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The Equator Principi- ples III

What Matters and Why

Dr Karlheinz Spitz MBA

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Preamble

Asia's dynamic economic environment offers a huge array of business opportunities for multinational companies. This is particularly true for the extractive industry, where untapped natural resources—oil, gas, coal, and metals – continue to attract investment. It is also true in the services sector, where the rising disposable income of Asian's middle class is driving demand.

Multinational companies are well-placed to take advantage of new market opportunities, given their international experience and typically greater investment power. Greencorp offers a range of integrated services to support your investment. And because we understand Asia better, we are able to provide affordable world class services and innovative solutions.

Doing business in Asia is not without its perils. Investors face a myriad of environmental laws and regulations, combined with complex web of administrative and cultural practices and procedures. In short, the business environment in Asia is as diverse and challenging as the region as a whole.

“We provide solutions where others see problems”

This catch phrase captures our business philosophy. We can support your business through every stage in Asia, helping to manage risk and to improve performance. Our experience is reflected in the choice of consultants and engineers we employ—all enjoy a high standing in the industry with demonstrated working experience in the region. Simply speaking, we believe that in providing services to our clients, substance is more important than systems and platitudes.

Our series of booklets is designed to help you mastering common business challenges.
Greencorp, beyond expectations.

Yours truly,

Dr. Karlheinz Spitz MBA

May, 2017

Acronym

ADB	Asian Development Bank
AMDAL	Analisis Mengenai Dampak Lingkungan (EIA in Bahasa Indonesia)
AP	Action Plan
EAP	Environmental Action Plan
EB	Equator Bank
ECC	Environmental Compliance Certificate
EIS	Environmental Impact Statement
EISS	Environmental Impact Statement System
EIA	Environmental Impact Assessment
EHS	Environment, Health, and Safety
EMS	Environmental Management System
EP	The Equator Principles
EPC	Engineering, Procurement, and Construction
EPFI	Equator Principles Financial Institutions
ESAP	Environmental and Social Action Plan
ESMS	Environmental and Social Management System

IFC	International Finance Corporation
IP	Indigenous Peoples
JBIC	Japanese Bank for International Cooperation
LARAP	Land Acquisition and Resettlement Action Plan
LESC	Lender's Environmental and Social Consultant
MS	Management System
NEPA	National Environmental Policy Act of 1969 (USA)
OD	Operational Directive
OECD	Organisation for Economic Cooperation and Development
OP	Operational Policy
PAP	Project-affected People
PP	Project Proponent
PS	Performance Standard[s]
SPS	Safeguard Policy Statement

THE EQUATOR PRINCIPLES III

What Matters and Why

THE EQUATOR PRINCIPLES III

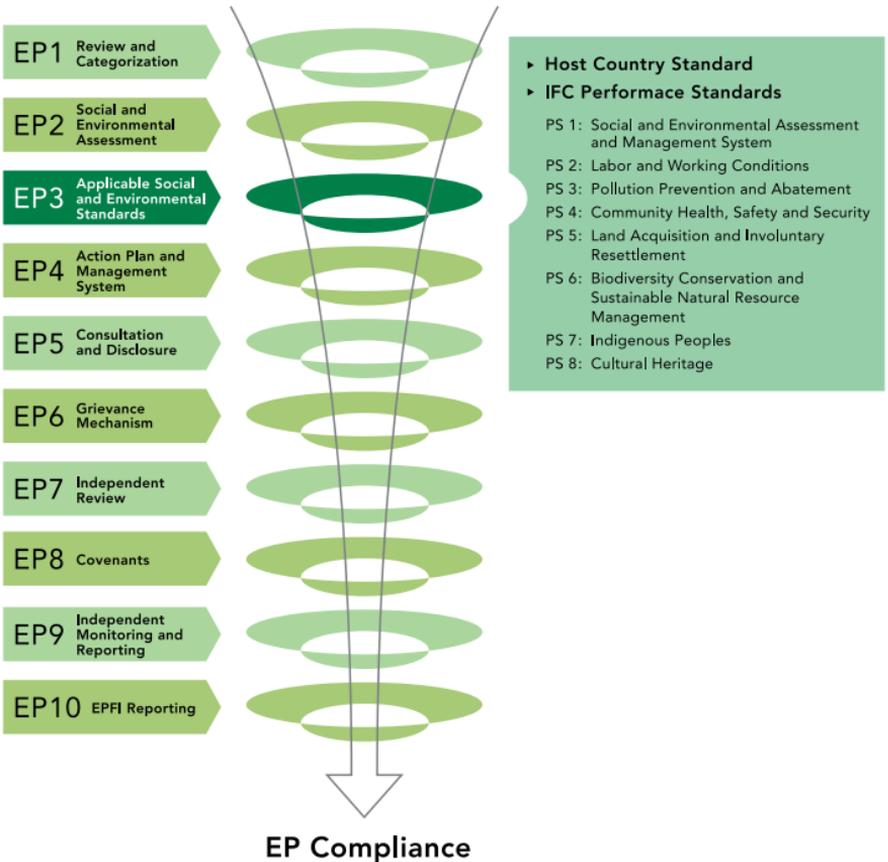
What Matters and Why

This booklet 'The Equator Principles III' is designed to develop an appreciation of the Equator Principles (EP) and to help in understanding what matters about them and why.

The Equator Principles apply to all new project developments in Asia (and in developing countries worldwide) with a capital cost of US\$ 10 million or more that seek private sector financing. They have emerged as the banking industry standards for evaluating environmental and social issues in project finance. Strictly speaking, they apply to non-OECD countries; in Asia, this excludes Australia, Japan, Korea, Israel, and Turkey.

Figure 1
The Equator Principles Work Flow
(Spitz and Trudinger 2008)

Principles and Guidance for Environmental Assessment



EP 1 requires an Equator Principles Financial Institution (EPFI) to determine the magnitude of expected environmental impacts. More stringent requirements will apply to projects with potentially significant social and/or environment impacts;

EP 2 stipulates that the project proponent must conduct a social and environmental assessment appropriate to expected environmental impacts;

EP 3 states that the project must conform to the host country's relevant environmental laws and regulations as well as applicable international standards. EP 3 references the IFC Environmental and Social Performance Standards as being applicable;

EP 4 emphasizes the need for an environmental management system, including action plans, that are in line with EPFI requirements and applicable standards for all identified significant impacts;

EP 5 requires the client to demonstrate effective engagement with rightful stakeholders in the project development;

EP 6 aims to ensure that proper mechanisms are in place to allow project-affected people (PAP) to voice grievances;

EP 7 proposes the need for an independent environmental project review;

EP 8 requests EPFI to include environmental related covenants in the loan agreement;

EP 9 is concerned about independent environmental monitoring and auditing; and finally

EP 10 requires EPFI to make publicly available and accessible information on environmental and social aspects of their project involvements.

Everyone can (and if involved in project financing should) read the Equator Principles (www.equator-principles.com) and the closely related IFC Environmental and Social Performance Standards (PS) and the sector-specific IFC Environmental, Health, and Safety (EHS) Guidelines (www.ifc.org). However the EP cannot be successfully applied without a full understanding of the environmental assessment process based on years of practical experience in various projects and jurisdictions. This is illustrated by the many questions that commonly emerge during project evaluation, such as:

- What constitutes a significant impact?
- When is the environmental assessment considered to be appropriate?

- Is compliance with IFC EHS Guidelines (and the embedded environmental standards) mandatory in all circumstances?
- Does the EHS Management System of an EPC Contractor suffice for the construction phase?
- How is a specific environmental or social impact best managed?
- When is consultation and participation considered to be appropriate?
- Is there the need for a formal Grievance Mechanism during the land acquisition process?
- Is there the requirement for establishing formal Codes of Conduct?
- What are appropriate environmental monitoring and auditing intervals during construction and operation?
- Do mandatory environmental inspections by Government authorities count as independent audits?
- What constitutes a non-compliance with the EP requirements?
- When is a full-fledged land acquisition and resettlement plan (LARAP) required?
- Are affected people categorized as Indigenous Peoples (IP)?
- How to manage biodiversity impacts?
- Is Critical Habitat affected?
- Is a Biodiversity Action Plan required?
- What documentation should be prepared to appropriately reflect the environmental assess-

ment process of the Project?

- Does the Environmental Impact Assessment (EIA) under the host-country regime suffice to comply with EP?

It is important that the guidance notes of the IFC PS are considerably more voluminous than the PS themselves, but they can only assist in answering questions, such as listed above. The need for experienced practitioners was of course recognized by the people who developed the EP and IFC PS. Unfortunately, this recognition is not shared by all consultants.

It is not uncommon that advice on the environmental assessment of a new project is given by environmental professionals with little if any relevant experience. Workshops on the project adherence to the Equator Principles are arranged based on a template format following in content and structure the IFC PS. Neither a site visit nor an understanding of the actual project is seen as necessary – a ‘cut-and-paste’ approach from project to project is substituted for understanding of project-specific issues.

Does it matter? Yes. The environmental and social appraisal of a project, often located in a remote and hard-to-reach region, is not without its challenges. A boiler plate approach to project appraisal is implemented at the expense of all who have a direct

interest in project success, and at the expense of the project developer, who likely will face project delays and will need to deal with ambiguity instead of clarity. It is also at the expense of involved bankers who seek senior advice, and instead receive 'one-size-fits-all' guidance; and more importantly, it is at the expense of host communities which lose out on project opportunities that could have emerged if the Equator Principles would have been applied in alignment with their original intent.

In adopting the Equator Principles, a bank undertakes to provide loans only to those projects whose proponents demonstrate, to the satisfaction of the bank, their ability and willingness to comply with policies and guidelines aimed at ensuring that the projects are developed and operated in a socially responsible manner, and according to sound environmental practices. As such, the EP address the identification of environmental and social project risks and opportunities (the 'Environmental Impact Assessment' or EIA in short), and the management of these risks, from construction through operation to project closure (the 'Environmental Health and Safety Management System, EHS-MS').

While the Equator Principles apply all over the world, they are aimed mainly at projects in developing nations, where government regulators are often ill-equipped, or unwilling, to mitigate the potential side-effects of foreign-backed investments. The Performance Standards are stated as applying in non-OECD countries.

The EP have arguably increased project development cost and the time needed to ensure project financing. Linkages between the regulatory and EP requirements, as well as the linkages to the environmental and social project appraisal instruments of risk insurance and export credit agencies such as NEXI and JBIC, and development banks such as the ADB further complicate project financing.

The Origin of

Environmental Project Appraisal

The Origin of Environmental Project Appraisal

The National Environmental Policy Act of 1969 (NEPA) in the United States is considered to be the origin of Environmental Impact Assessment (EIA) as a distinct discipline. Since available economic appraisal techniques at that time did not take into account environmental and social costs of major developments, it was widely accepted that additional project appraisal instruments were needed. The most prominent provision of this law was the requirement to prepare an 'Environmental Impact Statement (EIS)' for any 'major Federal action' likely to have environmental impacts.

The EIA process was quickly adopted internationally, culminating in Principle 17 of the Rio Declaration on Environmental and Development, agreed at the 1992 United Nations Conference on Environmental Development, which states: **“Environmental impact assessment, as a national instrument, shall be undertaken for proposed activities that are likely to have a significant adverse impact on the environment and are subject to a decision of a competent national authority.”**



Regulatory Environmental Impact Assessment Provisions in Asia

Provision for EIA began appearing in developing countries' legislation during the 1970s. EIA provisions now exist in the framework environmental legislations of most developing countries in Asia. Some examples follow:

Indonesia

The environmental assessment (AMDAL) process in Indonesia dates back more than 25 years, and it is specifically mandated by the Environmental

Protection and Management Law No 32 (Article 22) of 2009 (superseding Environmental Law No 23 of 1997). The Minister of Environment Regulation No 16 of 2012 provides the latest guidance on the AMDAL process (superseding No 08 of 2006).

Malaysia

EIA was undertaken on a voluntary basis under administrative procedures from 1979 to 1985, when amendments to the 1974 Environment Quality Act awarded the procedures mandatory status in 1988 (Environmental Impact Assessment Order).

Philippines

The legal framework for the “Environmental Impact Statement System” (EISS) is Presidential Decree No 1586, approved in 1978. This Decree was initiated following the 1977 Environmental Policy Decree, but it was revised to introduce new features in 1992 (Order (DAO) 21). The Procedural Manual for DAO 96-37 was drafted and published in 1997. The EISS is linked to the requirement for “Environmental Compliance Certificates” (ECCs) which are issued by the Department of Environment and Natural Resources after review and approval of the Environmental Impact Study (EIS). The Department of Environment and Natural Resources is responsible for implementing the EISS system and for accreditation of EISS experts.

Thailand

The National Environmental Act, 1978, provided a statutory basis for EIA in Thailand. This was amended by the Improvement and Conservation of National Environmental Quality Act, 1992, which defined the EIA process more explicitly. Screening is carried out using lists of activities that require EIA. The Review Committee is an important feature and consists of the Office of Environmental Policy and Planning, the licensing agency, government experts, and other professionals. The Review Committee is set up after the EIA report is submitted.

Vietnam

EIA in Vietnam has been very dynamic. In December 1993, the National Assembly passed the National Law on Environmental Protection (LEP) that specified EIA. It went into force in January 1994. Government Decree No 175 of 1994 provided guidance for the implementation of the Law and additional regulatory documents made provisions for EIA. After ten years of implementation of the law and confronting rapid progress of the country's socio-economic development, the LEP required strengthening on several aspects including on the provisions for public participation. In December 2005, the Law on Environmental Protection was promulgated with a new scope of stipulation, structure, and regulations for EIA. A year later, Decree No 80/2006/ND-CP on implementing

some articles of the LEP was issued. This Decree has been amended by Decree No 21/2008/ND-CP of February 2008 and by Decree No 29/2011/ND-CP. In cooperation with the Ministry of Natural Resources and Environment (MoNRE), the Ministry of Finance leads in making reports, appraising, and monitoring and implementation of EIA reports for national projects. The Department of Environment Impact Assessment and Appraisal (EIA&A) - Vietnam Environment Administration (VEA) of MoNRE is the central EIA authority for intersectoral and interprovincial projects.

In addition, most countries have drawn up specific laws, decrees, and regulations that contain criteria or procedures applicable to EIA, often with guidelines related to specific industries such as mining, energy, and transport.

Environmental Impact Assessment and Multilateral Lenders

International aid agencies at an early date recognized the need for appraisal instruments that take into account environmental and social issues. All development banks and most international aid agencies have now adopted the EIA process as best practice to protect the environment. This practice was initiated by the World Bank in 1989 with development of

several policies governing environmental assessment (EA) of projects. Operational Directive (OD) 4.01 on Environmental Assessment is the central document that defines the Bank's environmental assessment requirements. The Environmental Assessment Sourcebook (World Bank 1991) and its updates provide technical and authoritative guidance.

Subsequently the International Finance Corporation (IFC), the private sector arm of the World Bank, released a similar set of Environmental Safeguard Policies compliant with OD 4.01 and specifically tailored to private sector financing. Multilateral financing institutions such as the Asian Development Bank (ADB) broadly adopted the World Bank's guidelines and formulated policies and procedures quite similar in nature to the original World Bank Environmental Operational Procedures.

While widely praised, the World Bank's approach to environmental assessment remained limited to projects in which the World Bank or IFC had a financial stake. This changed in 2003.

The Equator Principles -

**The
Environmental
and Social
Project Appraisal
Instrument
Adopted by
Most Private
Financial
Institutions**

The Equator Principles – The Environmental and Social Project Appraisal Instrument Adopted by Most Private Financial Institutions

The need for incorporating environmental appraisal into project financing was long recognized (Box 1). However it was only in 2003 that four private financial institutions, ABN Amro, Barclays, Citigroup, and West LB, drafted a set of voluntary guidelines to ensure environmentally and socially responsible project financing. Originally called the ‘Greenwich Principles’ because the consultation meetings were held in this suburb of London, however the name ‘Equator Principles’ was introduced during the public comment

period in the hope that the EP would become the global standard for development equally spread from North to South.

Box 1 Banking Business Must Include Environmental Considerations

The Jakarta Post, 1 June 1989

Banking business must include environmental considerations in its policies of providing credits for various projects with important issues. Without the inclusion of the Environmental Impact Analysis (AMDAL) aspect in its policies, banking business could harm the ecology, Surna Tjahja Djajadiningrat, Assistant IV to Population and Environment State Minister Emil Salim, said here Tuesday. Therefore, all banks must first consider the environmental aspect every time they examine credit applications....

The Population and Environment Office (KLH) in cooperation with LIPPI will organize a seminar on "Banking and Environmental Management" on June 5, 1989, to promote the environmental concept in the banking industry. The seminar, supported by the Asian Development Bank (ADB) and the World Bank, is held in connection with the World Environmental day, which is observed on June 5 of each year, according to Surna.

The Equator Principles, drafted with assistance from IFC, very much reflect the original IFC Environmental and Social Safeguard Policies and World Bank OD 4.01. They represent an attempt by private financial institutions to introduce into lending decisions a more structured and rigorous consideration of social and environmental impacts of the projects banks are being asked to fund. Originally embraced in June 2003 by 10 banks, the Equator Principles have become the accepted standard for environmental assessment by most private financial institutions (Equator Principles Financial Institutions—EPFI— or in short Equator Banks—EB), accounting for more than 90% of private project funding. An Equator Bank will only lend to projects whose sponsors the bank considers able and willing to comply with environmental assessment practice to ensure that projects are conducted in a socially responsible manner and according to sound environmental management practices.

While the EP apply all over the world, they are aimed mainly at projects in developing nations, where government regulators are often ill-equipped, or unwilling, to mitigate the potential side-effects of foreign-backed investments. Do the EP, however, also apply in countries that have their own strict EIA legislation?

Yes. There is a realization that challenges still face environmental assessment, particularly in countries where governance, ineffective institutional frameworks, and shortages of financial and human resources may render conventional approaches to impact assessment inappropriate. Project proponents may claim that they comply with all relevant national laws or policies, but such laws or policies or their enforcement may be inadequate. International financing institutions consider it their duty, either due to reasons of corporate responsibility (a recent buzz word) or due to perceived risk to reputation, to ensure that environmental assessment is commensurate with investment exposure and to ensure environmental prudence and due diligence.

This leads to confusion with respect to the differences between the regulatory environmental impact assessment (EIA) as required by the host country and the international EIA adopting EP requirements (see Box 2 for a discussion of the differences between the EIA requirements in Indonesia (termed AMDAL) and EP).

Box 2 The AMDAL Process in Indonesia and the Equator Principles Common Themes and Apparent Differences

The procedural requirements such as (1) EP 1 – Project Categorization (in Indonesia reflected in the requirement to either prepare a full AMDAL or an UKL/UPL document); (2) EP 2 Environmental and Social Impact Assessment (in Indonesia reflected in the ANDAL document prepared in accordance to Minister of Environment Regulation No 16 of 2012; (3) EP 4 - Environmental Action Plans (RKL/RPL documents in Indonesia); and (4) EP5 - Public Consultation (mandated in Indonesia due to Bapedal Decree No 08 of 2000) are not that different under the EP and the AMDAL regime. To a large extent, the AMDAL process, originally developed by the Government of Indonesia with the

assistance of the World Bank, is sufficiently comprehensive to prepare an environmental impact assessment that meets leading international standards: a well prepared AMDAL will go a long way in complying with EP 2 and PS 1 in assessing adequately project impacts and opportunities.

However, even with an exemplary AMDAL process in place, there are some factual differences between the EP and the AMDAL regime, mainly in terms of:

- **Applicable standards** - An EPFI will either require projects to comply both with applicable Indonesian standards and the IFC's Environmental and Health and Safety Guidelines, or require project sponsors

to justify any deviations from those guidelines to the satisfaction of the bank.

- **Implementation** -

Demonstrating capability (reflected in a Project specific EHS – Management System covering construction and operation) and commitment (commonly reflected in allocated resources, transparency, and often submittal of periodic implementation reports) to environmental performance from cradle to grave is becoming increasingly important to comply with EP.

- **Number of regulatory project stakeholders** -

Before the advent of the EP several levels of the Indonesian Government acted as regulators. Seeking EPFI financing the Project Proponent accepts additional regulatory stakeholders.

- **Social standards** -

The main EP and IFC PS objective arguably is that project-affected communities are better off with the project than without it. As such it is no surprise, that five of the seven IFC Performance Standards are social standards: (1) PS 2 Labor and Working Conditions; (2) PS 4 Community Health, Safety and Security; (3) PS 5 Land Acquisition and Involuntary Resettlement; (4) PS 7 Indigenous Peoples and (5) PS 8 Cultural Heritage. These issues are commonly only superficially addressed during the AMDAL process.

- **Grievance Mechanism** -

Both the AMDAL and the EP emphasize the need for companies to establish effective dialogue processes to avoid or minimize negative impacts and to ensure equitable benefits

for host communities. However, IFC PS and EP have specific requirements for grievance mechanisms.

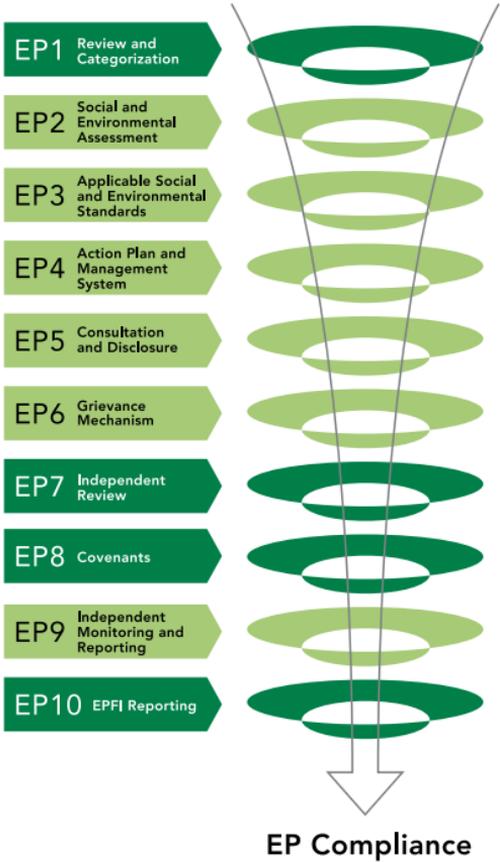
- **Labor and working conditions and community health and safety issues** - Labor and working conditions, together with issues related to community health, safety, and security are relatively recent addition to the IFC social and environmental risk management framework and the only parts not

derived from World Bank OD 4.01. These issues are commonly only superficially addressed during the AMDAL process. That said, in regard to compliance with PS 2 (Labor and Working Conditions), Indonesian labor laws are well developed and at a high standard. Compliance with Indonesian labor laws does address many of the key concerns of PS 2.

Figure 2 illustrates the responsibilities of the EPFI: EP 1 requires involved financial institutions to categorize the Project considering associated environmental risks; EP 7 requires EPFI to conduct an independent project review; EP 8 requires including environmentally related covenants in the loan agreement; and EP 10 requires EPFI to publish project involvement and project environmental performance. In addition EP 2 prompts EPFI to evaluate the status of the environmental assessment of the project.

Figure 2
Responsibilities of Equator Principles
Financial Institutions

Principles and Guidance for
Environmental Assessment



The IFC Environmental and Social Performance Standards

Prior to the IFC PS, environmental regulators and development finance institutions required companies to undertake EIA studies as a mechanism to manage significant environmental and social risks and impacts. The approach works by exploiting 'the moment of maximum leverage.' Securing an environmental clearance certificate from domestic regulators, or closing a project financing deal with international financiers, is made conditional on the applicant committing to a series of environmental and social risk management measures.

The problem, of course, is that once regulatory approval is obtained and the financial deal closed, little leverage remains to ensure adequate implementation of environmental and social mitigation measures during project development and operation: the EIA is completed, the hurdle for financing is overcome, the project documentation looks good, but thereafter implementation of environmental mitigation efforts is not taken seriously.

A financial institution's main leverage is the power to call or cancel the loan, a step it really does not want to take. In this respect, agencies providing political risk guarantees (MIGA), ADB and some other multilateral finance agencies and export credit and insurance

agencies (OPIC, Sinosure, NEXI) have additional leverage that extends into project operation. The political risk insurer can cancel coverage, or refuse to pay a claim based on violation of environmental, safety, and social conditions of the contract.

The IFC PS represent an environmental and social risk management system provided by the IFC for its investment and financial clients. They comprise eight standards:

- **PS 1.** Assessment and Management of Environmental and Social Risks and Impacts
- **PS 2.** Labor and Working Conditions
- **PS 3.** Resource Efficiency and Pollution Prevention
- **PS 4.** Community Health, Safety and Security
- **PS 5.** Land Acquisition and Involuntary Resettlement
- **PS 6.** Biodiversity Conservation and Sustainable Management of Living Natural Resources
- **PS 7.** Indigenous Peoples
- **PS 8.** Cultural Heritage.

PS 1 is the linchpin of the environmental and social risk management system (Box 3), centered on three key elements:

- Identification of environmental and social risk and impacts of the projects and using an Environmental and Social Management System (ESMS) as an

action to manage environmental and social risks and impacts;

- Public input into the EIA process; and
- Implementation, monitoring, and enforcement of the applicable guidelines during the construction and operation phases of each project.

Standards 2 to 8 are specific, in-depth policy guidance instruments governing environmental and social reviews used to measure a project's risk in detail from numerous environmental and social perspectives.

Standards 3 and 6 focus on environmental issues, whereas 2, 4, 5, 7 and 8 focus on social issues. Only the Performance Standards that are relevant to a project will be applied, and making this determination is a significant early step in the environmental and social clearance process following categorization (below). IFC will require project sponsors to justify any deviations from the PS to the satisfaction of the bank.

All eight of the standards are stand-alone guidelines, but are also interrelated; thus they constitute a complete system for achieving international standards of environmental and social risk management of major projects in developing countries. Clearly, the PS system is much more than a framework for Environmental Impact Assessment.

Box 3 IFC PS 1 Assessment and Management of Environmental and Social Risks and Impacts

PS1 reframes the way in which environmental and social issues are to be handled. No longer is it sufficient to conduct isolated EIA studies, outsourced to external consultants. Instead, PS1 presents the standards as a single, comprehensive risk and opportunities management framework, fully integrated with the core of the business. The emphasis on risks and opportunities means that there is the need for project proponents to not only avoid or reduce environmental and social risks, but also to continuously search for opportunities that add environmental and socio-economic value to the investment.

PS1 also emphasizes management accountability. Project proponents are asked to audit the adequacy of internal management systems and procedures to implement environmental and social mitigation measures outlined in the EIA studies. Where found wanting, the proponent may need to develop new business principles; clarify management responsibilities for engagement with workers, local community, local government and regulators; and put in place procedures for long-term monitoring and reporting on the effectiveness of the risk management measures.

Equator Banks realize, however, that projects differ in their potential environmental impacts, as do the environmental settings; the categorization of projects becomes important.

Project Categorization

As part of its review of a project's expected social and environmental impacts, Equator Banks use IFC's system of social and environmental project categorization. The scrutiny applied to project financing depends on the project categorization, with Category A Projects attracting the greatest attention to environmental and social due diligence review. Category A projects are also subject to stringent environmental reviews during construction and operation. The question then arises, 'Who determines the environmental category of a project?'

Equator Banks commonly rely on external expert advice combined with internal assessments based on a set of questions relating to (1) the sensitivity and vulnerability of environmental resources in project area, and (2) the potential for the project to cause significant adverse environmental impacts (see also Box 4). Size of project alone does not determine category, though very large projects, and particularly those in extractive and other resource-based industries, tend to be Category A.

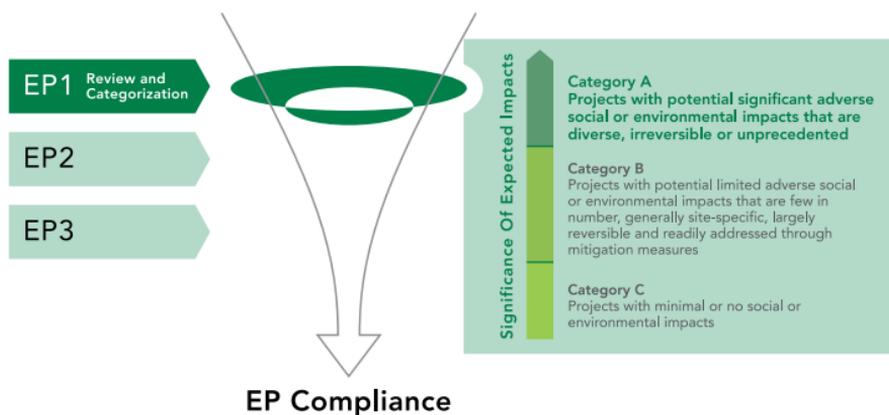
The determination of the environment category is to be based on the most environmentally sensitive component of the project. This means that if one part of the project has the potential for significant adverse environmental impacts, then the project is to be classified as Category A regardless of the potential environmental impact of other aspects of the project.

Most projects in the extractive industry are categorized as Category A Projects, and so are projects that potentially impact (1) Indigenous Peoples, (2) sensitive habitats such as coral reefs, mangroves and other major wetlands, and primary tropical rain forests, or



(3) are associated with significant resettlement. Project categorization is an ongoing process, and the category can be changed as more detailed information becomes available during the environmental and social assessment; however, in practical terms it seldom changes.

Figure 3
Project Categorization



Equator Principles applied to Existing Operations

The IFC Performance Standards help to answer the question of how to apply environmental assessment guidelines such as the Equator Principles to existing operations to which Equator Banks are providing

Box 4 ...and it is a Category A Project.

Experience has that EPFI generally tend to opt for a more stringent project categorization regardless of actual project impacts:

- If project financing involves several banks the view point of each bank is accommodated. Category A categorization is often the only common nominator.
- EPFI prefer to err on the safe side. If an information

gap exists (e.g., in regard to biodiversity) the worst case is assumed.

- EPFI play it safe: they are never criticized for applying a more stringent Project Categorization.
- Involved environmental and social consultants often feel they have a point to make by exacerbating environmental and social impacts.

new funds. PS1 focuses on a company's capacity to manage environmental and social risks and opportunities during project development and operation, rather than on establishing a comprehensive EIA at the outset of a new project with subsequent lack of implementation of recommended management efforts. As a consequence the EP review takes on the role of a compliance audit and management systems review for existing operations.

Changes in Project Financing

It is said that about 70% of project finance transactions are arranged by Equator Principles Financial Institutions. In June 2013, the Equator Principles were revised (EP III) and the scope was expanded. Until then, only Project Finance and Advisory Activity were under scope, but now Project-Related Corporate Loans and Bridge Loans are also subject to the Equator Principles. As a result, the Equator Principles have become a de facto standard for private financial institutions, and have driven changes in syndication and documentation and in the way environmental issues are dealt with.

In syndication, a lead arranger commonly provides potential lenders with information on environmental issues by including an environmental review in an information memorandum and/or technical report. Environmental review has become indispensable to potential lenders in deciding on their participation in syndication. A lead arranger implements its Equator Principles review based on an environmental assessment report from the Project Proponent (as the borrower).

In regard of documentation, provisions have surfaced that require a borrower to comply with environmental action plans agreed to between borrower and the financing syndicate, and to report periodically on the

implementation of these plans. These provisions aim to avoid or to mitigate environmental risks at each stage of construction, operation, and decommissioning. As a result, the syndicate can monitor the borrower's environmental and social covenants even after financial closure.

The Equator Principles and NGOs

The Equator Principles were largely created in response to pressure from environmental NGOs. As stakeholders in the environment, Environmental NGOs generally express their support to the EP. The Performance Standards themselves were developed by IFC with periodic NGO stakeholder consultation. Bank Track, headquartered in Amsterdam, has played an important role as an environmental organization in the way it has monitored the EPFIs. Bank Track is a network composed of eighteen international NGOs, with which the EPFIs conduct working groups to exchange opinions and hold annual general meetings.

Increasing Number of Regulatory Project Stakeholders

Before the advent of the EP the host government solely acted as regulator. Seeking EPFI financing a Project Proponent accepts additional regulatory stakeholders:



- EPFI(s);
- Host communities;
- Employees and workers; and finally
- Public at large due to the EP 10 requirement on public reporting.

The responsibility of EPFIs is clear. As the EP were devised to promote environmental stewardship and responsible development in the context of project financing, EPFI as the lenders are obliged to monitor and to influence the environmental and social aspects of a project. Admittedly, notwithstanding EPFIs' commitment to the Equator Principles, EPFIs cannot function as proxy environmental regulators (Box 6): EP, as a voluntary Code of Conduct for Financial Institutions, by definition are not mandated by external agents (e.g., governments).

However, key to the credibility of the EP are the elements of monitoring (EP 9), transparency, and public reporting (EP 10). Because of the EP 10 requirement for public reporting, each EPFI commits to report publicly at least annually on its Equator Principles implementation process and experience. This requirement, added to the 2006 Equator Principles, seeks to address a common criticism of the 2003 Equator Principles regarding lack of transparency and accountability of EPFIs in applying the principles.

Disclosure of project details, of course, will be inevitably subject to banking confidentiality requirements, and correctly so: ultimately the financial clients as project proponents are in better positions to provide detailed environmental and social disclosure regarding their projects than EPFIs are. Nevertheless EP 10 mandates transparency and accountability in the application of the Equator Principles, and eventually opens environmental aspects related to project financing to the view of the public at large.

Box 5 EPFIs as Proxy Environmental Regulators

Review of the environmental impact assessment documentation as part of the EIA approval process is one of the main checks built into most national EIA guidelines. Depending on the national, state or provincial legislation, the review process is carried out by an environmental agency, inter-departmental committee, commission of independent experts, or a review panel that may combine several of the aforemen-

tioned groups. The review panel is a group of experts selected on the basis of their knowledge and expertise, appointed by the approving authority to review and assess, in an impartial and objective manner, a project with probable adverse environmental effects.

The EP also require the review of the environmental impact assessment documentation as part of project

financing. Depending on involved EPFI, the review process is carried out by an appointed environmental consultant, environmental and social specialists directly employed by EPFIs, or a combination of both. Unfortunately the selection of the environmental consultant is not always on the basis of the knowledge and expertise: the reputation of the consultancy is equally important. Practice also demonstrates that the EIA review by EPFIs is seldom impartial and objective. Some reasons follow: (a) the review reflects the opinion of an individual rather than the view of an expert group; (b) the appointed consultant believes that he/she has to find non-compliances to justify his/her appointment; (c) the reviewing consultancy understands the assignment as a business development opportunity - they believe

that demonstrating knowledge requires listing as many non-compliances as possible, no matter how insignificant findings are; (d) reviewing consultancies tend to seize the opportunity to criticize the competitor that has prepared the initial EIA; and on occasion (e) reviewers enjoy (and abuse) the power given to them. The outcome of all this is that the EP have become more than promoting environmental stewardship and responsible development in the context of project financing. On occasion EPFIs, especially multilateral funding agencies have emerged as proxy environmental regulators, often enforcing own environmental visions rather than good international industry practice.

Equator Principles

Compliance Assessment

Equator Principles Compliance Assessment

The work flow of a typical EP compliance assessment follows. Full compliance per se does not exist – environmental assessment of a complex process is never a black and white affair accomplished by ticking a check list (see Appendix A for a sample compliance checklist).

The purpose of the review is to ensure that the project complies with applicable lender's environmental and social policies, identifies any environmental risks, and meets good industry practice. In the case of Equator Banks, the review is to ensure that the project complies with the Equator Principles.

Equator Principles Compliance Assessment Work-Flow

1 Agree on Scope and Project Stage

The scope naturally includes ensuring that the project complies with the Equator Principles. In addition EPFI may have own environmental and social policies that have to be considered. The scope commonly includes identifying any environmental risks, and that the project meets best industry practice. Confidentiality requirements have to be defined, an important matter although not always fully appreciated by all participants.

2 Review of Data Sent to Assessor

Often a wide range of information exists that may facilitate the Project review. In documenting environmental conditions, the assessment will primarily use existing data and information. This can include monitoring data and baseline studies, as well as other external data where available from government agencies or universities.

3 Preparation of Environmental Project Profile

Preparing a concise environmental project profile facilitates the project review. It is essential to define project inputs (in terms of raw materials consumed) and outputs (in terms of emissions including Greenhouse Gases emissions), referencing applicable host country standards and relevant IFC EHS Guidelines (Box 7).

4 Development of Site Visit Plan

An EP compliance assessment commonly combines pre-site visit document review, staff interviews, and a site visit to the project. The assessor will often prepare a site visit plan to ensure that no valuable time at site is wasted, and key issues are not overlooked. The plan will include (1) health and safety aspects, (2) identification of key issues, (3) schedule of meetings held at site, and (4) nomination of site visit team and schedule.

5 On site Assessment

Only a site visit can provide a true impression of the magnitude and environmental setting of a project. The site visit not only includes a visual inspection of the project site, but it will include an appraisal of the larger host region. Discussion with non-project personnel (e.g., project-affected community members and/or government officials) is desirable, but not always feasible.

6 Draft EP Compliance Report to Client

The Client is issued with a draft report for review and comments. The report should follow the agreed content and format. Report limitations should be stated. EPFI commonly also expect that the report provides some indication of Project Category (if the Project Categorization is still undecided).

7 Receipt of Comments and Report Finalization

Comments from the Client (and if applicable from external reviewers) should be addressed to the extent possible. A final report is issued including recommendations to improve compliance with the intent of the Equator Principles – to develop the project in a manner that affected people are better off with the project than without it.

The 2012 IFC PS and EP III stress the importance of considering Climate Change during the environmental assessment. Climate change assessment is an integrated element of the project due diligence. There is the need to commit to an alternative analysis for high emitting projects in line with Performance Standard 3, and to include an explicit reference to address climate change in the Preamble. Project reporting requirements on GHG emission levels follow:

- Mandatory: projects emitting + 100K tonnes of CO₂
- Encouragement: projects emitting + 25K tonnes of CO₂.

Box 6 Compliance with leading industry pollution control techniques

So, is full adherence to the IFC EHS Guideline mandatory to comply with EP?

The IFC EHS guidelines allow the environmental assessment process to recommend alternative (higher or lower) levels or measures compared to the IFC EHS Guidelines, which, if acceptable to involved Equator Principles Financial Institutions (EPFI), become project- or site-specific requirements. If less

stringent levels or measures are appropriate in view of specific project circumstances, a full and detailed justification for any proposed alternatives is needed as part of the site-specific environmental assessment. This justification should demonstrate that the choice of any alternate performance levels is protective of human health and the environment.

The Equator Principles

What Matters and Why

The Equator Principles—What Matters and Why

For the Project Proponent, compliance with the EP/IFC Performance Standards is arguably one of the more important challenges when seeking project financing. For the involved EP Financial Institution(s), assurance that project financing is without reputational risk is essential. Hence, the selection of the environmental advisor becomes important (see Box 7).

Box 7 The Role of the External Advisor in Project Financing

What Project Proponents Expect from their Environmental Advisor.

First, and most importantly, the Project Proponent wants to rely on the advisor as a strategist, as an advisor on both the environmental requirements and the envi-

ronmental assessment of the project. Secondly, the Project Proponent wants access to expertise: (a) a full understanding of project-specific environmental challenges and opportunities and (b) the ability to communicate with involved EPFI and to act

as an advocate for the project. On occasion a short version and slightly reformatted text of the EP and IFC PS (as presented in the Appendix) may be useful in discussing the EP and IFC PS. However, a reformatted freely available text is not a substitute for experience.

What EPFI Expect from their Environmental Advisor

EPFI expect assurance that the project is implemented with Good International Industry Practice, and that

no major environmental or social risks are overlooked. They also expect that environmental assessment is fully aligned with the time frame of project financing. EPFI are also concerned about cost – adherence to good environmental assessment practice is expected, but not at all cost. Finally, EPFI are concerned about reputation – clearly EPFI hate seeing a project in which they are involved making negative front page news.

The main EP commitment arguably is that EPFIs will not provide loans to projects where the Project Proponent as financial client/ borrower will not, or is unable to, comply with EP requirements. As such EPFI will commonly screen the capability and the commitment of the borrowers of implementing agreed environmental and social protection measures (see Figure 4). A high risk project combined with a low rating of the Project Proponent in either capability or commit-

ment to implement agreed environmental actions is likely to become a show stopper for involved EPFI. Demonstrating capability (reflected in a Project-specific EHS Management System covering construction and operation) and commitment (commonly reflected in allocated resources and transparency) is becoming increasingly important to comply with EP.

Figure 4
Screening of Project Proponent's Capability of Adhering to EP Requirements

		Project Proponent's Capability		
		High	Adequate	Low
Category	A			NO GO
	B			
	C	GO		

Finally to understand the intent of the EP and the IFC PS it is helpful to recognize that the environmental assessment of a project is...

Not a Permitting Effort - To meet EP expectation the project proponent needs to demonstrate that the EIA is a stepping stone for a comprehensive EHS Management System (often demonstrated in form of a comprehensive Environmental Action Plan). It is fair to say that today's senior management does understand that environmental assessment is an important element of project planning. This view, however, is not always shared by all technical personnel in charge of preparing the feasibility study and obtaining environmental project approval: they may continue to see environmental assessment as an environmental permitting exercise. As a result, efforts are kept to a minimum, and the opportunity to elevate management of environmental and social aspects of the project operation from the very beginning to a level of importance equivalent to technical management is lost.

Not an Afterthought - To meet EP expectations the project proponent needs to demonstrate that the EIA was indeed an essential part of project planning. Considering the many challenges involved in developing a project to the bankable feasibility stage, initiation of environmental assessment is frequently postponed as long as possible without jeopardizing overall project development. Again the importance of environmental planning at an early stage and its benefits for future operation are poorly understood.

Not a Scientific or Academic Exercise -To meet EP expectations (and to avoid costly additional work) the project proponent is well advised to prepare an EIA that meets international practice.

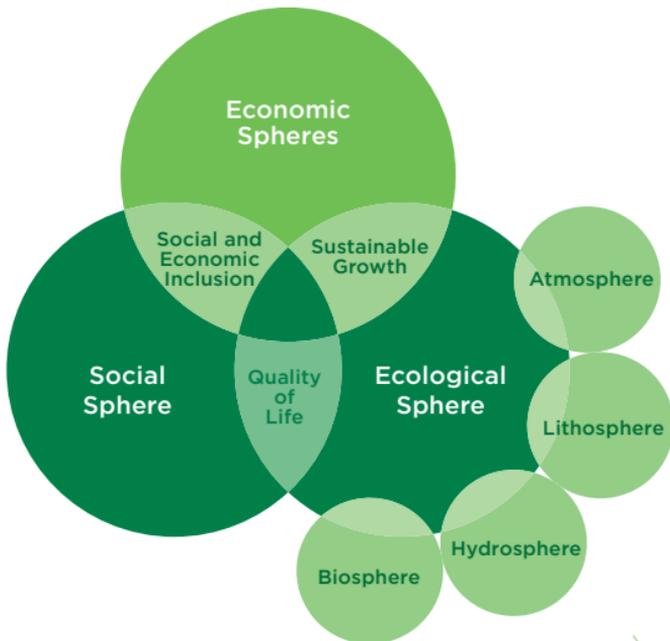
Environmental assessment studies are often considered the domain of local scientific institutions and universities. In emerging countries, where investors are challenged (and often required) to include local communities and experts as much as possible in project planning and operation, the appointment of local universities to prepare the EIA is a convenient tool to accommodate nationalistic and regional pressures. To a large extent the preparation of EIA documents follows boilerplate formats, and environmental action plans in particular often reflect the lack of practical experience. Clearly, things can only get worse if the appointed environmental EP advisor also adopts a boilerplate format to environmental assessment.

Not Concerned with a Single Resource - To meet EP expectations there must be a clear focus on identifying and mitigating potential social impacts (a formal Land Acquisition and Resettlement Plan is one key example) and on optimizing project opportunities for host communities (often documented in form of a Community Development Plan). Environmental assessment is a truly multidisciplinary undertaking that should consider a wide range of environmental, social, and economic issues—all of which may be important (Figure 5). Most

EIAs fall short of realizing their full potential. More often than not the focus of environmental assessment is on the physical, chemical, and biological environment. Social aspects are addressed only to a limited degree. Western firms in particular, when venturing outside their home territories for the first time, are often unprepared for the social issues that need to be addressed and the breadth and depth of studies required.

Figure 5
The Three Spheres of Sustainability

(Spitz and Trudinger 2008)



Not a Top-down Management Exercise - To meet EP expectations the project proponent must demonstrate useful public participation to develop a shared responsibility to improve environmental decision-making (often documented in form of a Stakeholder Engagement Plan). In adopting EP requirements, the social dimension of project development commands a participatory approach to environmental assessment. Affected people and other stakeholders need to develop ownership in the identification and assessment of impacts, and even more in development of the management and monitoring plans that will affect their lives in a fundamental way. The environmental assessment should demonstrate that a collaborative approach to address community concerns is taken.

Not a One-Off Exercise - To meet EP expectations the project proponent should demonstrate that appropriate EHS management systems are in place, covering proposed activities from cradle to grave. The feasibility study outlines the project planning and operation in as much detail as is possible with the information available at the time of document compilation. Actual project construction and operation will differ as actual conditions are encountered and new information is generated during development and operation. As such, operations are never static, flowing exactly as predicted by an initial project blueprint. This is also true for environmental management.

Environmental assessment is not a one-off exercise as part of the feasibility study. Environmental assessment and its findings need to be revisited as new information emerges during operation. Management and monitoring efforts need to be readjusted in response to changes in impact prediction. This is nowhere more evident than in social management. Social patterns are highly dynamic and community development efforts need to be designed to be responsive to trends and issues that have not been anticipated. Priorities will change over time. For example, in the early stages of a project, major issues may include the management of incoming workers, particularly single men, who may comprise a high proportion of the workforce. However, as operations continue, locally trained people from local communities will replace most of the non-local workers. As circumstances change some practices can be de-emphasized or discontinued as new measures are implemented.

Not an Environmental Public Relations/Media Strategy - To meet EP requirements the project proponent must demonstrate a clear commitment to public participation, from informing through consultation to participation. It is important for any operation to publicly demonstrate good stewardship and to maintain effective public awareness programs.

A publicly available environmental impact assessment document that reflects honestly and without bias the feedback from a large range of stakeholders will serve

as a formidable defense against unfair criticism. However, environmental assessment is not intended to be a public relations tool, and it becomes very obvious when it is being used as such. The point is to inform the public and to involve the public, not to influence public opinion.

Not a Study, but a Way of Doing Business - To meet EP requirements the project proponent must demonstrate that sufficient resources (in monetary as well as human terms) are allocated to environmental management and to maximizing project opportunities for affected community members.

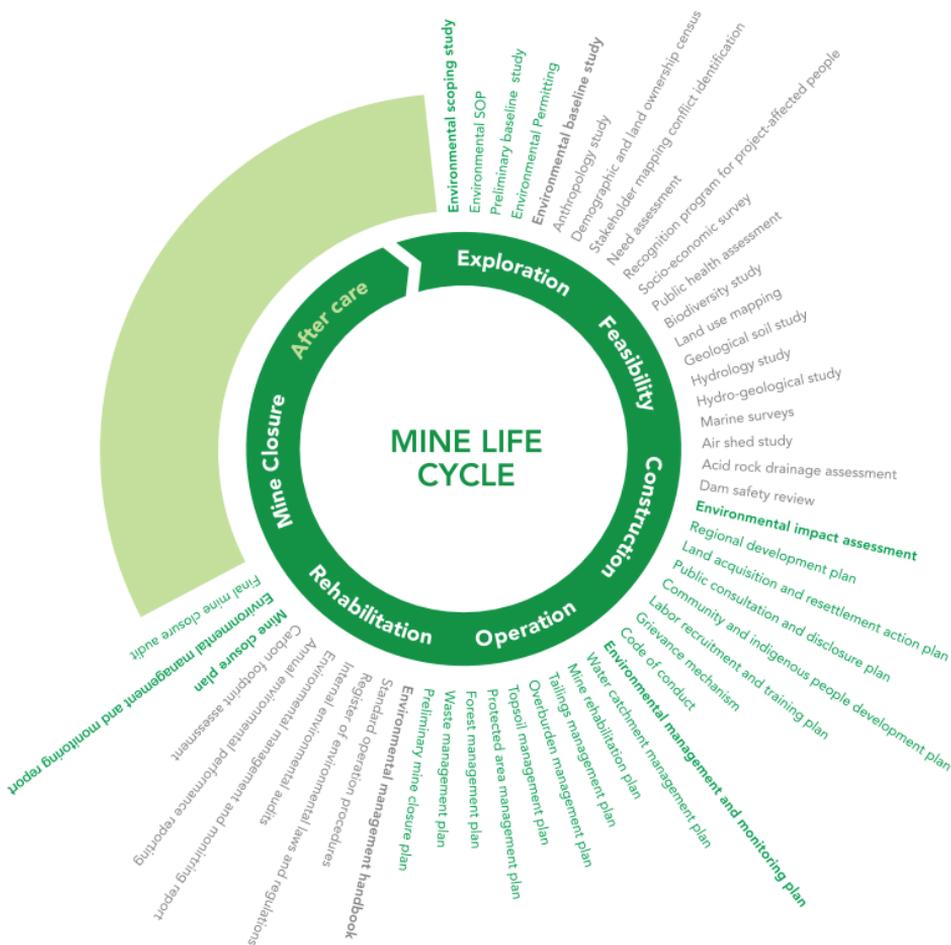
Corporate culture is reflected in the way environmental assessment is conducted. For companies with a well-developed corporate culture and sense of environmental and social responsibility, environmental assessment is not a paper exercise but a way of doing business. Success is reflected in projects that receive public acknowledgement of their contribution to local and national welfare.

Not a Panacea for Solving all Issues.

Environmental assessment is not the one solution to all of an operation's environmental and social challenges. Hence an Environmental Impact Assessment study for a project does not have to be perfect (hence becoming excessively expensive). As the operation learns from its experience, it can adopt additional approaches and actions to respond to environmental problems as they arise (Figure 6).

Figure 6
Examples of Approaches and Actions to Responding to Environmental Challenges During the Life of a Mining Project

(Spitz and Trudinger 2008)



ADB Safeguard

Policy Statements

ADB Safeguard Policy Statements

ADB's integrated Safeguard Policy Statements (SPS 2009), supported by mandatory procedures (e.g., Operational Manual 2013), address three key environmental and social safeguard policies-1: Environment; 2: Involuntary Resettlement; and 3: Indigenous Peoples. The ADB Safeguard Policy Statements are quite similar both in intent, and in many details, with the World Bank/ IFC Safeguards Policies (Table 1).

Table 1
Thematic Coverage of IFC and ADB Safeguard Policies

(based on Harvey Himberg 2015)

Theme	IFI	Coverage	Reference
Environmental and Social Assessment and Management	ADB	Yes	Safeguard Policy Statement (SPS), Safeguard Requirements (SR) 1: Environmental, Operational Policy
	IFC	Yes	Performance Standard (PS) 1, Assessment and Management of Environmental and Social Risks and Impacts

Theme	IFI	Coverage	Reference
Strategic Environmental [and Social] Assessment (SEA or SESA)	ADB	Yes	SR 1, Environment
	IFC	Yes (limited)	PS 1, Assessment and Management of Environmental and Social Risks and Impacts ¹
Biodiversity and Natural Resources (natural habitats, forests, natural resource management, ecosystem services)	ADB	Yes	SR 1, Environment ² , Policy on Forestry (1995)
	IFC	Yes	PS 6, Biodiversity Conservation and Sustainable Management of Living Natural Resources
Pollution Prevention and Abatement and Resource Efficiency (environmental health and safety guidelines, chemicals management, pest management)	ADB	Yes	SR 1, Environment ³
	IFC	Yes	PS 3, Resource Efficiency and Pollution Prevention

Table 1 (continued)

Theme	IFI	Coverage	Reference
Community Health, Safety and Security	ADB	Yes	SR 1, Environment and with reference to World Bank Group Environmental, Health and Safety Guidelines (WBG EHSs)
	IFC	Yes	PS 4, Community Health, Safety and Security ⁴
Climate Change	ADB	Yes	SR 1, Environment and EHSs
	IFC	Yes	PS 1, Assessment and Management of Environmental and Social Risks; PS 3, Resource Efficiency and Pollution Prevention and EHSs
Physical Cultural Resources and Heritage	ADB	Yes	SR 1, Environment
	IFC	Yes	PS 8, Cultural Heritage
Land Acquisition, Resettlement, Compensation and Tenure	ADB	Yes	SR 2, Involuntary Resettlement
	IFC	Yes	PS 5, Land Acquisition, Involuntary Resettlement, and Economic Displacement

Theme	IFI	Coverage	Reference
Indigenous Peoples	ADB	Yes	SR 3, Indigenous Peoples
	IFC	Yes	PS 7, Indigenous Peoples
Free, Prior and Informed Consent (FPIC)	ADB	No ⁵	
	IFC	Yes	PS 7, Indigenous Peoples
Gender	ADB	Yes	Policy on Gender and Development (2003) and Operations Manual: C2 (2010): Gender and Development; SR 2, Involuntary Resettlement; and SR 3, Indigenous Peoples
	IFC	Yes	Sustainability Policy; PS 1, Assessment and Management of Environmental and Social Impacts and Risks; PS 2, Labor and Working Conditions; PS 5, Land Acquisition and Involuntary Resettlement; and PS 7, Indigenous Peoples
Disability	ADB	No	
	IFC	Yes	PS 1, Assessment and Management of Environmental and Social Risks and Impacts

Table 1 (continued)

Theme	IFI	Coverage	Reference
Core Labor Standards ⁷	ADB	Yes (limited)	ADB's SPS makes no direct reference to CLS as part of ADB's operational safeguard requirements. However, the SPS Prohibited Investment Activities List excludes production or activities involving forced and child labor from qualification for ADB financing
	IFC	Yes	PS 2, Labor and Working Conditions
Occupational Health and Safety	ADB	Yes	SR 1, Environment and further reference to WBG EHSs
	IFC	Yes	PS 2, Labor and Working Conditions
Human Rights	ADB	Yes (limited)	SR 3, Indigenous Peoples ⁸
	IFC	Yes (limited) ⁹	IFC Sustainability Policy; PS 1, Assessment and Management of Environmental and Social Risks and Impacts; and PS 7, Indigenous Peoples ¹⁰

Theme	IFI	Coverage	Reference
List of Excluded or Prohibited Products or Activities	ADB	Yes	ADB Prohibited Investment Activities List; SPS 2009
	IFC	Yes	IFC Exclusion List, Sustainability Framework, 2012

NOTE:

- 1 SEA is conducted by third parties or governments rather than the IFC client.
- 2 ADB SR 1 makes no direct reference to ecosystem services.
- 3 In addition to specific requirements on pollution prevention and abatement, requires reference to WBG EHSGs.
- 4 IFC includes “security” measures within the scope of its Performance Standard on Community Health Safety and Security. In these cases, “security” refers to risks to the public from “inappropriate use of force and other conduct on the part of project employees, government or private security personnel.
- 5 Although the ADB’s SPS makes no explicit reference to “FPIC,” ADB requires broad community support for commercial development of Indigenous Peoples’ cultural or natural resources, or for their physical displacement. According to ADB, the combined requirements for meaningful consultation and broad community support are functionally equivalent to FPIC.
- 6 IFC, Performance Standard 1, para. 32, “For projects with adverse impacts to Indigenous Peoples, the client is required to engage them in a process of ICP and in certain circumstances the client is required to obtain their Free, Prior, and Informed Consent (FPIC). The requirements related to Indigenous Peoples and the

definition of the special circumstances requiring FPIC is described in Performance Standard 7.”

- 7 “Core Labor Standards” are defined by the International Labour Organisation (ILO) in the “Declaration of the Fundamental Principles and Rights at Work” and include: freedom of association; the right to collective bargaining; prohibition of all forms of forced labor; elimination of the worst forms of child labor; and non-discrimination in employment. ILO Core Labor Standards are included.
- 8 SR 3 cites “human rights” as among the impacts on Indigenous Peoples that could “trigger the policy.”
- 9 IFC “recognizes the responsibility of business to respect human rights” (Policy on Environmental and Social Sustainability; PS 1).
- 10 Among the PS 7 Objectives, “To ensure that the development process fosters full respect for the human rights.”

However, while ADB’s safeguards are not that different to the ones applied by commercial banks, significant differences exist in their application. ADB’s see its roles and responsibilities in the following:

- **Screening and categorizing projects:** ADB applies separate categorization for each of its three Safeguard Policy Statements.
- **Advising borrowers/clients about ADB’s SPS requirements:** ADB aims for an Asia and Pacific free from poverty. This laudable vision underpins ADB’s involvement in the private sector. The argument can be made that ADB’s application of its SPS goes well beyond incorporating environmental appraisal into project financing; it often seems that ADB is using its involvement in private-sector

financing as a vehicle to promote its larger environmental sustainability vision.

- **Determining the feasibility of ADB financing - due diligence and review:** Project review occurs at different levels: initial project due diligence is conducted by an appointed Environmental and Social Consultant and by assigned ADB safeguard specialists (both environmental and social). Upon completion of the initial project due diligence review findings are presented and further securitized by the larger ADB environmental and social specialists group. Finally the project is presented to and reviewed by the ADB Board for approval.
- **Helping the borrower/client in capacity building-** ADB will not provide loans to projects where the Project Proponent as financial client/ borrower will not, or is unable to, comply with ADB SPS requirements. As such ADB will commonly screen the capability and the commitment of the borrowers of implementing agreed environmental and social protection measures. That said even if there is a high rating of the Project Proponent in capability and commitment to implement agreed environmental actions, experience has that ADB is likely to request environmental and social commitments that go ever further beyond what is reasonably required.

- **Monitoring and supervision** – The ADB will appoint an independent Lender’s Environmental and Social Consultant (LESC) to monitor project implementation in agreed intervals. Separately, project implementation is monitored and supervised by assigned ADB personnel.
- **Disclosing information** – The Environmental and Social Impact Assessment documentation is posted on ADB’s website 120 days before presenting the project to the ADB Board for approval. Comments by the public must be addressed by the project proponent/borrower.
- **Ensuring compliance with legal agreements** – Legal compliance is a mandatory requirement for any project financing.



Over- Appreciation of

**Environmental
and Social
Aspects?**

Over-Appreciation of Environmental and Social Aspects?

It is fair to state that the old/traditional approach to project development could be summarized by three words: **Profit, Profit, Profit**. Projects were formulated, designed, and executed by engineers who ensure technical compliance but paid little attention to social and environmental impacts and risks. Today's approach to project design and implementation has changed; it is now increasingly about Profit, People, Planet. Social and environmental management has become an integral part of the development project design and implementation. But is the attention to Profit, People, and Planet balanced?

Your author argues that environmental and social aspects in project financing are today often over-appreciated, for better or worse. Environmental assessment and the application of the Equator Principles seem to follow a similar pattern as that observed during the introduction of formal Environmental Management Systems in the early '90s. Initially environmental management systems were not seen as management but as administrative systems. Environmental manage-

ment system standards were perceived as too bureaucratic, and too much bureaucracy actually blocked early management systems from functioning properly, as too much paperwork overkilled the system. Paperwork is still a main characteristic of accredited environmental management systems but as time passed the initial overkill faded away.

Today EP compliance is still understood as demonstrating adherence to each and every word in the IFC PS and related guidance documents. Current EP practice seems not to differentiate between significant and insignificant risks and impacts. EPFI and their environmental advisors often opt for a 'black and white' approach to environmental assessment and management: the project proponent needs to demonstrate compliance and adherence to each and any aspect covered in the EP framework, even when related risks and impacts are minute or irrelevant in practical terms. This leads to an over-appreciation of environmental and social components in some projects.

Evidence of over-appreciation of environmental and social risks is plentiful. Some examples follow.

Indigenous Peoples

In projects in developing countries it is often convenient to argue that host communities fall under the category 'Indigenous Peoples (IP)' and as such more stringent safeguards should apply. In many countries determining a rigid identification formula for IP presents difficulties. Indonesia, for example, has a population of approximately 250 million. The government recognizes 1,128 ethnic groups; the fifteen largest ethnic groups account for almost 85% of total Indonesian citizens (Aris Ananta et al. 2015).

Consider a project located in the Tapanuli Region, North Sumatera, the home region of the Batak people. Surely Batak classify as Indigenous Peoples?

Bataks comprise the 4th largest ethnic group accounting about 8.5 million people or close to 4% of total Indonesian citizens. As Figure 7 illustrates, Batak is a collective term used to identify a number of ethnic sub-groups predominantly found in North Sumatera, Indonesia including the Karo, Pakpak, Simalungun, Toba, Angkola, and Mandailing. The Batak Angkola, host community of our fictive project, is one of the sub-ethnic groups who mainly live in South Tapanuli regency with a language similar to the Mandailing language.

Figure 7

Geographical distribution of Batak in North Sumatra



The Constitutional Court of Indonesia affirmed in May 2013 the Constitutional Rights of Indigenous Peoples to their land and territories including their collective rights over customary forest. Indonesia is also a signatory to the UN Declaration on the Rights of Indigenous Peoples (UNDRIP). That said, the Government of Indonesia also recognizes that the concept of

Indigenous Peoples is not applicable, as almost all Indonesians (with the exception of the ethnic Chinese) are indigenous and thus entitled to the same rights.

The Ministry of Social Affairs identifies some indigenous communities as 'komunitas adat terpencil' (geographically-isolated indigenous communities) rather than Indigenous Peoples, based on six characteristics: (1) small, closed homogenous groups; (2) kinship-based social institutions; (3) geographic remoteness in areas difficult for outsiders to access; (4) possessing simple technology; (5) high dependence on the environment and natural resources; and (6) limited access to social, economic, and political services (Presidential Decree No. 111 of 1999).

'Isolated vulnerable peoples' is the term used officially by the Indonesian Government to describe groups that have the characteristics of 'Indigenous Peoples' as used in OP/BP 4.10 or IFC PS 7. The term 'Isolated Vulnerable Peoples' arguably provides a better reflection of the intent of IFC PS 7 in the context of our fictive project. The Batak Angkola do not find themselves facing distinct disadvantages, as they are not a minority but are mainstream society in the Project area. Batak Angkola are also not isolated. The area is bisected by the Trans-Sumatra highway, connecting the South Tapanuli Regency to the City of Sibolga, one of the major settlements of Batak Angkola. The

City of Sibolga has a population of around 90,000 and operates a significant port.

If in case of our fictive project, there were to be development and consultation programs specifically targeted at the majority Batak Angkola, it would automatically create inequalities and may make minority migrant community members vulnerable as a consequence of that 'special' treatment. In our fictive project there would be arguably more harm than benefit in raising ethnic identity through differential treatment based on ethnic heritage. And yet chances are good that EPFI involved in our fictive project would indiscriminately categorize Batak people as IP. It is worth remembering that IFC PS 7 uses the term Indigenous Peoples in a generic sense to refer to a distinct, vulnerable, social and cultural group.

Free, Prior, and Informed Consent

It is often convenient to argue that the project has not obtained free, prior, and informed consent (FPIC), an invention of the 2012 IFC PS. FPIC is a specific right originally acknowledged in the case of Indigenous Peoples, as recognized in the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP). It is only triggered by specific circumstances and strictly defined project impacts.

There is no universally accepted definition of FPIC. It does not require unanimity and may be achieved even when individuals or groups within or among affected Indigenous Peoples explicitly disagree. For project compliance with IFC PS 7, consent refers to the collective support of affected Indigenous Peoples communities for the project activities that affect them. It may exist even if some individuals or groups object to such project activities.

Biodiversity and Ecosystem Services

It has become fashionable to categorially argue that the project will impact biodiversity and ecosystem services. The United Nations Convention on Biodiversity (1992) defines biodiversity as: 'The variability among living organisms from all sources including inter alia, terrestrial, marine and other aquatic ecosystems and the ecological complexes of which they are part; this includes diversity within species, between species, and of ecosystems'.

It follows from this definition that biodiversity applies at different levels, namely:

- Ecosystems, which include a diversity of
- Habitats, each of which supports an assemblage or community of plant and animal
- Species, each of which includes individuals, each with their own unique set of Genes.

Since the revision of the IFC PS in 2012 there is an increasing focus on considering biodiversity impacts in the environmental assessment of new developments. Any significant change in conditions, whether natural or man-made, has the potential to reduce biodiversity at one or more of these levels. In recent years, there have been numerous predictions of impending loss of biodiversity as a result of new project activities, often exaggerated based on questionable assumptions. As biodiversity values, conveniently categorized as economic, social, and intrinsic values, are difficult to quantify, it will be always easier to argue that a project will impact biodiversity than to prove the opposite.

Induced Development

It has become fashionable to request project proponents to manage induced development. New projects stimulate economic growth. A major development may require a workforce of several thousand people. During operation, the same project will provide hundreds of direct and many more indirect employment opportunities. Developments also project the image of wealth. As is the case with metropolitan centres, major operations may attract a great number of people seeking jobs, as they provide income and a better livelihood. Adding to this are the aspirations of local and central governments, seeking to use a new project to stimulate local economic growth.

Part of this economic growth is planned and is (or should be) reflected in both the EIA for the project as well as in regional land use plans. Most of the actual immigration, however, is unplanned; induced development often outweighs expected and planned development.

Induced development illustrates that most significant social impacts from developments are of an indirect nature; they are unwanted consequences of providing site access to and employment opportunities in a host region that may previously have had little to offer. The fact is that new development almost always stimulates in-migration. This may be somewhat minimized if the project proponent implements appropriate workforce recruitment and accommodation policies, but the influence of developers to manage induced development is limited.

Complex Projects and Industry-specific IFC EHS Guidelines

EPFI and their consultants use the IFC EHS Guidelines as a technical source of information during project appraisal. The EHS Guidelines are technical reference documents with general and industry-specific examples of Good International Industry Practice (GIIP). The EHS Guidelines contain the performance levels

and measures that are normally acceptable to IFC (and as such EPFI), and that are generally considered to be achievable in new facilities at reasonable costs by existing technology.

The General EHS Guidelines contain information on cross-cutting environmental, health, and safety issues potentially applicable to all industry sectors, including during construction. It should be used together with the relevant industry sector guideline(s) as exist. Industry sector guideline(s) are developed for a variety of industries. Some examples follow (as of 2016):

I. FORESTRY

Forest Harvesting Operations

Sawmilling & Manufactured Wood Products

II. INFRASTRUCTURE

Ports, Harbors, and Terminals

Airports

Gas Distribution Systems

Tourism and Hospitality Development

Railways

Shipping

Health Care

Waste Management Facilities

III. AGRIBUSINESS/FOOD PRODUCTION

Dairy Processing

Fish Processing

Food and Beverage Processing
Meat Processing

IV. CHEMICALS

Coal Processing
Natural Gas Processing

V. MINING

VI. POWER

Electric Power Transmission and Distribution
Geothermal Power Generation
Thermal Power Plants

IFC appreciates that for complex projects one or more industry sector guidelines may apply besides the general EHS guideline. A mining project for example may operate its own power plant and port facility, hence use of multiple industry-sector guidelines may be necessary. Relevant Industry Sector Guidelines that could apply to a mining project follow.

- General IFC EHS Guidelines
- Mining
- Ports, Harbors, and Terminals
- Thermal Power Plants

However the mine is also likely to cater for some hundreds employees, and is likely to operate its own sanitary landfill. Do relevant industry sector guidelines for Agribusiness/Food Production or Infrastructure (e.g., Health Care or Waste Management Facilities) apply to the mining operation? Intuitively one would argue that size matters: food processing is for employees only, and it is not designed as a stand-alone commercial activity. Similarly the sanitary landfill is arguable not a 'Waste Management Facility' as defined in the introduction to EHS for Waste Management Facilities. That said, at least in one project involved banks argued that a range of industry sector guidelines should apply, independent of the size of the activity, but based on the fact that the activity does occur. Judgement is necessary, and sometimes the financial institution's judgement may override the proponent's or consultant's.

Appendix A

The Equator Principles Summary

Appendix A

The Equator Principles Summary

Scope

Global (with less stringent requirements for projects located in high-income OECD countries).

Total project cost of USD10 million or more.

New projects as well as expansion or upgrade of existing facilities with potential significant environmental or social impacts.

Project financing
Project Finance Advisory

Project-Related-Corporate Loans

Bridge Loans

Financial Advisory

Equator Principles Financial Institutions (EPFIs) commit to make Project Proponent (PP) aware of the content, application and benefits of applying the Equator Principles (EP).

EPFIs request that the PP communicate to the EPFI its intention to adhere to the requirements of the Equator Principles when subsequently seeking financing.

Pre-Financing

PPs are expected to meet requirements in response to Project classification (determined by the EPFI) of A, B or C based on the degree of impact on environment.

Category	Level of Expected Impacts	Requirements for Project Proponent
A	<p>Significant impacts on the local residents relating to issues such as Involuntary Resettlement or Indigenous Peoples (IP).</p> <p>Significant impacts on Biodiversity.</p> <p>Significant impacts on Cultural Property and Natural Habitats.</p> <p>Significant impacts due to complex Factors.</p>	<p>Prepare/Disclose an Environmental Impact Assessment (EIA) report.</p> <p>Prepare/Disclose Action Plans (AP)*</p> <p>Conduct consultations with affected communities*</p> <p>Establish a grievance mechanism.</p> <p>Regular reporting and monitoring by independent environmental experts.</p>
B	<p>Potential adverse impacts are less significant compared to Category A.</p> <p>Potential adverse impacts that are site-specific and can be addressed through mitigation measures.</p>	<p>Prepare/Disclose an EIA report.</p> <p>Prepare/Disclose AP*</p> <p>Conduct consultations with affected communities*</p> <p>Establish a grievance mechanism.</p> <p>Regular reporting and monitoring by experts.</p>
C	Projects with minimal impacts	Apply good industry practice

PPs capability to manage social and environmental issues is assessed.

- Does the PP's organization have established management systems to address social and environmental risks?

Pre-Financing (continued)

- Has there been any substantive NGO campaign against the PP's allegations of egregious or reports of incidents which have not been adequately responded to?

Covenants

For Category A and B projects, the PP will covenant in financing documentation to

- Comply with all relevant host country social and environmental laws, regulations, and permits in all material respects;
- Comply with the AP (where applicable) during the construction and operation of the project in all material respects;
- Provide periodic reports, prepared by in-house staff or third party experts, that document compliance with the AP and the host country's laws and regulations; and
- Decommission the facilities in accordance with an agreed decommissioning plan.

Disclosure

EPFIs may appoint an independent environmental consultant to conduct further monitoring, if applicable.

Where a PP is not in compliance with its social and environmental covenants, EPFIs will work with the PP to bring it back into compliance.

If the client fails to re-establish compliance with the covenants, the loan goes into default.

Notes

Most new mining projects are likely to be categorized as Category A, and so are projects involving resettlement of more than 50 households. A project categorization can change as more information becomes available.

Requirements with asterisk (*) are required only for projects NOT located in High-income OECD countries.

The term PP is used as synonymous to project owner or borrower.

EIA report describes (1) potential risk and impacts related to the issues illustrated in Exhibit II of Equator Principles; (2) compliance with relevant host country laws, regulations, and permits (mandatory requirement); and (3) compliance with the IFC Performance Standards (PS) and World Bank/IFC sector specific EHS Guidelines (deviation from these guidelines is at the discretion of involved EPFI). For projects located in High-income OECD countries, these guidelines and some of the requirements for PP (those with asterisk) are considered to be met as long as the project complies with the host country laws and regulations.

AP details actions needed to implement mitigation measures, corrective actions, and monitoring measures together with their priority.

Source: Based on EP Summary prepared by Mizuho Bank (www.mizuho.com)

Appendix B

IFC Performance Standards Compliance Matrix

Appendix B

IFC Performance Standards Compliance Matrix

In essence this appendix presents the 2007 IFC PS in a slightly shorter version and in tabular form, with a blank 'status' column so it can be used as a work-sheet. It is recommended to always refer to the latest version and the full text available at IFC website. In this appendix, paragraph numbers are preceded by the number of the PS, i.e., PS1 paragraph.

Performance Standard 1

Social and Environmental Assessment
and Management Systems

Scope/Reference	Requirements	Sponsor/Client Status
Social and Environmental Management System <i>Paragraph 1.3</i>	The client will establish and maintain a Social and Environmental Management System appropriate to the nature and scale of the project and commensurate with the level of social and environmental risks and impacts.	
Social and Environmental Assessment <i>Paragraphs 1.4 -1.12</i>	The client will conduct a process of Social and Environmental Assessment that will consider in an integrated manner the potential social and environmental (including labor, health, and safety) risks and impacts of the project.	

Scope/Reference	Requirements	Sponsor/Client Status
<p>Management Program 1.13 - 1.16</p>	<p>Taking into account the relevant findings of the Social and Environmental Assessment and the results of consultation with affected communities, the client will establish and manage a program of mitigation and performance improvement measures and actions that address the identified social and environmental risks and impacts.</p>	
<p>Organizational Structure 1.17</p>	<p>The client will establish, maintain, and strengthen as necessary an organizational structure that defines roles, responsibilities, and authority to implement the management program and Action Plan.</p>	
<p>Training 1.18</p>	<p>The client will train employees and contractors with direct responsibility for activities relevant to the project's social and environmental performance so that they have the knowledge and skills necessary to perform their work.</p>	

Scope/Reference	Requirements	Sponsor/Client Status
<p>Community Engagement <i>1.19</i></p>	<p>The nature and frequency of community engagement will reflect the project's risks and adverse impacts on the affected communities.</p>	
<p>Disclosure and Consultation <i>1.20 - 1.23</i></p>	<p>If communities may be affected by risks or adverse impacts from the project, the client will provide such communities with access to information on the purpose, nature, and scale of the project, the duration of proposed project activities, and any risks to and potential impacts on such communities. Disclosure should occur early in the Social and Environmental Assessment process and in any event before the project construction commences, and on an ongoing basis.</p> <p>The client will undertake a process of consultation in a manner that provides the affected communities with opportunities to express their views on project risks, impacts, and mitigation measures, and allows the client to consider and respond to them.</p>	

Scope/Reference	Requirements	Sponsor/Client Status
	<p>If the client anticipates ongoing risks to or adverse impacts on affected communities, the client will establish a grievance mechanism to receive and facilitate resolution of the affected communities' concerns and grievances about the client's environmental and social performance.</p>	
<p>Monitoring 1.24</p>	<p>As an element of its Management System, the client will establish procedures to monitor and measure the effectiveness of the management program. This should also include dynamic mechanisms, such as inspections and audits, where relevant, to verify compliance and progress toward the desired outcomes.</p> <p>The client will document monitoring results, and identify and reflect the necessary corrective and preventive actions in the amended management program. The client will implement these corrective and preventive</p>	

Scope/Reference	Requirements	Sponsor/Client Status
<i>(continued)</i>	actions, and follow up on these actions to ensure their effectiveness.	
Reporting procedures 1.25	<p>Internal Reporting</p> <p>Senior management in the client organization will receive periodic assessments of the effectiveness of the management program, based on systematic data collection and analysis.</p> <p>External Reporting on Action Plans</p> <p>The client will disclose the Action Plan to the affected communities. In addition, the client will provide periodic reports that describe progress with the implementation of the Action Plan on issues that involve ongoing risk to or impacts on affected communities, and on issues that the consultation process or grievance mechanism has identified as of concern to those communities.</p>	

Performance Standard 2

Labour and Working Conditions

Scope/Reference	Requirements	Sponsor/Client Status
Human Resources Policy <i>Paragraphs 2.3 and 2.4</i>	The client will adopt a human resources policy that sets out its approach to managing employees consistent with the requirements of this Performance Standard.	
Working Relationship paragraph <i>Paragraph 2.7</i>	The client will document and communicate to all employees and workers, directly contracted by the client, their working conditions and terms of employment, including their entitlement to wages and any benefits.	
Working Condition and Terms of Employment <i>Paragraph 2.8</i>	<p>Where the client is a party to a collective bargaining agreement with a workers' organization, such an agreement will be respected.</p> <p>Where such agreements do not exist, or do not address working conditions and terms of employment the client will provide reasonable working conditions and terms of employment that,</p>	

Scope/Reference	Requirements	Sponsor/Client Status
<i>(continued)</i>	at a minimum, comply with national law.	
Non-Discrimination and Equal Opportunities 2.11	<p>The client will not make employment decisions on the basis of personal characteristics unrelated to inherent job requirements. The client will base the employment relationship on the principle of equal opportunity and fair treatment, and will not discriminate with respect to aspects of the employment relationship, including recruitment and hiring, compensation (including wages and benefits), working conditions and terms of employment, access to training, promotion, termination of employment or retirement, and discipline.</p> <p>In countries where national law provides for non discrimination in employment, the client will comply with national law.</p>	
Retrenchment 2.12	The client will develop a plan to mitigate the adverse impacts of retrenchment on	

Scope/Reference	Requirements	Sponsor/Client Status
	<p>employees, if it anticipates the elimination of a significant number of jobs or a layoff of a significant number of employees.</p>	
<p>Grievance Mechanism 2.13</p>	<p>The client will provide a grievance mechanism for workers (and their organizations, where they exist) to raise reasonable workplace concerns.</p>	
<p>Child Labor 2.14</p>	<p>The client will not employ children in a manner that is economically exploitative, or is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral, or social development.</p> <p>Where national laws have provisions for the employment of minors, the client will follow those laws applicable to the client.</p> <p>Children below the age of 18 years will not be employed in dangerous work.</p>	

Scope/Reference	Requirements	Sponsor/Client Status
<p>Forced Labor 2.15</p>	<p>The client will not employ any form of forced labor.</p>	
<p>Occupational Health and Safety 2.16</p>	<p>The client will provide the workers with a safe and healthy work environment, taking into account inherent risks in its particular sector and specific classes of hazards in the client's work areas, including physical, chemical, biological, and radiological hazards.</p> <p>The client will take steps to prevent accidents, injury, and disease arising from, associated with, or occurring in the course of work by minimizing, so far as reasonably practicable, the causes of hazards.</p> <p>The client will address areas, including: the identification of potential hazards to workers, particularly those that may be life-threatening; provision of preventive and protective measures, including modification, substitution, or elimination of hazardous conditions or substances;</p>	

Scope/Reference	Requirements	Sponsor/Client Status
	<p>training of workers; documentation and reporting of occupational accidents, diseases, and incidents; and emergency prevention, preparedness and response arrangements.</p>	
<p>Non-Employee Workers 2.17</p>	<p>When the client contracts non-employee workers directly, the client will use commercially reasonable efforts to apply the requirements of this Performance Standard (except for paragraphs 6, 12, and 18).</p> <p>With respect to contractors or other intermediaries procuring non employee workers, the client will use commercially reasonable efforts to: (i) ascertain that these contractors or intermediaries are reputable and legitimate enterprises; and (ii) require that these contractors or intermediaries apply the requirements of this Performance Standard (except for paragraphs 6, 12, and 13).</p>	

Scope/Reference	Requirements	Sponsor/Client Status
Supply Chain 2.18	<p>The adverse impacts associated with supply chains will be considered where low labour cost is a factor in the competitiveness of the item supplied. The client will inquire about and address child labour and forced labour in its supply chain, consistent with paragraphs 14 and 15 above</p>	

Performance Standard 3

Pollution Prevention and Abatement

Scope/Reference	Requirements	Sponsor/Client Status
General Requirements 3.3	<p>During the design, construction, operation and decommissioning of the project (the project lifecycle) the client will consider ambient conditions and apply pollution prevention and control technologies and practices (techniques) that are best suited to avoid or, where avoidance is not feasible, minimize or reduce adverse impacts on human health and the environment while</p>	

Scope/Reference	Requirements	Sponsor/Client Status
	<p>remaining technically and financially feasible and cost-effective.</p> <p>The project-specific pollution prevention and control techniques applied during the project life-cycle will be tailored to the hazards and risks associated with project emissions and consistent with good international industry practice.</p>	
<p>Pollution Prevention, Resource Conservation and Energy Efficiency 3.4</p>	<p>The client will avoid the release of pollutants or, when avoidance is not feasible, minimize or control the intensity or load of their release. This applies to the release of pollutants due to routine, non-routine or accidental circumstances with the potential for local, regional, and trans-boundary impacts.</p> <p>The client should examine and incorporate in its operations resource conservation and energy efficiency measures, consistent with the principles of cleaner production.</p>	

Scope/Reference	Requirements	Sponsor/Client Status
<p>Wastes 3.5</p>	<p>The client will avoid or minimize the generation of hazardous and non-hazardous waste materials as far as practicable.</p> <p>Where waste generation cannot be avoided but has been minimized, the client will recover and reuse waste</p> <p>Where waste can not be recovered or reused, the client will treat, destroy, and dispose of it in an environmentally sound manner.</p> <p>If the generated waste is considered hazardous, the client will explore commercially reasonable alternatives for its environmentally sound disposal considering the limitations applicable to its trans-boundary movement.</p> <p>When waste disposal is conducted by third parties, the client will use contractors that are reputable and legitimate enterprises licensed by the relevant regulatory agencies.</p>	

Scope/Reference	Requirements	Sponsor/Client Status
<p>Hazardous Materials 3.6</p>	<p>The client will avoid or, when avoidance is not feasible, minimize or control the release of hazardous materials resulting from their production, transportation, handling, storage and use for project activities.</p> <p>The client will avoid the manufacture, trade, and use of chemicals and hazardous materials subject to international bans or phase-outs and consider the use of less hazardous substitutes for such chemicals and materials.</p>	
<p>Emergency Preparedness and Response 3.7</p>	<p>The client will be prepared to respond to process upset, accidental, and emergency situations in a manner appropriate to the operational risks and the need to prevent their potential negative consequences.</p> <p>This preparation will include a plan that addresses the training, resources, responsibilities, communication, procedures, and other</p>	

Scope/Reference	Requirements	Sponsor/Client Status
<i>(continued)</i>	aspects required to effectively respond to emergencies associated with project hazards.	
Technical Guidance 3.8	<p>The client will refer to the current version of the EHS Guidelines when evaluating and selecting pollution prevention and control techniques for the project.</p> <p>When host country regulations differ from the levels and measures presented in the EHS Guidelines, clients will achieve whichever is more stringent.</p>	
Ambient Considerations 3.9	<p>To address adverse project impacts on existing ambient conditions, the client will consider the finite assimilative capacity of the environment, existing and future land use, existing ambient conditions, the project's proximity to ecologically sensitive or protected areas, and the potential for cumulative impacts with uncertain and irreversible consequences</p>	

Scope/Reference	Requirements	Sponsor/Client Status
	<p>The client will promote strategies that avoid or, where avoidance is not feasible, minimize or reduce the release of pollutants, including strategies that contribute to the improvement of ambient conditions when the project has the potential to constitute a significant source of emissions in an already degraded area.</p> <p>These strategies include, but are not limited to, evaluation of project location alternatives and emissions offsets.</p>	
<p>Greenhouse Gas Emissions 3.10 – 3.11</p>	<p>The client will promote the reduction of project-related greenhouse gas (GHG) emissions in a manner appropriate to the nature and scale of project operations and impacts.</p> <p>Should this project be expected to produce significant quantities of GHGs, the client will quantify direct emissions from the facilities owned or controlled within the physical project boundary and indirect emissions</p>	

Scope/Reference	Requirements	Sponsor/Client Status
<i>(continued)</i>	<p>associated with the off-site production of power used by the project.</p> <p>Quantification and monitoring of GHG emissions will be conducted annually in accordance with internationally recognized methodologies.</p> <p>In addition, the client will evaluate technically and financially feasible and cost-effective options to reduce or offset project-related GHG emissions during the design and operation of the project</p>	
<p>Pesticide Use and Management 3.12</p>	<p>The client will formulate and implement an integrated pest management (IPM) and/or integrated vector management (IVM) approach for pest management activities.</p>	

Performance Standard 4

Community Health,
Safety and Security

Scope/Reference	Requirements	Sponsor/Client Status
General Requirements 4.4 - 4.5	<p>The client will evaluate the risks and impacts to the health and safety of the affected community during the design, construction, operation, and decommissioning of the project.</p> <p>The client will establish preventive measures to address them in a manner commensurate with the identified risks and impacts. These measures will favor the prevention or avoidance of risks and impacts over minimization and reduction.</p> <p>Where the project poses risks to or adverse impacts on the health and safety of affected communities, the client will disclose the Action Plan and any other relevant project-related information to enable the affected communities and relevant government agencies to understand these risks and impacts, and will engage the affected com-</p>	

Scope/Reference	Requirements	Sponsor/Client Status
<i>(continued)</i>	<p>munities and agencies on an ongoing basis.</p>	
<p>Infrastructure and Equipment Safety 4.6</p>	<p>The client will design, construct, and operate and decommission the structural elements or components of the project in accordance with good international industry practice, and will give particular consideration to potential exposure to natural hazards, especially where the structural elements are accessible to members of the affected community or where their failure could result in injury to the community.</p> <p>Structural elements will be designed and constructed by qualified and experienced professionals, and certified or approved by competent authorities or professionals.</p> <p>When structural elements or components, such as dams, tailings dams, or ash ponds, are situated in high-risk locations, and their failure or malfunction may threaten</p>	

Scope/Reference	Requirements	Sponsor/Client Status
	<p>the safety of communities, the client will engage one or more qualified experts with relevant and recognized experience in similar projects, separate from those responsible for the design and construction, to conduct a review as early as possible in project development and throughout the stages of project design, construction, and commissioning.</p> <p>For projects that operate moving equipment on public roads and other forms of infrastructure, the client will seek to prevent the occurrence of incidents and accidents associated with the operation of such equipment.</p>	
<p>Hazardous Materials Safety 4.7</p>	<p>The client will prevent or minimize the potential for community exposure to hazardous materials that may be released by the project.</p> <p>Where there is a potential for the community (including workers and their families) to be exposed to</p>	

Scope/Reference	Requirements	Sponsor/Client Status
<p><i>(continued)</i></p>	<p>hazards, particularly those that may be life-threatening, the client will exercise special care to avoid or minimize their exposure by modifying, substituting or eliminating the condition or substance causing the hazards.</p> <p>Where hazardous materials are part of existing project infrastructure or components, the client will exercise special care when conducting decommissioning activities in order to prevent exposure to the community. In addition, the client will exercise commercially reasonable efforts to control the safety of deliveries of raw materials and of transportation and disposal of wastes.</p>	
<p>Environmental and Natural Resource Issues 4.8 - 4.9</p>	<p>The client will avoid or minimize the exacerbation of impacts caused by natural hazards, such as landslides or floods that could arise from land use changes due to project activities.</p>	

Scope/Reference	Requirements	Sponsor/Client Status
	<p>The client will also avoid or minimize adverse impacts due to project activities on soil, water, and other natural resources in use by the affected communities.</p>	
<p>Community Exposure to Disease 4.10 – 4.11</p>	<p>The client will prevent or minimize the potential for community exposure to water-borne, water-based, water-related, vector-borne disease, and other communicable diseases that could result from project activities.</p> <p>Where specific diseases are endemic in communities in the project area of influence, the client is encouraged to explore opportunities during the project life cycle to improve environmental conditions that could help reduce their incidence.</p> <p>The client will prevent or minimize transmission of communicable diseases that may be associated with the influx of temporary or permanent project labour.</p>	

Scope/Reference	Requirements	Sponsor/Client Status
<p><i>(continued)</i></p>	<p>The client will assess the potential risks and impacts from project activities and inform affected communities of significant potential hazards in a culturally appropriate manner.</p> <p>The client will also assist and collaborate with the community and the local government agencies in their preparations to respond effectively to emergency situations, especially when their participation and collaboration are necessary to respond to such emergency situations.</p> <p>If local government agencies have little or no capacity to respond effectively, the client will play an active role in preparing for and responding to emergencies associated with the project.</p> <p>The client will document its emergency preparedness and response activities, resources, and responsibilities, and will disclose appropriate information in the Action</p>	

Scope/Reference	Requirements	Sponsor/Client Status
	<p>Plan or other relevant document to affected communities and relevant government agencies.</p>	
<p>Security Personnel Requirements 4.13 – 4.15</p>	<p>When the client directly retains employees or contractors to provide security to safeguard its personnel and property, it will assess risks to those within and outside the project site posed by its security arrangements. In making such arrangements, the client will be guided by the principles of proportionality, good international practices in terms of hiring, rules of conduct, training, equipping and monitoring of such personnel, and applicable law.</p> <p>The client will make reasonable inquiries to satisfy itself that those providing security are not implicated in past abuses, will train them adequately in the use of force (and where applicable, firearms) and appropriate conduct toward workers and the local community, and require them to act within</p>	

Scope/Reference	Requirements	Sponsor/Client Status
<i>(continued)</i>	<p>the applicable law. The client will not sanction any use of force except when used for preventive and defensive purposes in proportion to the nature and extent of the threat.</p> <p>A grievance mechanism should allow the affected community to express concerns about the security arrangements and acts of security personnel.</p> <p>The client will investigate any credible allegations of unlawful or abusive acts of security personnel, take action (or urge appropriate parties to take action) to prevent recurrence, and report unlawful and abusive acts to public authorities when appropriate.</p>	

Performance Standard 5

Land Acquisition and Involuntary Settlement

Scope/Reference	Requirements	Sponsor/Client Status
Project Design 5.7	The client will consider feasible alternative project designs to avoid or at least minimize physical or economic displacement, while balancing environmental, social, and financial costs and benefits.	
Compensation and Benefits for Displaced Persons 5.8	<p>When displacement cannot be avoided, the client will offer displaced persons and communities compensation for loss of assets at full replacement cost and other assistance to help them improve or at least restore their standards of living or livelihoods, as provided in this Performance Standard.</p> <p>Standards for compensation will be transparent and consistent within the project. Where livelihoods of displaced persons are land-based, or where land is collectively owned, the client will offer land-based compensation, where feasible.</p>	

Scope/Reference	Requirements	Sponsor/Client Status
<i>(continued)</i>	The client will provide opportunities to displaced persons and communities to derive appropriate development benefits from the project.	
Consultation 5.9	<p>Following disclosure of all relevant information, the client will consult with and facilitate the informed participation of affected persons and communities, including host communities, in decision making processes related to resettlement.</p> <p>Consultation will continue during the implementation, monitoring, and evaluation of compensation payment and resettlement to achieve outcomes that are consistent with the objectives of this Performance Standard.</p>	
Grievance Mechanism 5.10	The client will establish a grievance mechanism consistent with Performance Standard 1 to receive and address specific concerns	

Scope/Reference	Requirements	Sponsor/Client Status
	<p>about compensation and relocation that are raised by displaced persons or members of host communities, including a recourse mechanism designed to resolve disputes in an impartial manner.</p>	
<p>Resettlement Planning and Implementation 5.11 – 5.13</p>	<p>Where involuntary resettlement is unavoidable, the client will carry out a census with appropriate socio-economic baseline data to identify the persons who will be displaced by the project, to determine who will be eligible for compensation and assistance, and to discourage inflow of people who are ineligible for these benefits.</p> <p>In the absence of host government procedures, the client will establish a cut-off date for eligibility. Information regarding the cut-off date will be well document-ed and disseminated throughout the project area.</p>	

Scope/Reference	Requirements	Sponsor/Client Status
<p><i>(continued)</i></p>	<p>In the case of Type I transactions (acquisition of land rights through the exercise of eminent domain) or Type II transactions (negotiated settlements) that involve the physical displacement of people, the client will develop a resettlement action plan or a resettlement framework based on a Social and Environmental Assessment that covers, at a minimum, the applicable requirements of this Performance Standard regardless of the number of people affected. The plan or framework will be designed to mitigate the negative impacts of displacement, identify development opportunities, and establish the entitlements of all categories of affected persons (including host communities), with particular attention paid to the needs of the poor and the vulnerable.</p> <p>The client will document all transactions to acquire land rights, as well as compensation measures and relocation activities. The client will</p>	

Scope/Reference	Requirements	Sponsor/Client Status
	<p>also establish procedures to monitor and evaluate the implementation of resettlement plans and take corrective action as necessary.</p> <p>In the case of Type II transactions (negotiated settlements) involving economic (but not physical) displacement of people, the client will develop procedures to offer affected persons and communities compensation and other assistance in a transparent, consistent, and equitable manner.</p> <p>If expropriation or other legal procedures are initiated, the client will explore opportunities to collaborate with the responsible government agency, and if permitted by the agency, play an active role in the resettlement planning, implementation, and monitoring.</p>	

Scope/Reference	Requirements	Sponsor/Client Status
<p>Physical Displacement 5.16 – 5.19</p>	<p>If people living in the project area must move to another location, the client will:</p> <ul style="list-style-type: none"> (i) offer displaced persons choices among feasible resettlement options, including adequate replacement housing or cash compensation where appropriate; and (ii) Provide relocation assistance suited to the needs of each group of displaced persons, with particular attention paid to the needs of the poor and the vulnerable. Alternative housing and/or cash compensation will be made available prior to relocation. New resettlement sites built for displaced persons will offer improved living conditions. <p>In the case of physically displaced persons, the client will offer the choice of replacement property of equal or higher value, equivalent or better characteristics and advantages of location, or cash compensation at full</p>	

Scope/Reference	Requirements	Sponsor/Client Status
	<p>replacement value where appropriate.</p> <p>In the case of physically displaced persons, the client will offer them a choice of options for adequate housing with security of tenure so that they can resettle legally without having to face the risk of forced eviction.</p> <p>Where these displaced persons own and occupy structures, the client will compensate them for the loss of assets other than land, such as dwellings and other improvements to the land, at full replacement cost, provided that these people occupy the project area prior to the cut-off date for eligibility. Compensation in kind will be offered in lieu of cash compensation where feasible.</p> <p>Based on consultation with such displaced persons, the client will provide relocation assistance sufficient for them to restore their standards of living at an adequate alternative site.</p>	

Scope/Reference	Requirements	Sponsor/Client Status
<i>(continued)</i>	<p>Where communities of Indigenous Peoples are to be physically displaced from their communally held traditional or customary lands under use, the client will meet the applicable requirements of this Performance Standard, as well as those of Performance Standard 7 (in particular paragraph 14).</p>	
Economic Displacement	<p>If land acquisition for the project causes loss of income or livelihood, regardless of whether or not the affected people are physically displaced, the client will meet the following requirements:</p> <ul style="list-style-type: none"> • Promptly compensate economically displaced persons for loss of assets or access to assets at full replacement cost. • In cases where land acquisition affects commercial structures, compensate the affected business owner for the cost of re-establishing commercial activities elsewhere, for lost net 	

Scope/Reference	Requirements	Sponsor/Client Status
	<p>income during the period of transition, and for the costs of the transfer and reinstallation of the plant, machinery or other equipment.</p> <ul style="list-style-type: none"> • Provide replacement property (e.g., agricultural or commercial sites) of equal or greater value, or cash compensation at full replacement cost where appropriate, to persons with legal rights or claims to land which are recognized or recognizable under the national laws. • Compensate economically displaced persons who are without legally recognizable claims to land (see paragraph 14 (iii)) for lost assets (such as crops, irrigation infrastructure and other improvements made to the land) other than land, at full replacement cost. The client is not required to compensate or assist opportunistic settlers who encroach on the project area after the cut-off date. 	

Scope/Reference	Requirements	Sponsor/Client Status
<i>(continued)</i>	<ul style="list-style-type: none"> • Provide additional targeted assistance (e.g., credit facilities, training, or job opportunities) and opportunities to improve or at least restore their income-earning capacity, production levels, and standards of living to economically displaced persons whose livelihoods or income levels are adversely affected. • Provide transitional support to economically displaced persons, as necessary, based on a reasonable estimate of the time required to restore their income earning capacity, production levels, and standards of living. 	
	<p>Where communities of Indigenous Peoples are economically displaced (but not relocated) as a result of project-related land acquisition, the client will meet the applicable requirements of this Performance Standard, as well as those of Performance Standard 7 (in particular paragraphs 12 and 13).</p>	

Scope/Reference	Requirements	Sponsor/Client Status
<p>Private Sector Responsibilities under Government-managed Resettlement 5.22 - 5.24</p>	<p>Where land acquisition and resettlement are the responsibility of the host government, the client will collaborate with the responsible government agency, to the extent permitted by the agency, to achieve outcomes that are consistent with the objectives of this Performance Standard. In addition, where government capacity is limited, the client will play an active role during resettlement planning, implementation and monitoring.</p> <p>In the case of Type I and Type II transactions involving physical displacement, the client will prepare a plan (or a framework) that, together with the documents prepared by the responsible government agency, will address the relevant requirements of this Performance Standard.</p> <p>In the case of Type II transactions involving economic (but not physical) displacement, the client will identify and describe the procedures that the responsible govern-</p>	

Scope/Reference	Requirements	Sponsor/Client Status
<i>(continued)</i>	<p>ment agency plans to use to compensate affected persons and communities. If these procedures do not meet the relevant requirements of this Performance Standard, the client will develop its own procedures to supplement government action.</p>	

Performance Standard 6

Biodiversity Conservation and Sustainable Natural Resource Management

Scope/Reference	Requirements	Sponsor/Client Status
<p>Protection and Conservation of Biodiversity 6.4</p>	<p>In order to avoid or minimize adverse impacts to biodiversity in the project's area of influence (see Performance Standard 1, paragraph 5), the client will assess the significance of project impacts on all levels of biodiversity as an integral part of the Social and Environmental Assessment process.</p> <p>The Assessment will take into account the differing values attached to biodiver-</p>	

Scope/Reference	Requirements	Sponsor/Client Status
	<p>sity by specific stakeholders, as well as identify impacts on ecosystem services. The Assessment will focus on the major threats to biodiversity, which include habitat destruction and invasive alien species. When requirements of paragraphs 9, 10, or 11 apply, the client will retain qualified and experienced external experts to assist in conducting the Assessment.</p>	
<p>Habitat 6.5</p>	<p>Habitat destruction is recognized as the major threat to the maintenance of biodiversity.</p> <p>Habitats can be divided into natural habitats (which are land and water areas where the biological communities are formed largely by native plant and animal species, and where human activity has not essentially modified the area's primary ecological functions) and modified habitats (where there has been apparent alteration of the natural habitat, often with the introduction of alien species of plants and</p>	

Scope/Reference	Requirements	Sponsor/Client Status
<i>(continued)</i>	animals, such as agricultural areas). Both types of habitat can support important biodiversity at all levels, including endemic or threatened species	
Modified habitat 6.6	In areas of modified habitat, the client will exercise care to minimize any conversion or degradation of such habitat, and will, depending on the nature and scale of the project, identify opportunities to enhance habitat and protect and conserve biodiversity as part of their operations	
Natural Habitat 6.7-6.8	In areas of natural habitat, the client will not significantly convert or degrade such habitat, unless the following conditions are met: <ul style="list-style-type: none"> • There are no technically and financially feasible alternatives • The overall benefits of the project outweigh the costs, including those to the environment and biodiversity • Any conversion or deg- 	

Scope/Reference	Requirements	Sponsor/Client Status
	<p>radation is appropriately mitigated</p> <p>Mitigation measures will be designed to achieve no net loss of biodiversity where feasible, and may include a combination of actions, such as:</p> <ul style="list-style-type: none"> • Post-operation restoration of habitats • Offset of losses through the creation of ecologically comparable area(s) that is managed for biodiversity • Compensation to direct users of biodiversity 	
<p>Critical Habitat 5.11 - 5.13</p>	<p>Critical habitat is a subset of both natural and modified habitat that deserves particular attention.</p> <p>Critical habitat includes areas with high biodiversity value, including habitat required for the survival of critically endangered or endangered species; areas having special significance for endemic or restricted-range species; sites that are critical for the survival of migratory species;</p>	

Scope/Reference	Requirements	Sponsor/Client Status
<p><i>(continued)</i></p>	<p>areas supporting globally significant concentrations or numbers of individuals of congregatory species; areas with unique assemblages of species or which are associated with key evolutionary processes or provide key ecosystem services; and areas having biodiversity of significant social, economic or cultural importance to local communities.</p> <p>In areas of critical habitat, the client will not implement any project activities unless the following requirements are met:</p> <ul style="list-style-type: none"> • There are no measurable adverse impacts on the ability of the critical habitat to support the established population of species described in paragraph 9 or the functions of the critical habitat described in paragraph 9 • There is no reduction in the population of any recognized critically endangered or endangered species • Any lesser impacts are mitigated in accordance with paragraph 8 	

Scope/Reference	Requirements	Sponsor/Client Status
<p>Legally Protected Areas 6.11</p>	<p>In circumstances where a proposed project is located within a legally protected area,⁶ the client, in addition to the applicable requirements of paragraph 10 above, will meet the following requirements :</p> <ul style="list-style-type: none"> • Act in a manner consistent with defined protected area management plans • Consult protected area sponsors and managers, local communities , and other key stakeholders on the proposed project • Implement additional programs, as appropriate, to promote and enhance the conservation aims of the protected area 	
<p>Invasive Alien Species 6.12-6.13</p>	<p>Intentional or accidental introduction of alien, or non-native, species of flora and fauna into areas where they are not normally found can be a significant threat to biodiversity, since some alien species can become invasive, spreading rapidly and out-competing native species.</p>	

Scope/Reference	Requirements	Sponsor/Client Status
<i>(continued)</i>	<p>The client will not intentionally introduce any new alien species (not currently established in the country or region of the project) unless this is carried out in accordance with the existing regulatory framework for such introduction, if such framework is present, or is subject to a risk assessment (as part of the client's Social and Environmental Assessment) to determine the potential for invasive behavior. The client will not deliberately introduce any alien species with a high risk of invasive behaviour or any known invasive species, and will exercise diligence to prevent accidental or unintended introductions.</p>	
<p>Management and Use of Renewable Natural Resources 6.14-6.15</p>	<p>The client will manage renewable natural resources in a sustainable manner. Where possible, the client will demonstrate the sustainable management of the resources through an appropriate system of independent certification.</p>	

Scope/Reference	Requirements	Sponsor/Client Status
	In particular, forests and aquatic systems are principal providers of natural resources, and need to be managed as specified below.	

Performance Standard 7 | Indigenous Peoples

Scope/Reference	Requirements	Sponsor/Client Status
	Does the Project have any influence on indigenous peoples?	

Performance Standard 8 | Indigenous Peoples

Scope/Reference	Requirements	Sponsor/Client Status
Internationally Recognized Practices 8.4	In addition to complying with relevant national law on the protection of cultural heritage, including national law in implementing the host country's obligations under the Convention Concerning the Protection	

Scope/Reference	Requirements	Sponsor/Client Status
<i>(continued)</i>	<p>of the World Cultural and Natural Heritage and other relevant international law, the client will protect and support cultural heritage by undertaking internationally recognized practices for the protection, field-based study, and documentation of cultural heritage.</p> <p>If the requirements of paragraphs 7, 8, 9, 10 or 11 apply, the client will retain qualified and experienced experts to assist in the Assessment.</p>	
<p>Chance Find Procedures 8.5</p>	<p>The client is responsible for sitting and designing a project to avoid significant damage to cultural heritage. When the proposed location of a project is in areas where cultural heritage is expected to be found, either during construction or operations, the client will implement chance find procedures established through the Social and Environmental Assessment.</p> <p>The client will not disturb any chance finds further</p>	

Scope/Reference	Requirements	Sponsor/Client Status
	<p>until an Assessment by a competent specialist is made and actions consistent with the requirements of this Performance Standard are identified.</p>	
<p>Consultation 8.6</p>	<p>Where a project may affect cultural heritage, the client will consult with affected communities within the host country who use, or have used within living memory, the cultural heritage for longstanding cultural purposes to identify cultural heritage of importance, and to incorporate into the client's decision-making process the views of the affected communities on such cultural heritage.</p> <p>Consultation will also involve the relevant national or local regulatory agencies that are entrusted with the protection of cultural heritage.</p>	
<p>Removal of Cultural Heritage 8.7</p>	<p>The client will not remove any cultural heritage, unless the following conditions are met:</p>	

Scope/Reference	Requirements	Sponsor/Client Status
<i>(continued)</i>	<ul style="list-style-type: none"> • There are no technically or financially feasible alternatives to removal. • The overall benefits of the project outweigh the anticipated cultural heritage loss from removal. • Any removal of cultural heritage is conducted by the best available technique. 	
Critical Cultural Heritage <i>8.8 – 8.10</i>	<p>The client will not significantly alter, damage, or remove any critical cultural heritage. In exceptional circumstances, where a project may significantly damage critical cultural heritage, and its damage or loss may endanger the cultural or economic survival of communities within the host country who use the cultural heritage for long-standing cultural purposes, the client will:</p> <p>(i) meet the requirements of Paragraph 6 above; and</p> <p>(ii) conduct a good faith negotiation with and document the informed participation of the affected communities and the suc-</p>	

Scope/Reference	Requirements	Sponsor/Client Status
	<p>successful outcome of the negotiation. In addition, any other impacts on critical cultural heritage must be appropriately mitigated with the informed participation of the affected communities.</p> <p>In circumstances where a proposed project is located within a legally protected area or a legally defined buffer zone, the client, in addition to the requirements for critical cultural heritage cited above in Paragraph 9, will meet the following requirements:</p> <ul style="list-style-type: none"> • Comply with defined national or local cultural heritage regulations or the protected area management plans. • Consult the protected area sponsors and managers, local communities and other key stakeholders on the proposed project. • Implement additional programs, as appropriate, to promote and enhance the conservation aims of the protected area 	

Scope/Reference	Requirements	Sponsor/Client Status
<p>Projects Use of Cultural Heritage 8.11</p>	<p>Where a project proposes to use the cultural resources, knowledge, innovations, or practices of local communities embodying traditional lifestyles for commercial purposes, the client will inform these communities of: (i) their rights under national law; (ii) the scope and nature of the proposed commercial development; and (iii) the potential consequences of such development.</p> <p>The client will not proceed with such commercialization unless it: (i) enters into a good faith negotiation with the affected local communities embodying traditional lifestyles; (ii) documents their informed participation and the successful outcome of the negotiation; and (iii) provides for fair and equitable sharing of benefits from commercialization of such knowledge, innovation, or practice, consistent with their customs and traditions.</p>	

NOTES

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Dr. Spitz is an environmental consultant of international repute with more than 30 years of professional experience in Canada, Europe, Asia, and Australia. His main interest is the environmental assessment of large resource development projects in developing countries.

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