment (OP4.01).

The section on the IFC’s responsibilities considers only the ‘pre-investment’ and ‘during the life of the IFC investment’ periods. There is no word about the IFC’s responsibilities for the project-decommissioning phase.

Client’s Responsibilities

It is stated that “IFC will require the client to meet an Action Plan derived from the applicable Performance Standards, to be implemented through its Social and Environmental Management System over the life of the investment.” (page 3). First of
all, the client should devise and carry out, instead of “meet” an Action Plan. Secondly, there should have been a specific reference to the Performance standards PS1 and PS9. Thirdly, there should have been a specific reference to the Safeguard Policy on Environmental Assessment (OP4.01) and a terminology clarification (Action Plan, as in SES Policy = Environmental [and Social] Action Plan, as in OP4.01).

It is also stated that “IFC’s determination of the adequacy of the Action Plan will be guided by the nature and scale of the proposed project and the expected impacts, prevailing industry sector practices, if any, as well as the client’s business capacity and available resources.” (page 3). This sentence gives too much leeway, both for the IFC and its clients, so that even low quality Action Plans can be passed. At this point, there should have been at least a precise reference to Annex C to the Safeguard Policy on Environmental Assessment (OP4.01), which sets minimum requirements for an Environmental [and Social] Action Plan.

Client Support
On page 5, examples of IFC’s client support are given. One of the examples is “Advice on international practices, criteria and certification systems deemed acceptable to IFC”. It should have been defined which environmental management certification systems are acceptable by the IFC. Alternatively, a clear reference should have been given as to where this information can be accessed. Furthermore, compliance with one of the international environmental management certification systems (e.g. ISO 14000, EMAS) should have been required in the SES Policy and in PS9.

The Social and Environmental Sustainability Performance Standards (PSs)
In the Introduction to the Performance Standards (PSs), it is stated that “together, the nine Performance Standards establish standards that the client is to meet throughout the life of the investment…” (PSs, Page 1). Again, there is no specific mention of the project decommissioning and post-project phase.

Also, the PS1 to PS9 are not standards as such, since there are no tangible performance indicators, criteria, and threshold levels set. Performance Standards 1 to 9 merely set principles of good practice and would be more properly named as guidelines, than standards. Without performance criteria and indicators, there is no possibility for systematic determination of client / project compliance.

Apart form absence of criteria and indicators, there is a problem of vague language, subject to different interpretations. There is a frequent use of expressions such as ‘may’, ‘as appropriate’, ‘often’, ‘waive’, ‘depend’, etc.
The IFC proposes the following Performance Standards:

PS 1: Social and Environmental Assessment
PS 2: Labor and Working Conditions
PS 3: Pollution Prevention and Abatement
PS 4: Community Health and Safety
PS 5: Land Acquisition and Involuntary Resettlement
PS 6: Conservation of Biodiversity and Sustainable Natural Resource Management
PS 7: Indigenous Peoples and Natural Resource Dependent Communities
PS 8: Cultural Heritage
PS 9: Social and Environmental Management System

It is stated that PS1 “establishes the importance of social and environmental assessment to help clients systematically identify the social and environmental risks and opportunities of their projects”. The word ‘impacts’ should be inserted between ‘risks’ and ‘opportunities’.

It is also stated that “the client will be required to manage these [impacts] by an Action Plan … consistent with Performance Standard 9, over the period of the investment”. Firstly, the Action Plan should also encompass the decommissioning phase, as well as the post-project monitoring period. Secondly, the Action plan should be consistent not only with PS9, but also with the OP4.01 Annex C.

On page 2, it is stated that “Implementation Guides will provide definitions and details on how to apply the Performance Standards”. Implementation Guides should have been devised in parallel with the PSs, in order to obtain timely internal and external (public) assessment of both the standards and the implementation guides.

Standards PS1 and PS9 are more “Procedure” than “Performance” standards. Also, they have to be linked to each other because Action Plans should be created during the SEA Process (PS1) and fine-tuned during the Management System design process (PS9). For this reason PS1 and PS9 are reviewed first, with PS2 to PS8 following.

**PS1: Social and Environmental Assessment (SEA)**

It should have been clearly stated that the PS1 is linked to the Environmental Assessment Safeguard Policy (OP4.01), and that the provisions from OP4.01 should be respected, as a minimum. Also, it should be stated that the assessment process should comply with the Espoo Convention on transboundary Impact Assessment, and the Aarhus Convention on Access to Information, public Participation, in Decision-Making and Access to Justice in Environmental Matters.
Without binding to the OP4.01, the PS1 presents a step back comparing to the existing WB and IFC mechanisms. There is no definition of key terms. Project categories are far less precisely defined and there is no mention of the FI Category (as in OP 4.01). There is no mention of ‘sensitive impacts’ in Category A projects.

The PS1 does not require independent experts and advisory panels and human rights impact assessment.

There is no provision for determining the competence of the assessor (whether it is the client or a third party) for the task of Social and Environmental Assessment (SEA).

Also, there is no specification on checking the quality of the SEA Report. It should be stated that the quality of the SEA Report will be checked against the OP4.01 Annex B, as a minimum. It should be also useful to apply one of the existing methodologies for SEA Report quality review as a standard, and to form a quality review body within the IFC. Independent quality review should also be allowed, and taken into account.

The decision on whether a proposed project will be financed, should be based on the quality and the findings of the SEA Report. There should be a clarification in PS1 as to how this decision is made (see previous paragraph). There should also be a provision in PS1 that in each individual case, the decision about the project, together with an explanation, will be made available to the public.

The PS1 mentions the Action Plan, but not as an integral part of the Social and Environmental Assessment Report (SEA Report). It should have been stated that the SEA Report should contain the Action Plan, subject to public review and comment. The Action Plan should contain not only mitigation measures, but monitoring measures and a monitoring plan as well. The monitoring plan should include participation of national environmental authorities and environmental NGOs. The Action Plan should also contain plans for community compensation measures, ongoing public participation and consultation and community engagement, relocation and resettlement of indigenous people plans, and plans for biodiversity protection.

**Scope of the Assessment**

It is stated that “the client is responsible for a social and environmental assessment of its project”, without specifying to whom the client is responsible, i.e. what is the IFC’s role in the assessment process.

It is also stated that “Impacts and risks should be analyzed”. The assessment should not only identify and analyse, but also quantify risks, impacts and opportunities.

It is stated that the scale and type of the assessment will depend on the “type of project and the nature and magnitude of its impacts and risks”. There should have been a binding reference to the OP4.01, regarding the types of projects (Category A, B, and C projects) in order to have a more specific classification of projects, and in order to clarify the provisions in the Assessment Requirements section, below. Also, there should have
been provisions for transparency and public participation in the project classification process.

There is no precise description of different types of assessment (full scale social and environmental impact assessment, limited or focused environmental or social assessment, environmental audit, hazard assessment), and there is no clarification as to what decides which type of assessment should be applied.

Assessment Requirements
There should have been a binding reference to the ‘Environmental Screening’ section in OP4.01, in order to bind the project classification in PS1 to the more precise classification in OP4.01.

It is stated that the Projects with Significant Adverse Impacts (analogue to Category A projects in OP4.01) “will often require the preparation of a social and environmental impact assessment report” (page 4). This project category should always require a social and environmental assessment report.

It is stated that, for the projects with Limited Adverse Impacts (analogue to Category B projects in OP4.01), “during the assessment process, the client will engage with affected communities as appropriate”. The ‘as appropriate’ clause should be left out, because it allows for cases without any public participation.

For the Projects Involving Existing Facilities it is stated that “the client may be required to commission a social and/or environmental audit to determine the nature and extent of any areas of concern and identify corrective actions, which will be the core of the client’s Action Plan”. Firstly, projects involving existing facilities should always be subject to environmental audit. Secondly, if they belong to Category A, they should be subject to the social and environmental process as well.

Assessment Recommendations
It is stated that the assessment recommendations “constitute the main input to the client’s Action Plan, which is a key component of the social and environmental management system described in Performance Standard 9”, however, it is not specified that the Action Plan should be included in the SEA Report. The Action Plan (at least the first draft), should be an integral part of the SEA Report, in order to be available for public comments (“external participation”).

The Public comments should be taken into account during IFC’s decision making about the project and during the client’s design of the Working Action Plan. Information about the consideration of public comments should be made publicly available.
**PS9: Action Plans and Management Systems**

There should have been a clear requirement for the PS9 to be linked to the Environmental Assessment Safeguard Policy (OP4.01), and that the provisions from OP4.01 should be respected, as a minimum. Without explicit binding to the detailed provisions from OP4.01, this standard presents a step back from existing mechanisms.

To make this standard concrete, there should be a provision that the clients and approved projects should comply with one of the existing international environmental management certification systems, such as ISO 14000 or EMAS. Furthermore, there should be a requirement for the existence of an environmental management system on the client’s corporate level, and not only related to the approved project.

Alternatively, the PS9 should have set out detailed requirements for social/environmental management system (SEMS) procedures and norms. These procedures should include as a minimum: project management; risk management; training and awareness; corporate social responsibility; sustainable development; contractors management; documentation; communication - internal and external; change of management; continuous improvement (management review, best practice, auditing); as well as provisions for official external auditing and certification. External auditing and certification would still have to be performed by an internationally approved body.

Furthermore, the action plan and social and social/environmental management system (SEMS) should comply with the provisions from the Aarhus Convention on Access to Information, public Participation, in Decision-Making and Access to Justice in Environmental Matters.

There should have been specific provisions in order to provide appropriate community involvement in the SEMS. The PS9 lacks details on information management and, internal and external communication and responsibility. There should be clearer explanations on the interrelationships between the IFC, the client (and its subcontracotrs), as well as the affected communities and relevant public authorities.

**Action Plan**

There should have been a binding reference to the OP 4.01 Annex C – ‘Environmental Action Plan’ as a minimum. The OP 4.01 Annex C provides detailed and specific information regarding the requirements for an Action Plan.

It should have been stated that the Draft Action Plan should be an integral part of the SEA Report (as specified in the comments for PS1), and made available for public review and comment, in order to engage the public into the SEMS as early as possible.

There should have been a provision for Action Plan and SEMS Objectives and Targets to be linked to the SEA Report findings. Also, it should be specified that the public comments on the Draft Action Plan have to be taken into account during the completion of the Working Action Plan.
The Draft and the Working Action Plan should contain provisions for active involvement of relevant state environmental authorities and environmental NGOs in the monitoring activities.

**Organizational Capacity and Training**
It is stated that “the client will establish, maintain, or strengthen… an organizational structure… to implement the Action Plan…[and] train employees”. It is not specified, however, who will check compliance with this, and how, during the lifetime of the project, as well as decommissioning, and post-project monitoring where appropriate. Again, there should have been a provision that the client and the project should be certified by one of the international environmental management certification systems.

**Community Engagement**
This section only states that the affected communities and interested parties will be provided with information and that “the client will establish a grievance procedure or mechanism”. However, there is no provision for active NGO and public authorities participation in the monitoring process. There are no provisions on community capacity building and training. There are no provisions for direct grievance mechanisms from the affected communities to the IFC.

**Monitoring**
In this section again, it is only the client who is responsible for monitoring, checking compliance, and applying corrective measures. There should be provisions for external monitoring and auditing.

**Reporting**
There should have been a specific provision that the client will report to the IFC. There should have been specific provisions about reporting frequency regarding different project categories (as defined in PS1). There should be minimum requirements for each project category. Projects with significant adverse impacts and more complex mitigation measures / SEMS, should have a shorter reporting period than projects with limited adverse impacts.

**PS2: Labor and Working Conditions**
The PS2 should have contained the requirement for all clients and approved projects to comply with the provisions of the Forced Labour, Discrimination, and Child Labour, and other ILO Conventions. The PS2 should also have required compliance with IFC’s Environmental Health and Safety Guidelines and the Child and Forced Labour Policy Statement.
There should have been more specific provisions on the issue of third parties and the client’s responsibilities for third parties, especially subcontractors. Also, there should have been clear provisions for third party monitoring and direct transfer of responsibility from third parties to the client, especially in the case of slave, forced and child labor. There should have been more specifications on unacceptable forms of labor.

Regarding employee retrenchment, there should be a specific definition of ‘significant numbers’. Also, there should have been specific provisions for minimising impacts and compensating for post-construction and post-operation laying-off. There should have been a link to PS1 and PS9 in terms of requiring social compensation programs to be included in the Social and Environmental Action Plan.

There should have been specific provisions on protecting the affected communities from the impacts of the immigrant working population, such as crime, alcohol and drug abuse, and HIV/AIDS.

There should have been specifications on IFC’s responsibilities and actions in case of client’s non-compliance with IFC’s requirements and with relevant national and international conventions, laws and standards.

There should have been provisions for a complaint mechanism for labourers and affected communities, directly to the IFC, that would involve the IFC’s Compliance Advisor Ombudsman (CAO).

**PS3: Pollution Prevention and Abatement**

The PS3 does require the client to perform a “social and environmental assessment process on the basis of the World Bank Group’s Pollution Prevention and Abatement Handbook [PPAH]”, however this should be bound to the OP 4.01 on Environmental Assessment as well. Also, the PS 3 should bind to OP 4.09 on Pest Management, IFC Environmental, Health and Safety Guidelines, and IFC Position Paper on Persistent Organic Pollutants, and WHOs Standards for Pesticides. Also, PS3 should have been bonded to the IPPC Directive and the Kyoto Protocol, and international best practice agreements.

There should have been provisions for best practice in sustainable development, as well as compliance and continual improvement in pollution control, through linking PS3 with PS9 and through bonding requirements for official environmental management system certification for clients on their corporate level.

There should be a requirement that PS3 provisions should be respected not only in the context of the approved project, but also to the client’s overall activities i.e. requirements for client’s corporate sustainability. As specified in comments for PS1, there should be a
requirement for the existence of an environmental management system on the corporate level.

Apart from pollution minimisation requirements, there should have been clear requirements for resource use minimization, through reuse of waste and rational use of natural resources. Also, the PS3 should have had requirements for client’s carbon intensity reduction.

The section on hazardous chemicals is vague and conditional. There should have been specific lists and terms for prohibition of hazardous chemicals as well as precursor chemicals.

There are no specifications on the corrective mechanisms in case of client’s non-compliance.

**PS4: Community Health and Safety**

The PS4 should have contained the requirement for compliance with the provisions of the Operational Policies on the Safety of Dams (OP 4.37), and on Pest Management (OP4.09), as a minimum.

It is stated that when “the project includes structural elements or components that can cause serious negative consequences if they malfunction or fail, such as dams, tailings dams, and ash ponds, the project structure will be reviewed by one or more independent experts as early as possible”. However, there should have been a specific provision for hazard and risk assessment studies to be performed during project design, and included in the SEA Report (as explained in the comments for PS1).

Hazard and risk assessment studies should include not only projects themselves, but also their products, such as hazardous chemicals. Had the PS9 required the application of certified environmental management systems, this issue would have been automatically solved.

It is stated that the client should “inform local communities of significant potential hazards in a culturally appropriate manner and assist with their emergency preparedness”. However, detailed mechanisms for communicating project safety and community health issues to the potentially affected communities should have been defined. There should have been a detailed list of projects that “can cause serious negative consequences if they malfunction or fail”, or a binding reference to such a list.

There should have been a binding provision that the draft Community Health and Safety Plan (CHSP) should be included into the draft SEA Report in order to be subject to public review and comment. The public comments should be taken into account during the
design of the working CHSP. There should be provisions for complying with the CHSP and corrective mechanisms that involve the IFC, in case of incompliance.

**PS5: Land Acquisition and Resettlement**

The PS5 should have been bound to OP 4.30 Involuntary Resettlement OP 4.01 Environmental [and Social] Assessment, as a minimum.

It is stated that the client “will explore all viable alternative project designs to minimize land-take and avoid negative impacts…” this provision should have been bound to OP 4.01 and PS1, requiring the alternative analysis process to be documented in the draft and final SEA Report. Also there should have been a provision to include multi-stakeholder fact-finding groups in the process alternative identification and analysis.

It is also stated that “a resettlement plan or framework will be developed”. It should have been stated that a framework (draft) Resettlement Plan should be included in the draft SEA Report and subject to public review and comment, in order to involve the affected communities and the public early in the process. The working Resettlement Plan should be subsequently included into the final Sea Report, taking into account the public comments. Also, there should have been a specification of what elements should the Resettlement Plan contain as a minimum.

It is stated that the client “will also establish procedures to monitor and evaluate the implementation of resettlement plans and take corrective actions as necessary”. It should also have been stated that these procedures should be documented in the draft and working Monitoring Plan (included in the draft and final SEA Report and in the Social and Environmental Action plan). There should be provisions for independent monitoring and feedback, not only to the client, but also directly to the IFC’s CAO. Also, there should have been provisions for equalizing the rights of the historically proven land-users with the rights of legal land-owners.

It is also stated that the client “will establish a grievance procedure or mechanism”. However there should have been provisions for a mechanism of direct grievance to the IFC’s CAO, and IFC’s role in applying corrective measures.

**PS6: Conservation of Biodiversity and Sustainable Natural Resource Management**

The PS6 should have been bound to the Convention on Biodiversity and the Biosafety Protocol, as well as the Safeguard Policies on Natural Habitats (OP 4.04), Forestry (OP 4.36), and Pest Management (OP 4.09).
There should have been definitions of terms such as ‘no go zone’, ‘natural habitat’, ‘critical natural habitat’, ‘significant conversion and degradation’, and ‘sustainable natural resources management’. Also, there should have been a ban on any developments in primary moist tropical forests, and on financing projects that “contravene any relevant international environmental agreement to which the member country concerned is a party.”

There should be provisions for introducing ecological services in the cost / benefit analysis for project investment. The results from these analyses should be used in the project alternatives analysis process, and documented in the SEA Report.

There should have been provisions for biodiversity baseline studies, to be performed and included in the SEA Report. Also, biodiversity restoration, protection, conservation and promotion and monitoring programs should be part of the Social and Environmental Action Plan.

**PS7: Indigenous Peoples and Natural Resource Dependent Communities**

The PS7 should have been bound to the United Nations Draft Declaration on the Rights of Indigenous Peoples (1994) and the Safeguard Policy on Indigenous Peoples (OP 4.20).

There should have been definitions for key terms such as ‘indigenous peoples’, ‘minority groups’, ‘free prior and informed consent’, and ‘natural resource dependent communities.’

There should have been references to customary ownership of lands or resources. There should have been provisions and specifications on the project impacts to community migration patterns and natural resource use, as well as appropriate mitigation measures. There should have been requirements for broad community support for the use of natural resources on lands of Indigenous Peoples or natural resource dependent communities.

There should have been specific provisions for techniques appropriate for consultation with indigenous peoples.

There should have been provisions for appropriate baseline studies, to be part of the SEA Report, as well as Indigenous Peoples Development Programs (IPDPs), to be part of the Action Plan. There should be provisions for complying with the IPDPs and corrective mechanisms in case of incompliance and the IFC’s Role. There should have been a mechanism of direct compliance from indigenous peoples and communities to the IFC’s CAO.
**PS8: Cultural Heritage**

The PS8 should have been bound to the Convention for the Protection of Cultural Property (1954), and the Operational Manual on Cultural Property (OPN 11.03).

There should have been provisions for maintaining cultural identity, including the protection of intergenerational knowledge, architecture, livelihoods, indigenous customs, and intellectual property. Also, there should have been requirements for genetic and plant protection as part of cultural heritage, to be linked with PS6.

There should have been a provision for respecting national laws and standards linked to the Convention for the Protection of Cultural Property.

There should have been specific provisions for cultural heritage baseline studies, to be part of the SEA Report. These studies should be performed by teams that would include representatives from relevant cultural heritage national and international organizations, as well as NGOs.

Cultural Heritage Protection Programs (CHPP), based on the findings of the baseline studies, should part of the Action Plan. There should have been provisions for corrective mechanisms in case of incompliance, and the IFC’s Role in these mechanisms. There should have been a mechanism of direct compliance to the IFC’s CAO.