

UK NGO response to DfID's statements on the IFC's revised policy and performance standards on social and environmental sustainability

Hilary Benn
Secretary of State for International Development
Department for International Development
1 Palace Street
London
SW1E 5HE

CC:

Tom Scholar, UK executive director to the World Bank and IMF
Gavin McGillivray, Head, International Financial Institutions Department, DfID
Chris Young, International financial institutions department, DfID
Gerard Howe, Senior Social Development Advisor, DfID
Jon Hobbes, Senior Environmental Advisor, DfID

21 December 2005

Dear Hilary Benn

On behalf of the NGOs signed on below, we are writing with regard to DfID's recent statement on the IFC's revised policy and performance standards on social and environmental sustainability, made public on 25 November 2005. The statement raises a number of crucial concerns in relation to involuntary resettlement and community engagement, which are shared by UK civil society. However, it has also omitted many points raised by DfID in its statement dated May 2005, as we discuss below.

Firstly, we would like to thank DfID for providing us with the opportunity to openly discuss many of our concerns in relation to the IFC's most recent drafts at recent meetings in November, in which other stakeholders, including representatives from Equator Banks, EBRD and ECGD, also participated.

NGOs also applaud DfID for incorporating crucial concerns into the November statement in relation to involuntary resettlement and community engagement. These include: the assertion that the performance standards *must state that community engagement will (as opposed to should) be free of intimidation or coercion*; that the IFC and its clients should recognise the value of land to many poor people, even if they do not have a legally recognisable claim; the need for further clarity on the support that clients should offer displaced informal settlers to improve their livelihoods; and the call for baseline socio-economic data in performance standard 5.

We also welcome the statement that *affected communities must be consulted on and aware of all issues affecting them and mitigating measures proposed to address them* prior to the finalisation and implementation of the action plan, and the point made on impoverishment risks.

Despite this, there are numerous issues raised in DfID's previous position statement in May which have not been adequately addressed by the IFC's September draft, so we are puzzled that DfID claims to be satisfied that *many of the comments made in [its] earlier statement have been addressed*, and retains only *two remaining areas of*

concern. Unfortunately the consultation period has now closed, and the performance standards and guidance notes are in the process of being finalised. However, in your future discussions with IFC on this matter, we urge you not to be limited by the primary concerns you lay out in the statement of 25 November.

We respectfully request clarification from you on whether you feel that the issues raised by DfID in May will now be adequately addressed in the new performance standards, particularly in relation to:

Environmental considerations

The November position statement makes no mention of environmental issues in relation to IFC's performance standards and guidance notes. We acknowledge from our meetings in November that DfID believe that there are no 'fatal flaws' in this regard. However, this does not tally with previous assertions made in May, for instance in relation to the precautionary principle; and the need for stronger wording on 'alien and invasive species' to make the relevant policy more in line with the Convention on Biodiversity. We do not feel that these have been fully addressed in the IFC's final drafts. We also note that the absence of a requirement for the IFC to identify 'no go' areas relating to high biodiversity value, will leave the organisation behind commercial banks which have already introduced this.

International standards

Civil society welcomed DfID's progressive call for minimum standards and coherence with international conventions. In particular the May paper stated that *it is important that the performance standards reference and cite language from relevant international standards and conventions, rather than seeking to redefine them*. However, this issue has since been omitted from the November statement. We acknowledge that the new drafts have gone some way to incorporating core ILO standards, but reject the weak and circular language on human rights which addresses the issue from the purely voluntary sphere of corporate social responsibility. Given DfID's rights-based approach to development and your commitment to this issue, expressed in meetings with NGOs, we are disappointed that it was left out of the November position paper. In addition, we are concerned that the IFC has consistently undermined international law and that the language regarding states' obligations under international environmental treaties has been weakened. We believe that the language in paragraph 3 of the World Bank's OP 4.01 must be retained and not diluted as proposed by the IFC.

Ambiguous use of terminology and language

In May DfID pointed to the *lack of clarity in some of the terminology used and in the specific requirements of both IFC and the client*, and called for much clearer use of language. It criticised the ambiguous use of such terms as: '*where feasible*', '*cost effective*' and '*as far as reasonably practical*', which in some cases lack clear definition of what is being required of clients. Whilst some of this language has been removed in the new drafts, much remains and DfID now appears to have withdrawn insistence on such clarity. DfID also stated that the performance standards contained very few minimum requirements and called for clearer definition in this regard.

Responsibility of clients

The May position statement expressed concern at the lack of clarity in the *specific requirements of both IFC and client*. Such a concern was echoed in the meeting between DfID and key stakeholders on 10 November by a DfID staff member who said it was still unclear to him as to where the responsibilities lie. Although this important issue has not been mentioned in the November comments, we hope that the UK government will continue to insist on greater responsibility on the part of the

IFC to help clients to accomplish the policy objectives and ensure sustainable and equitable development. On this note, we also call for vigilance against the prevalence of the IFC depending on client-generated information and client self-monitoring and self-reporting.

Documentation

The May submission calls for greater cross-referencing between the performance standards, disclosure policy, guidance notes/pollution prevention and abatement handbook, environmental health and safety guidelines and other international standards, and expresses concern at the number of documents that IFC and the client may need to refer to in order to assess compliance with IFC's standards. This issue was also raised as a concern by DfID staff members during the stakeholder meeting with NGOs, but is not mentioned in the November document.

Discrepancies between World Bank Group and IFC safeguard policies

In May, DfID stated that it "*would welcome a joint statement from the World Bank and IFC identifying potential areas of discrepancy and guidance as to the procedures of dealing with difference in policies*". Furthermore, in the meeting with DfID and key stakeholders on 10 November, a DfID staff member pointed out that the IFC's performance standard 5 on resettlement contained many inexplicable discrepancies with the Bank's OP 4.12, and questioned how clients would be able to deal with this. The IFC's annexes do not provide an honest assessment of the differences between its proposed policy and performance standards and existing WBG policy. We hope that DfID will look critically at this issue.

In light of the above, we are worried that DfID's November position paper could be construed as backsliding from many of the strong and progressive concerns raised in May that have not been adequately dealt with in the IFC's latest drafts. The November position paper also fails to incorporate key concerns raised by civil society in meetings and document submissions with DfID throughout the consultation process, for instance in relation to: human rights; requirements for financial intermediaries; the failure of IFC to respond to several points raised in the Bank's management response to the Extractive Industries Review; removal of the requirement for third party independent environmental assessments; pollution prevention and abatement; and pollution related health impacts. We would also like to add that DfID's comments from May were only made available to UK NGOs in November.

Lastly, we strongly disagree with DfID's assertion that the new performance standards present a *far more comprehensive set of policies than existed previously*. In brief, the latest drafts of the performance standards and guidance notes reveal alarming discrepancy between the responsibility of the IFC and the client; weaken or reduce the clarity of several existing policy requirements; lack clear lines of accountability; have made little progress regarding coherence between the standards and international conventions; and fail to define minimum bottom-line requirements. Despite the eleventh hour, in light of the strength of DfID's previous comments and commitments to rights and standards we urge you to revisit your earlier concerns and those of civil society, in order to take a leading and critical role in ensuring that the many on-going problems in the IFC's draft policy and performance standards are addressed.

Please find attached copies of the minutes from the meetings held on 10 November with DfID representatives and key stakeholders, and on 11 November with DfID, stakeholders and IFC. Also attached are key documents submitted to DfID and

World Bank executive directors by international civil society. We look forward to hearing from you soon.

Yours sincerely

Lucy Baker, Policy and Networking officer
Bretton Woods Project

Tony Juniper, Executive Director
Friends of the Earth UK

Patricia Feeney, Executive Director
Rights and Accountability in Development (RAID)

Patrick Alley, Director
Global Witness

Marcus Colchester
Forest Peoples Programme

James Leaton, Extractive Industries Policy Officer
WWF

Nick Hildyard
Cornerhouse

Andy Whitmore
Indigenous Peoples Links

Mika Minio Paluello
Platform

Attachments:

- Minutes from meetings with DfID and UK stakeholders; and DfID, IFC and UK stakeholders. Minutes taken by civil society and agreed by DfID, November 2005
- Sign-on letter from NGOs on involuntary resettlement and indigenous peoples, 10 December 2005
- Key issues to address in IFC safeguard review process, signed by 35 international NGOs, 3 November 2005
- comparison matrix of the management response to the EIR and the September 2005 draft