

INDEPENDENT EVALUATION GROUP

Review of MIGA's Experience with Safeguards and Sustainability Policies (1999—2008)

IEG Working Paper 2011/2



Andres Liebenthal

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Safeguards Review Questionnaire

Abbreviations

CAO	Compliance Advisor/Ombudsman
EHS	Environment, Health and Safety
EI	Extractive industries
ESIA	Environmental and Social Impact Assessment
ESRS	Environmental and Social Review Summaries
IDA	International Development Association
IEG	Independent Evaluation Group
IFC	International Finance Corporation
MIGA	Multilateral Investment Guarantee Agency
PPSSES	Policy and Performance Standards on Social and Environmental Sustainability
SEMS	Social and Environmental Management Systems
SIP	Small Investment Program
WBG	World Bank Group

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Summary

Study Objective and Approach

The objective of this study is to respond to the overarching question posed for IEG’s Evaluation of the World Bank Group’s (WBG) Experience with Safeguards and Sustainability Policies (1999–2008), based on the experience of the Multilateral Investment Guarantee Agency (MIGA):

How effective has the safeguards policy framework of the World Bank Group been in preventing and mitigating adverse environmental and social impacts?

To assess MIGA’s performance in this area, IEG commissioned a portfolio review of a stratified sample of 35 MIGA projects approved during FY00–09. For each project in the sample, the study reviewed the effectiveness of MIGA’s framework for preventing and mitigating adverse environmental and social impacts and enhancing client capacity for their management. The review was based on an examination of the extent to which MIGA’s policies and processes for reviewing environmental and social risks, monitoring project performance, and ensuring compliance with applicable standards, have been implemented.

Evolution of MIGA’s Sustainability Framework

MIGA’s sustainability framework has gradually evolved since its beginnings in 1990, when it simply used the IFC’s staff to review the environmental and social acceptability of its projects and applied the World Bank Group’s safeguard policies. In 1999 and 2002, MIGA adopted revised versions of these policies—the Environmental Assessment Policy and Interim issue specific Safeguards Policies, respectively—which were better adapted to its business. More recently, in October 2007, MIGA adopted its new Policy and Performance Standards on Social and Environmental Sustainability (PPSSES), which are largely the same as IFC’s policy and standards of 2006. The new PPSSES superseded MIGA’s earlier 2002 Interim issue-specific Safeguard Policies with the intention to harmonize MIGA and IFC policies and standards to the fullest extent possible.

In tandem with new PPSSES, MIGA proposed and adopted four related initiatives:

1. Preparation and disclosure of Environmental and Social Review Summaries (ESRS), for all Category A and B projects, together with a Summary of Project Guarantee. Previously, MIGA had only disclosed the Environmental Impact Assessment (EIA) for Category A projects.¹

¹ *Category A* projects are likely to have significant adverse environmental impacts that are sensitive, diverse, or unprecedented. These impacts may affect an area broader than the sites or facilities subject to physical works. The *Category B* project’s potential adverse environmental impacts on human populations or environmentally important areas are less adverse than those of Category A projects. These impacts are site-specific, few, if any of the impacts are irreversible; and, in most cases, mitigatory measures can be designed more readily than for

2. Examination of Social and Environmental Management Systems (SEMS) of Financial Intermediaries, to verify that their SEMS are sound and appropriate for the specific cases, given the nature of their business.
3. Technical assistance to clients to meet the Performance Standards. With the support of the government of Japan, MIGA established of the Trust Fund to Address Environmental and Social Challenges in MIGA-Guaranteed Projects in Africa as a three-year pilot.
4. Local Community Development Effectiveness Reporting: This initiative was designed to address specific concerns about the possible impact of certain projects on the local community, in particular when these impacts might be negative.

Findings on MIGA's Social and Environmental Process

The implementation of MIGA's environmental and social screening and appraisal has been only partially satisfactory. The portfolio review found that about 17 percent of the environmental assessments and most of the social assessments (relating mostly to projects underwritten by MIGA pre-PPSSES) had been unsatisfactory, and only a third had some form of public consultation. MIGA's very limited resources devoted to environmental and social screening and appraisal appears to have been the major factor. Entry-level due diligence of only 27 percent of Category A and B projects in the sample was based on a site visit by an environmental or social specialist. For the remainder, the entry-level review was limited to information available in documents provided by the client, plus their responses to follow-up queries by MIGA staff. The review found that 20 percent of the projects had been classified into a different safeguards category than the World Bank would have done, using what are essentially the same criteria. While this was in compliance with MIGA's environmental assessment policy, the fact that the policy was interpreted differently than the Bank points to the need for improved safeguards coordination across the WBG. Another issue arises from the exception on disclosure given to Small Investment Program projects, resulting in an exemption from public scrutiny of ESRS and EIAs for a majority of recent (post-PPSSES) Category B projects.

MIGA's supervision of the environmental and social performance of the projects MIGA guarantees is seriously constrained by the limited capacity and resources devoted to these functions. While the portfolio review concluded that these functions are managed efficiently, in the sense of focusing on what are expected to be the highest-risk projects, the high incidence of problems identified (and addressed) by the very limited number of monitoring missions points to the likelihood of a large number of environmental, health, safety, and social risks that remain unidentified and unaddressed in the large share of projects that have never been monitored. These hidden risks point to a major gap in MIGA's sustainability framework and represent a missed opportunity to help clients and enhance MIGA's developmental contribution. On this basis, it is not feasible for MIGA to fully meet the expectations of the Performance Standards under the PPSSES unless its environmental and social capacity is substantially increased.

Category A projects. A proposed project will be classified as *Category C* if the project is likely to have minimal or no adverse environmental impacts. Ref. MIGA, Environmental Assessment Policy, April 1999.

Findings on Social and Environmental Outcomes

As stated in the PPSSSES, MIGA expects to achieve its environmental and social objectives through the application of a comprehensive set of Performance Standards to the projects it guarantees. While the Performance Standards have only been in place since October 2007, they are largely carried over from the previous safeguards policies and represent MIGA's most recent and authoritative statement of what its sustainability framework is intended to achieve. However, as a result of MIGA's limited monitoring of project performance and implementation, only sparse information is available on actual performance on strengthening client capacity, minimizing negative impacts, and enhancing positive impacts (both before and after the PPSSSES).

Strengthening Client Capacity

The application of Performance Standard 1 is MIGA's main instrument for strengthening client capacity. Its objective, to promote the clients' effective use of a SEMS throughout the life of a project, expands upon the scope of MIGA's previous (1999) Environmental Assessment Policy by including social impacts and clarifying the clients' responsibilities. Thus, MIGA's review at entry of a project expected to have significant environmental and social impacts should include an assessment of the capacity of the client's SEMS and the identification of corrective actions to bring it up to standards.

This portfolio review found that the new PPSSSES is leading to greater attention to the clients' SEMS, but there are still major gaps in reaching the goals of Performance Standard 1. While every Category A, B, and FI project is subject to review at entry, MIGA's environmental and social clearance memorandum discusses the adequacy of the clients' SEMS for only 39 percent of the pre-PPSSSES projects and 50 percent of the post-PPSSSES projects in the sample.

The risks associated with inadequate SEMSs are illustrated by a Category B project for which the client requested an environmental, health, and safety (EHS) audit. The audit found that the client's social and environmental management system was inadequate, even though the client had obtained an environmental license from the host country. The audit also found that a fire had recently occurred and not been reported to MIGA. For each of the EHS gaps, the audit suggested corrective actions. A recent IEG mission found that the EHS audit had been well received and the client was actively remedying the identified shortcomings.

To address client capacity challenges, MIGA has established a Trust Fund to Address Environmental and Social Challenges in MIGA-guaranteed projects in Africa. Since its launch in 2007, this program has supported nine environmental and social capacity strengthening activities, of which three have been completed. One of these activities paid for the aforementioned EHS audit that helped a client address a number of SEMS gaps. MIGA follow-up client surveys indicate that client satisfaction with these activities has ranged from very good to excellent.

MIGA's 2007 PPSSSES requires an assessment of the social and environmental management system of financial intermediaries, which MIGA had not previously

examined. Even so, out of the six post-Performance Standards financial intermediary projects in the sample, MIGA's at-entry review commented on only 50 percent of the client's SEMS. This is an important gap, since financial intermediary projects constitute a large and growing share of MIGA's portfolio, and most of these projects support a diversified portfolio including projects in sectors that typically face significant environmental and social risks.

Furthermore, MIGA's due diligence for financial intermediary operations is limited to the SEMS of the parent bank in their headquarters operations, rather than that of the subsidiaries supported by MIGA's guarantee. Given the likelihood of significant differences between a parent bank's headquarters SEMS with that of its subsidiaries with less sophisticated developing country partners and country systems, this approach may not provide an accurate assessment of the subsidiary financial intermediary's SEMS compliance with national laws and MIGA's Performance Standards, as required by the Performance Standard 1. To date, MIGA has not received any monitoring reports on the environmental and social performance of its financial intermediary projects that would support the adequacy of its approach which relies solely on the SEMS of the financial intermediary's headquarters.

Minimizing Negative and Enhancing Positive Social Impacts

The broadened scope of the Performance Standard 2 on Labor and Working Conditions has led MIGA to pay much more attention to labor issues than before. This portfolio review found that the client's human resource policies had been reviewed and found satisfactory for 100 percent of the Category B projects approved after Performance Standard 2 became effective, whereas they had been discussed for only one of the pre-PPSSES sample.

Under the Performance Standard 4 on Community Health, Safety, and Security, MIGA has devoted greater attention to the clients' management of potential community risks and impacts. In the absence of MIGA monitoring, however, it is not possible to ascertain if these clients' commitments have been met.

Given limited MIGA monitoring, the implementation of Performance Standard 5 on Land Acquisition and Involuntary Resettlement is difficult to assess. MIGA's limited monitoring capacity is constraining its ability to ensure that its projects meet the applicable Performance Standards. While it can be argued that the resettlement process and performance would have been worse if MIGA had not been involved, they also point to areas needing more attention and resources.

Minimizing Negative and Enhancing Positive Environmental Impacts

MIGA's limited monitoring of the Performance Standard 3 on Pollution Prevention and Abatement makes it difficult to assess clients' performance. While this portfolio review found that environmental problems had been identified in 25 percent of the mature sample projects (that is, older than two years) that MIGA had monitored, the absence of monitoring cannot be assumed as representing satisfactory performance for the 75 percent of projects that have not been monitored. The example (mentioned earlier) for which a comprehensive EHS audit found numerous environmental and social management inadequacies illustrates the problems that may be hidden behind the absence of monitoring.

MIGA has been fairly consistent in its implementation of its Performance Standard 6 on Biodiversity Conservation and Sustainable Natural Resource Management, although some avoidable losses occurred. This review found that several projects supported the sustainable use of natural resources by incorporating environmentally friendly, energy efficient, and resource saving technologies which ensure that their impact on natural resources will be reduced, in comparison to the facilities they replace and local comparators. A few projects incorporate intensive water treatment and recycling technologies that ensure their viability and minimize their impact in water scarce locations. In addition, two projects in the review sample supported the restoration of previously degraded habitats.

Implementation Performance from the Perspective of MIGA's New Sustainability Framework

Comparing the implementation performance from projects processed under MIGA's 2007 Performance Standards with projects subject to the earlier safeguards, this review found some improvement in the following areas:

- The appraisal of the projects' SEMS, including those of financial intermediary projects (the latter were previously classified and screened as Category C projects)
- The appraisal of labor and working conditions
- The appraisal's attention to community consultations
- The provision of technical assistance to SEMS-challenged clients in Africa.

On the other hand, this review found a substantial gap in MIGA's ability to monitor implementation performance and provide assurance that the objectives of the Performance Standards are being met. Most of this gap is due to a shortage of capacity and resources devoted to MIGA's environmental and social unit. Given this, it is not feasible for MIGA to fully comply with the requirements of the PPSSSES and meet the expectations of the Performance Standards unless its environmental and social capacity is substantially increased.

Concluding Recommendations

Overall, MIGA is managing the limited resources devoted to its sustainability function remarkably well, in a relevant, efficient, and effective manner, with positive outcomes in comparison to the absence of intervention. Given the changing nature of its clients and portfolios, MIGA's challenge going forward is to ensure the continued relevance and effectiveness of its PPSSSES while complementing the emphasis on compliance with effective implementation. Based on the analysis in this review, IEG's recent study on *Safeguards and Sustainability in a Changing World* recommends that MIGA should (IEG 2010):

- Increase the capacity of the Environmental and Social Unit to the level needed to provide credible assurance on performance against the standards for every project. Should MIGA be unable to increase its resources devoted to implementation of Performance Standards, it should revise its Policy on Social and Environmental Sustainability to disclaim responsibility for monitoring the projects' social and environmental performance and ensuring that they comply with the standards. Under this option, MIGA's role would be limited to reviewing the client's assessment of the project's environmental and social

risks against the standards, identifying corrective actions as needed, and securing the client's commitment to implement these actions.

- Require that Category B Small Investment Program projects follow the same disclosure requirements as for regular Category B projects.
- Focus the due diligence reviews of financial sector projects on the Social and Environmental Management Systems of developing country subsidiaries the project supports, rather than the corporate policies of the parent banks.
- Expand the size and eligibility of the Trust Fund for Addressing Environmental and Social Challenges to all low-capacity clients on the basis of need.
- Disclose project-level environmental and social information from monitoring and supervision reports.
- Develop a credible mechanism to ensure that Performance Standards are adhered to by financial sector projects.
- Work together with the World Bank and IFC to jointly adopt and use a shared set of objective criteria to assess social and environmental risks to ensure adequacy and consistency in project categorization across the WBG, using the more inclusive criteria for Category A, and refining the categorization system to address the bunching of higher and lower-risk projects with the current Category B.

1. Study Objective, Context, and Approach

Objective of the Study

The objective of this study is to respond to the overarching question posed for the Independent Evaluation Group's (IEG) evaluation of the World Bank Group's (WBG) experience with safeguards and sustainability policies (1999–2008), based on experience of the Multilateral Investment Guarantee Agency (IEG 2010):

How effective has the safeguards policy framework of the WBG been in preventing and mitigating adverse environmental and social impacts?

The study is organized in four Chapters. Chapter 1 introduces the objective of the study, outlines the evolution of the Multilateral Investment Guarantee Agency's (MIGA) sustainability framework, summarizes highlights from earlier evaluations and describes the approach for the study. Chapter 2 reviews MIGA's implementation of the sustainability framework's processes, including the projects' initial screening and review, monitoring and supervision. Chapter 3 reviews the outcomes from MIGA's implementation of its environmental and social policies, to the extent that they can be discerned from the available information. Chapter 4 presents some concluding reflections.

Evolution of MIGA's Sustainability Framework

MIGA's sustainability framework has gradually evolved since its beginnings in 1990, when it simply used the IFC's staff to review the environmental and social acceptability of its projects and applied the World Bank Group's safeguard policies. In 1999 and 2002, MIGA adopted revised versions of these policies—the Environmental Assessment Policy and Interim issue specific Safeguards Policies, respectively—which were better adapted to its own business. More recently, in October 2007, MIGA adopted its new Policy and Performance Standards on Social and Environmental Sustainability (PPSSES), which are largely the same as IFC's policy and standards of 2006 (MIGA 2007). The new PPSSES superseded MIGA's earlier 2002 issue-specific Interim Policies with the intention to harmonize MIGA and IFC policies and standards to the fullest extent possible. Throughout these revisions, the overarching objective of MIGA's safeguards and sustainability framework has remained the same: to help ensure that MIGA will provide guarantees only to those projects that are socially and environmentally sound and sustainable.

The main differences between MIGA's new Policy and Performance Standards and its earlier safeguards policies can be summarized as:

1. **Clear separation of roles and responsibilities:** The PPSSES clarifies that the client is responsible for compliance with the standards. MIGA's role is solely (i) to review the client's assessment of the project's environmental and social risks against the standards, (ii) to monitor the project's performance against the standards, and (iii) to ensure compliance through appropriate provisions in its contracts of guarantee.
2. **Addition of new issues relevant to the private sector:** While the eight performance standards are broadly harmonized with the earlier safeguard policies, they introduce and

adopt international best practices to address social and environmental risks faced by private sector projects. These include (i) a more comprehensive scope of environmental and social risk assessment, including project area of influence, supply chain issues, and third party risks, (ii) a new, comprehensive approach to labor and working conditions, (iii) a new, comprehensive approach to community health, safety and security, and (iv) increased client disclosure of project information and community engagement.

3. **Shift of focus from process compliance to accountability for outcomes:** Each performance standard contains explicit policy objectives and promotes an outcomes-based approach to ensure that clients are clear about the desired outcomes of their actions. The standards are also designed to help clients tailor their management of social and environmental risk to the nature of their business.

In tandem with new PPSSES, MIGA proposed and adopted four related initiatives:

1. **Preparation and disclosure of Environmental and Social Review Summaries (ESRS),** for all Category A and B projects, together with a Summary of Project Guarantee. Previously, MIGA had only disclosed the Environmental Impact Assessment (EIA) for Category A projects, which would continue to be disclosed.²
2. **Examination of Social and Environmental Management Systems (SEMS) of Financial Intermediaries,** to verify that the financial intermediaries' SEMS are sound and appropriate for the specific cases, given the nature of their business. This includes an examination of the SEMS of the parent banks and of how it is applied to their subsidiaries, including an initial assessment of local capacity and social and environmental risks in the portfolio. Previously, MIGA had not examined the SEMS of financial intermediaries.
3. **Technical assistance to clients to meet the Performance Standards:** MIGA has in the past not been able to provide technical expertise or financial support to its clients to help ensure that they meet its environmental and social standards. This changed in a limited way with the establishment of the Trust Fund to Address Environmental and Social Challenges in MIGA-Guaranteed Projects in Africa. With the support of the government of Japan, this initiative launched a three-year test of whether such technical assistance can be provided and will be helpful, in the context of an insurance provider, rather than a lender or equity investor.
4. **Local Community Development Effectiveness Reporting:** This initiative was designed to address specific concerns about the possible impact of certain projects on the local community, in particular when these impacts might be negative. MIGA therefore proposed that it would regularly report on the local community impacts for a small number of projects where such impacts may be significant.

² *Category A* projects are likely to have significant adverse environmental impacts that are sensitive, diverse, or unprecedented. These impacts may affect an area broader than the sites or facilities subject to physical works. The *Category B* project's potential adverse environmental impacts on human populations or environmentally important areas are less adverse than those of *Category A* projects. These impacts are site-specific, few, if any of the impacts are irreversible; and, in most cases, mitigatory measures can be designed more readily than for *Category A* projects. A proposed project will be classified as *Category C* if the project is likely to have minimal or no adverse environmental impacts. See MIGA (1999).

As the most recent reforms in MIGA's sustainability framework and the associated initiatives were only launched in 2007, it is still too early to undertake a definitive evaluation of their outcome. Nonetheless, in light of growing interest in their results, this review will spotlight early indications of their implementation experience to date and its implications.

Earlier Evaluations and Management Track Record

IEG carried out a first specific evaluation of MIGA's sustainability framework in conjunction with the Extractive industries (EI) evaluation (IEG 2005). It concluded (i) that MIGA's engagement with EI projects should move beyond compliance with safeguards policies toward the promotion of best practices in environmental and social management, (ii) that it should strengthen its internal policies and procedures to ensure accountability, and (iii) that it should reorganize its functions to better integrate environmental and social issues in MIGA operations. MIGA management responded by hiring a social specialist as part of the environment group (2004); conducting a more holistic project analysis by integrating in one unit environmental, social and economic assessment (2004); and launching an effort to harmonize its sustainability framework with IFC (2007).

The Compliance Advisor/Ombudsman (CAO) also commented on MIGA's sustainability framework in the course of its audits of the Dikulushi project (2005) and a pulp mill in Uruguay (2006). Its main comments relate to the need to address shortcomings with respect to MIGA's social due diligence, disclosure of project documentation, and the implementation of the Voluntary Principles on Security Forces and Human Rights. MIGA management responded by launching an effort to revise its Policy on Disclosure of Information, and providing technical assistance to the client for the implementation of the Voluntary Principles.

The MIGA 2007 annual report found that 86 percent of a recent cohort of projects had adhered satisfactorily to MIGA's at-entry environmental and social review procedures.³ IEG concluded that MIGA's due diligence on environmental and social aspects of projects had improved since 2004, with the greatest improvement in the social safeguards policies, but there were some remaining weaknesses, particularly for Category B projects. In its 2008 Annual Report, IEG notes that MIGA had improved its performance in ensuring the application and monitoring of safeguards, and adopted in 2007 a new PPSSSES, which had yielded more consistent results. Consistent with IEG recommendations MIGA upgraded the role of environmental and social specialists by requiring site visits for all Category A and most Category B projects, issued a guideline to ensure their early involvement, and hired a second social scientist. This paper updates earlier analysis and looks at a different sample of projects, including more recent projects assessed by MIGA under the new PPSSSES, and using different review questions.

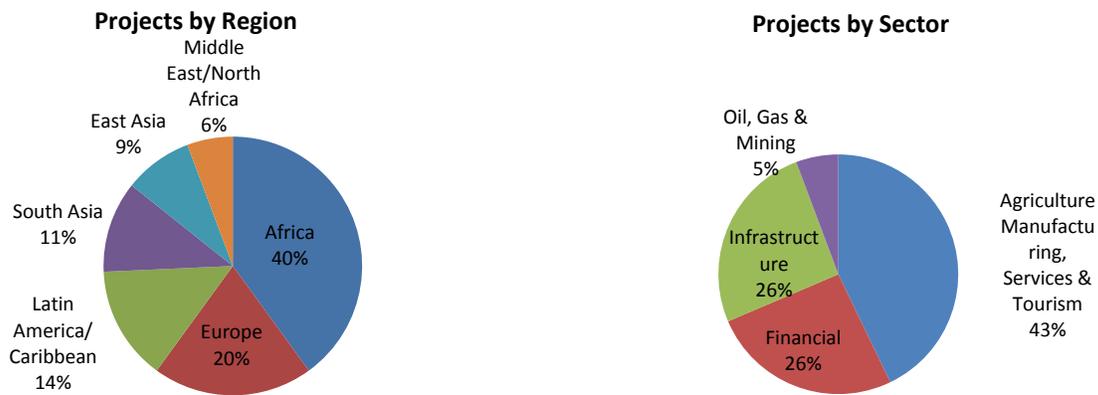
Review Approach

This paper focuses on a portfolio review of a stratified sample of 35 MIGA projects approved during FY00–09, and was prepared as a background paper for IEG's study *Safeguards and Sustainability Policies in a Changing World – An Independent Evaluation of World Bank Group*

³That is, from the cohort of projects insured by MIGA between January 2005 and June 2006, for which IEG assessed the quality at entry.

Experience (IEG 2010). More recent projects were oversampled to facilitate findings of MIGA’s current implementation of its policies and standards. Thus, projects processed by MIGA under the 2007 PPSSSES account for 40 percent (14/35) of the sample. Projects supported by the MIGA-Japan Trust Funds were also oversampled (4 projects). The graphs below highlight the sample composition by region and sector.

Figure 1. Distribution of Sample Projects by Region and Sector



Source: IEG project database.

For each project in the sample, the study reviewed the effectiveness of MIGA’s framework for preventing and mitigating adverse environmental and social impacts and enhancing client capacity for their management. The review was based on an examination of the extent to which MIGA’s policies and processes for reviewing environmental and social risks, monitoring project performance, and ensuring compliance with applicable standards, have been implemented, and used IEG’s standard evaluation ratings, shown in Appendix A. The examination was structured around a questionnaire that was completed based on a desk review of relevant documents for each project, such as Contracts of Guarantee, Environmental Impact Analyses, Environmental and Social Review Summaries, Environmental and Social Clearance Memoranda, monitoring and other reports, as available in project files. A sample project review questionnaire is attached as Appendix B.⁴ The resulting portfolio review data is the main basis for this study.

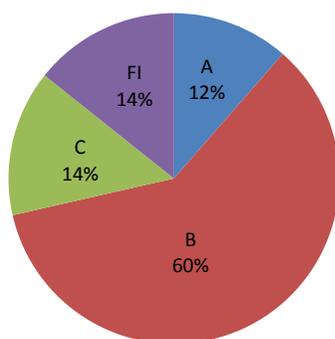
⁴ The completed project questionnaires were submitted to MIGA’s environment and social unit for verification and comment.

2. MIGA’s Sustainability Framework—Process

Initial Screening and Review

The examination of MIGA’s environmental and social screening and review process focused on the classification of projects, the quality of the ESIA and the extent of public consultation. The first step is the classification of projects based on the significance of their expected environmental and social impacts. In the evaluated sample, 11 percent (4/35) of the projects had been classified as Category A, 60 percent (21/35) as Category B, 14 percent (5/35) in Category C and 14 percent (5/35) as Category FI, as shown below.⁵

Figure 2. Distribution of Sample Projects by Environmental Category



Source: IEG project database.

The correct classification of projects is important to ensure that the scope and depth of the environmental and social impact assessment (ESIA) by the client have been commensurate with the expected environmental and social risks of the project. Thus, for Category A projects, MIGA requires the client to prepare a comprehensive ESIA. For Category B projects, with limited, site-specific impacts that can be readily addressed, the ESIA can have a narrower scope. For Category C projects, with minimal or no expected impacts, MIGA requires no ESIA and no further environmental or social action. For Category FI projects, since the new PPSSSES, the focus of MIGA’s review is on the financial intermediaries’ social and environmental management systems (SEMS), which MIGA requires to be sound and appropriate for the nature of their portfolio.

A major finding of the portfolio review is that MIGA’s implementation of project classification approach is different than that of the World Bank. This difference affects the classification of 17 percent (6/35) of the projects in the sample, and originates for various reasons. For two Category B projects that involved the construction of major new facilities, it is the magnitude of the

⁵ One project was classified as both Category C and Category FI, but is here treated as Category FI, because that should have been its correct classification.

impacts that would have led the World Bank to classify them as Category A. This was also the judgment of the EBRD, which co-financed one of these projects. In three additional Category B projects, it is the sensitive nature of the impacts, i.e, the fact that they raise issues associated with natural habitats, cultural resources, boundary waters, retrenchment, and/or tropical forests, that would have led the World Bank to classify them as Category A.⁶ Overall, since only one of the six cases can be attributed to a specific difference in the language of the respective EA policies, these findings point to a serious issue in terms of the consistency of safeguards implementation across the WBG.

QUALITY OF ENVIRONMENTAL AND SOCIAL IMPACT ASSESSMENTS

The portfolio review found that the quality of the ESIA's has been mixed, both in regard to environmental and social aspects. All four Category A projects in the sample submitted satisfactory ESIA's. Of the Category B projects, 38 percent (8/21) submitted satisfactory EIAs or similar documents, 38 percent (8/21) did not submit any ESIA at all, for which an adequate explanation was provided in MIGA's clearance memorandum, and 24 percent (5/21) provided unsatisfactory ESIA's (all of which were from the pre-2007 sample).

Even so, the 24 percent (5/21) of Category B projects that received environmental clearance with unsatisfactory EIAs are a matter of concern. Three of the cases involve agro-industrial projects for which the submitted EIAs only cover existing plants, with no information on the new facilities nor of the impacts of many-fold expansion in crop production that the projects were designed to support. In one case, a preliminary EIA was submitted, which a subsequent audit found to be inadequate. In another case, which involved a solid waste treatment plant, the portfolio review found that, while a due diligence mission had determined that the plant's SEMS appeared to be satisfactory, no EIA had been submitted for verification and to serve as a basis for future monitoring and evaluation, a remarkable omission in light of the nature of the project.

In relation to social aspects, MIGA's screening process identified a potential for significant social impacts in only 17 percent (6/35) of the projects in the sample. In fact, most MIGA projects are located in existing industrial sites, or acquire land through straightforward market transactions within established commercial or industrial areas where no significant adverse social impacts are expected. However, it is surprising to note that MIGA's review of these six projects with potentially significant social impacts was supported by only one full resettlement plan, two 'abbreviated' resettlement plans and three baseline assessments to identify project affected people. These reflect the relatively light handed approach that MIGA has taken to the review of social risks for these projects in comparison to how the World Bank would have done it.⁷

Finally, the limited extent to which full ESIA's were required is not surprising, since MIGA's sustainability screening relies primarily on documents and information submitted by the clients, which in turn reflect their corporate procedures and largely respond to the host countries' own requirements. This is also consistent with the recent Performance Standard 1's language that "depending on the type of project and the nature and magnitude of its risks and impacts, the

⁶ In addition, the single pre-PPSSES financial intermediary project in the sample had been classified as a C, in line with MIGA's 1999 Environmental Assessment Policy, but would have been put in Category FI by the World Bank.

⁷ All but one of these were pre-PPSSES projects.

Assessment may comprise a...straightforward application of environmental siting, pollution standards, design criteria, or construction standards.”

In contrast, the review found that, by adopting a light-handed approach to social assessment, MIGA has incurred substantial risks. In fact, with the exception of the most recent project, which was only approved in 2008 and for which no monitoring information is available, each of the remaining five pre-PPSSES projects supported by MIGA has faced implementation problems associated with their social impacts. One led to an Inspection Panel investigation, another required the intervention of the Compliance Advisor/Ombudsman, and all of them required intensive supervision by social specialists to address the issues that emerged. While the specific issues will be covered in later in this report, the main conclusion at this point is that MIGA needs to devote more attention to the screening and review of social impacts.⁸

PUBLIC CONSULTATION AND DISCLOSURE

Public consultation emerged as one of the weaker areas in the environmental and social assessment process. This appears to be due to the fact that MIGA’s 1999 EA policy, which applied until 2007, only required the sponsors of Category A projects to consult project-affected groups and local NGOs about the project’s environmental and social aspects, and take their views into account (MIGA 1999). As a consequence, the review found that while all four of the Category A projects in the sample had undertaken at least some minimal consultation with project-affected groups, only 24 percent (5/21) of Category B projects involved any form of public consultation. For two of these projects, which the World Bank would have classified as Category A, consultations were sponsored by other financiers.⁹ The remaining 76 percent (16/21) of Category B projects missed out on the important opportunity which consultations provide to ensure that affected communities are appropriately engaged on issues that could potentially affect them, a requirement that is now clearly expressed in MIGA’s 2007 Performance Standards.

Another issue arises from the exception on disclosure given to Small Investment Program projects, which resulted in the exemption of the majority of post-PPSSES Category B projects from public scrutiny of ESRS and ESIA. As discussed in Box 1, the exception allowed for the Small Investment Program under MIGA’s Policy of on Disclosure of Information is at cross purposes of the intent of Performance Standard 1.

Box 1. Spotlight on the Post-2007 disclosure of Environmental and Social Review Summaries

Prior to the 2007 policy reforms, MIGA’s disclosure of ESIA had been limited to Category A projects, which this review confirmed. In its 2007 Policy and Performance Standards on Social and Environmental Sustainability MIGA committed to disclose ESIA, or at least the ESRS for both Category A and B projects. However, in MIGA’s Policy on Disclosure of Information, an exception was made for Small Investment Program (SIP) projects, that is, projects under \$10 million. This is a major loophole, since 67

⁸ Since all but one of the six projects for which MIGA’s identified potentially significant social impacts were pre-PPSSES projects, the sample is too small to compare MIGA’s pre- and post-PPSSES performance in this area.

⁹ Specifically, the EBRD and USAID.

percent (4/6) of the Category B sample projects approved under the new policy were SIP projects. Thus, the language of MIGA's Disclosure Policy that exempts the SIP projects from ESRS disclosure is at cross purposes with the implementation of MIGA Performance Standard 1, which expects the client to provide communities that may be affected by risks or adverse impacts from projects with access to information on the purpose, nature and scale of the project, as well as any risks and potential impacts.

MIGA'S QUALITY AT ENTRY

Overall, the implementation of MIGA's environmental and social screening and review procedures is less than adequate. The portfolio review found that about 17 percent of the environmental assessments and most of the social assessments (relating mostly to Category A projects underwritten by MIGA during FY00–05) had been unsatisfactory, and only a third of the projects had been subject to some form of public consultation. This is, however, not surprising, since MIGA has devoted very limited resources to the implementation of its sustainability framework. As far as this review could determine, the entry-level due diligence of only 27 percent (7/25) of Category A and B projects in the sample was based on a site visit by an environmental or social specialist. For the remainder, the entry-level review was limited to the information available in documents provided by the client, plus their responses to follow-up questions.

The findings from four projects that were visited by safeguard specialists subsequent to their initial clearance illustrate the risks associated with MIGA's limited approach to environmental and social due diligence. For an agro-industrial project in Africa, a subsequent environmental, health and safety audit carried out by international consultants documented many risks (to workers, the community and the environment) that had been overlooked in the "preliminary EIA" on which due diligence had been based. In regard to the site of a water treatment plant in Asia, which the clearance memorandum described as "undeveloped and unoccupied" land, a later mission found that it was located within a complex of fishponds that had not yet been released by the fish farmers using it. The resolution of this issue required a six-month postponement in the start of construction. For another industrial project in Asia, a monitoring mission that visited the plant a year after the initial review and clearance found that the factory could not have moved to its current site in 2001, as had originally been reported, since the buildings seemed to be 20 to 30 years old. As a result, an environmental audit would have been needed to consider legacy issues.

Findings such as these could not have been made without timely site visits by qualified specialists. They support the conclusion that the implementation of MIGA's review of environmental and social risks has been severely constrained by the limited resources available for this process.

Finally, this review found that 17 percent (6/35) of the projects had been screened into a different safeguards category than the World Bank would have done, using what are essentially the same criteria. While this is not a quality-at-entry-issue *per se*, it points to a serious need for improved safeguards coordination across the World Bank Group, as recommended by IEG's study *Safeguards and Sustainability Policies in a Changing World – An Independent Evaluation of World Bank Group Experience* (IEG 2010).

MIGA’s Quality of Supervision

Following project approval, MIGA’s role under its sustainability policy is to monitor and supervise the projects’ performance against the applicable performance standards. MIGA is expected to perform this function by requesting the client to submit periodic monitoring reports on their social and environmental performance, conducting supervision visits of selected projects, working with the clients to address adverse impacts if they occur, and exercising remedies as appropriate. In fact, as discussed in Box 2, MIGA only monitors and supervises Category A projects on a systematic basis.

Box 2. Spotlight on MIGA’s Monitoring and Supervision

The review found that MIGA only monitors and supervises the environmental and social performance of Category A projects, and does not monitor Category B projects except under exceptional circumstances. Based on the sample review, such circumstances can include when an ongoing project can be visited in conjunction with a due diligence at entry visit to a nearby project, when a problem has been brought to MIGA’s attention, or when a client requests assistance. Thus, ex post monitoring information was available for only 37 percent (13/35) of the projects in the sample. Such a light handed approach raises a question about the MIGA’s ability to adequately monitor implementation performance and provide assurance that the objectives of the Performance Standards are being met. Indeed, the high incidence of problems identified (and addressed) by the very limited number of supervision visits points to the likelihood of a large number of environmental, health, safety and social risks that remain unidentified and un-addressed in the large share of projects for which no monitoring reports are available or that have never been supervised.

The portfolio review found that MIGA had carried out a total of twelve supervision missions covering 100 percent (4/4) of Category A projects and 33 percent (4/12) of Category B projects in the sample that had been effective for longer than two years. This is consistent with a risk-based approach that allocates greater supervision resources to Category A projects and higher risk Category B projects. Indeed, adverse impact issues (mostly related to resettlement) were found in 75 percent (6/8) of the projects that MIGA visited, including all Category A projects. The high incidence of issues found in the projects that were visited poses a question about potential adverse social and environmental impacts that may have been missed in the large number of Category B and FI projects that have never been supervised.

There are also indications that even for the high-risk projects that were supervised, the frequency of visits has been inadequate. As an example, for a major gas pipeline project (supported by MIGA and IDA) that was investigated by the Inspection Panel, the Panel found that the resettlement plan had not adequately considered the impacts facing local people, and had not provided adequate guidance and instructions to the client to carry out meaningful consultations with the affected people. These at-entry shortcomings were compounded by inadequate frequency of supervision during the construction phase, which “created a responsibility vacuum during resettlement plan implementation” and led to inadequate follow-up on early warning signs (World Bank 2008).¹⁰ Following the Inspection Panel’s investigation, the frequency of

¹⁰ Inspection Panel Investigation Report: Ghana – West Africa Gas Pipeline Project, Washington, May 1, 2008.

supervision has increased, and the issues are being addressed, albeit at a much higher cost than if they had been properly identified and addressed at the beginning.

Another example illustrates how active supervision and follow-up can help address social impact issues even in a high-risk environment. A mining project in a conflict-afflicted country had attracted much controversy because of the host country armed forces' use of the client's plane, trucks and drivers to suppress a local uprising. A CAO field audit found that, while MIGA's initial environmental and social screening had been adequate, its follow-through on social aspects had been weak, perhaps because of the absence of in-house social expertise. That is, MIGA had expected the client to warrant that it would address matters such as adherence to the Voluntary Principles on Security Forces and Human Rights without assessing whether the client had the capacity to implement this requirement under MIGA policy (MIGA 2005).

Following MIGA's hiring of an in-house social scientist who visited the project, the client developed a protocol governing interactions between it and the host country's armed forces and obtained the government's signature. The acceptance and dissemination of the protocol by local communities and officials was assisted by training programs held at three of the client's mining sites, funded by the MIGA-Japan technical assistance trust fund. Follow-up supervision suggests that this protocol has set a good example for other mining investors in the country. MIGA also assisted the project to design and implement a comprehensive community development program.

Overall, MIGA's supervision of the environmental and social performance of the projects it guarantees is seriously constrained by the limited capacity and resources devoted to this function. While this function is managed efficiently, in the sense of focusing on what are expected to be the highest risk projects, the high incidence of problems identified (and addressed) by the very limited number of supervision missions points to the likelihood of a large number of environmental, health, safety and social risks that remain unidentified and un-addressed in the large share of projects that have never been visited. These hidden risks point to a major gap in MIGA's sustainability framework. The missed opportunities to help clients address these risks also represent a missed opportunity to enhance MIGA's developmental contribution.

3. MIGA's Sustainability Framework—Outcomes

As stated in the PPSSSES, MIGA expects to ensure the social and environmental sustainability of the projects it supports by applying a comprehensive set of performance standards. While these standards have only been in place since 2007, they are largely carried over from the previous safeguards policies, and represent MIGA's most recent and authoritative statement of what its sustainability framework is intended to achieve. The portfolio review has thus used them as benchmarks against which to evaluate the extent to which MIGA has been effective in preventing and mitigating adverse social and environmental impacts. However, as a result of MIGA's limited supervision and monitoring of project performance and results, the available information on actual outcomes and impacts is very sparse. Whatever the portfolio review could find in the project files is discussed below from the perspective of each performance standard in turn.

Social and Environmental Assessment and Management System

The objective of Performance Standard 1 is to promote the improved performance of clients through the effective use of an SEMS throughout the life of a project. It is based on the principle that a good management system appropriate to the size and nature of a project promotes sound and sustainable social and environmental performance, and can lead to improved financial, social and environmental outcomes. Thus, MIGA's at-entry review of a project expected to have significant social and environmental impacts (that is, Category A, B, and FI projects) should include an assessment of the client's commitment to manage the expected impacts and the capacity of its SEMS.

The portfolio review found that, while every proposed project is subject to an at-entry review, the environmental and social clearance memorandum discusses the adequacy of the clients' SEMS for 39 percent (7/16) of the pre-PPSSSES Category A, B, and FI projects in the sample. This is in line with the fact that, prior to the 2007 policy changes, MIGA policy did not specifically require an evaluation of the clients' SEMS, and the clearance memorandum was primarily oriented towards identifying gaps and corrective actions. For projects approved after the implementation of the PPSSSES, the portfolio review found that the clearance memorandum commented on the clients' SEMSs in 70 percent (7/10) of the cases. These findings suggest that (i) the new PPSSSES is leading to greater attention being paid to the clients' SEMS, and (ii) there are still some gaps in reaching the goals of Performance Standard 1, especially in relation to financial intermediary projects, as discussed in Box 3.

Furthermore, the absence of comments in the clearance memorandum cannot be construed as implying the absence of environmental and social risks. While, prior to the PPSSSES, the absence of comments may have reflected MIGA's at-entry reviewer's conclusion that the clients' SEMSs was satisfactory, there is no measurable evidence to support such a conclusion, since the portfolio review found that MIGA has not received any monitoring reports from any of these projects. This is surprising, since the regular monitoring and reporting of environmental and social impacts are characteristics of a sound SEMS, particularly for projects where such impacts are expected to be significant, such as all Category B and at least some of the financial intermediary projects, about which no monitoring information is available.

Box 3. Spotlight on the Social and Environmental Management Systems (SEMS) of Financial Intermediary Projects

One of the initiatives introduced with MIGA's 2007 sustainability framework requires an assessment of the SEMS of financial intermediaries, which MIGA had not examined in the past. Even so, out of the six post-PPSES financial intermediary projects in the sample, the at-entry review commented on 50 percent (3/6) of the client's SEMS. This is an important gap, as financial intermediary projects constitute large and growing share of MIGA's portfolio, and most of these projects support a diversified portfolio including projects in sectors that typically face significant environmental and social risks.

Another issue is that MIGA's due diligence is limited to the corporate policies of the parent bank. How well the parent bank is able to ensure that its subsidiaries – which are supported by MIGA – fully abide by these policies is not always clear. Given the likelihood of significant differences in implementation capacity between a parent bank's headquarters and its subsidiaries with less sophisticated developing country partners and country systems, this approach may not provide an accurate assessment of the subsidiary financial intermediary's SEMS compliance with national laws and MIGA's Performance Standards, as required by Performance Standard 1. To date, at any rate, MIGA has not received any monitoring reports on the environmental and social performance of its financial intermediary projects that would support the adequacy of its approach, which relies solely on a review of the corporate policies of the parent banks.

The risks associated with inadequate SEMSs are illustrated by a Category B project for which the client requested an environmental, health and safety (EHS) audit to guide it in achieving compliance with ISO 14001 standards. The audit, by an international consultant funded by the Japan-MIGA Trust Fund, found that the client's SEMS was quite inadequate, even though the plant had obtained an environmental license from the host country. The audit identified numerous shortcomings with EHS arrangements for the project, including—

- Uncontrolled emissions from the combustion of furnace oil.
- Unclear method and disposal route of spent oils, fuel filters and other possibly hazardous wastes.
- Exposure of workers to excess dust in the processing areas and lack of use of dust masks.
- Exposure of workers to excessive noise levels and lack of use of hearing protection.
- Lack of medical baseline assessment or ongoing monitoring of workers exposed to excessive noise or dust levels.
- Lack of engineering controls on moving equipment (belts, fans, and so forth) to warn of start-up and the prevention of inadvertent access.
- Lack of formal emergency preparedness plans or procedures.

The audit also found that a fire had recently occurred and not been reported to MIGA. For each of these EHS risks, the audit suggested actions to close the gaps in the SEMS and make progress towards a full ISO 14001 compliant management system. The EHS audit was well received and a subsequent IEG mission found that the client was actively remediating the identified shortcomings. This finding is an indication of the effectiveness of MIGA's technical assistance program, which is summarized in Box 4.

Box 4. Spotlight on MIGA’s Technical Assistance Program

Another initiative launched with MIGA’s 2007 sustainability framework was the establishment of the Trust Fund to Address Environmental and Social Challenges in MIGA-Guaranteed Projects in Africa. This initiative is specifically designed to strengthen the SEMs for clients for whom meeting the standards may be difficult without some technical assistance. Since its launch in 2007, this program has supported nine environmental and social capacity strengthening activities, of which three have been completed. As mentioned earlier, one of these activities played a critical role in assisting the implementation of the Voluntary Principles on Security and Human Rights at one project. Another activity paid for an EHS audit that helped a client address a number of environmental and safety risks of the project. The third assisted a client to develop better approaches to effectively and flexibly deal with the subtleties of community development programs. MIGA follow-up client surveys indicate that client satisfaction with these activities has ranged from very good to excellent.

Source: MIGA internal document.

Labor and Working Conditions

Performance Standard 2 restates the principles of IFC/MIGA’s 1998 Policy Statement on Forced Labor and Harmful Child Labor, and broadens its objectives to include:

- The establishment, maintenance and improvement of worker-management relationships.
- The fair treatment, non-discrimination and equal opportunity of workers, and compliance with national labor and employment laws.
- The protection of the workforce by addressing child labor and forced labor.
- The promotion of safe and healthy working conditions, to protect and promote the health of workers.

This broadening of policy objectives has led to much greater attention being paid to labor issues in MIGA’s initial due diligence process. The portfolio review found that the client’s human resource policies had been reviewed and found satisfactory for 100 percent (7/7) of the Category B projects approved after Performance Standard 2 became effective, whereas only four of the at-entry reviews of pre-PPSSES sample projects contains any information on HR policies. This is fully in line with MIGA’s PPSSES, but raises a question as to why this Performance Standard is not extended to Category C projects, since there is no *prima facie* indication why many of the same labor and working condition issues may not also be relevant to them.

Prior to MIGA’s 2007 sustainability policy reforms, the at-entry reviews focused exclusively on retrenchment and worker safety issues. Thus, for two privatization projects that involved major retrenchment of workers, MIGA’s review provided assurance that the plans were sound and workers would be fairly treated. In two other cases, the at-entry review of available documents pointed to worker safety issues for which MIGA identified a broad array of corrective actions that the client agreed to implement. In the absence of monitoring, however, there is no indication that these actions have been implemented.

The projects sampled for the portfolio review also did not provide evidence that MIGA has devoted attention to the implementation of its child and forced labor policy, even though it has been in force since 1998. The MIGA/IFC Policy Statement on Forced Labor and Harmful Child

Labor requires the project team to review problems of harmful child labor that may exist with the client, and its suppliers and sub-contractors, and ask the client to address them. This is particularly relevant for the many IDA and transition economies where studies indicate that child labor is prevalent, especially in the agricultural and informal sectors. Yet, this review found that although a quarter of the projects in the sample supported agribusiness or SME projects in countries where child labor is reported to occur in these sectors, the issue is not mentioned in any of the project documents. The lack of attention to this issue represents a serious gap between the aspirational language of MIGA's sustainability framework and its limited ability to follow through.

Pollution Prevention and Abatement

Performance Standard 3, largely carried over from MIGA's 1999 Environmental Assessment Policy, is aimed at the avoidance or minimization of pollution from project activities. The main instrument for the pursuit of this objective is the clients' SEMS, which should incorporate the assessment, management, organizational capacity, training, community engagement, monitoring and reporting of environmental and social impacts and risks. There is, however, little information available on the actual outcomes of MIGA's projects since (i) its at-entry review engaged with the clients' SEMS in only about a third of the cases, (ii) it undertakes monitoring visits to only half of the Category A and B projects (older than two years), and (iii) it prepares no "project completion reports" or equivalent.

In terms of pollution prevention and abatement outcomes, MIGA's working hypothesis seems to be that, on the basis of client commitments to take corrective actions as identified in the at-entry review, the clients' SEMS can be expected to keep the projects compliant with at least the host country's environmental requirements and, for post-PPSSES projects, comply with the Performance Standards. This hypothesis is only weakly supported by the fact that environmental problems were found in only 25 percent (2/8) out of the 47 percent (8/17) of Category A, B and FI projects (older than two years) in the sample where MIGA undertook a monitoring mission. In fact, the findings from the one case (described earlier in Chapter 3), where a comprehensive EHS audit was carried out in the course of project implementation, illustrate the nature of the pollution problems that may be hidden behind the absence of monitoring.

In the absence of monitoring, MIGA needs to be particularly concerned about the risks from its heavy reliance on clients' assurances, particularly where the projects had inadequate ESIA's. Thus, as was already mentioned (in Chapter 2), the review sample included three Category B agro-industrial projects whose ESIA's only cover existing plants, with no information on impacts from the three-fold-plus expansion in capacity, as well as the corresponding expansion in crop production, that the projects are designed to support. The crop expansion should have raised a red flag, since the crop (cotton) is associated with intensive pesticide use that is likely to lead to increased pesticide discharges into local creeks, lakes and wetlands, as well as risks to labor and community health. In one case, the river valleys where the cotton will be grown discharge into estuaries that are critical ecosystems for prawn production, one of the host country's major exports. Such uncertainties about the environmental risks and outcomes from these projects could have been mitigated by undertaking a field visit at the due diligence stage, supplemented by monitoring during implementation.

Community Health, Safety, and Security

Performance Standard 4 outlines a new area of social and environmental risk that had been only indirectly covered under MIGA's Policy on Environmental Assessment. It specifically addresses the clients' responsibility to avoid or minimize the risks and impacts to community health, safety and security that may arise from project activities from both routine and non-routine circumstances. It also seeks to ensure that the safeguarding of personnel and property is carried out in a legitimate manner that avoids or minimizes risks to the community's safety and security.

Under the old safeguards framework, the main instrument for ensuring that project-affected communities were appropriately engaged on issues that could potentially affect them was the disclosure and consultation process associated with environmental assessments and resettlement planning. As already discussed, this emerged as one of the weaker aspects of the project preparation process, with only the four Category A projects and 24 percent (5/21) of the Category B projects in the sample having undertaken at least some minimal consultation with project-affected groups.

All four of the Category A projects in the sample encountered problems during implementation, largely related to social impacts, even though community consultations had been held. In each case, subsequent missions, including investigations by the Inspection Panel and the CAO, concluded that the community consultation process had been inadequate. In one case, the Inspection Panel found that the requirement for the consultation to be in a form and language that is understandable to the groups being consulted had not been met (World Bank 2008). In another case, the CAO found that the project had only consulted with the "big men" of the village, who were not representative of affected communities or individuals (MIGA 2005). In every case, a follow-up effort addressed the issues that arose, albeit at a much higher cost than if the issues had been properly addressed from the start.

On the other hand, the portfolio review found that the five Category B projects where some disclosure and consultation had occurred did not encounter problems at the implementation stage. Of the 76 percent (16/21) of Category B projects where no consultation had occurred, monitoring information is only available on four projects, and of these, 25 percent (1/4) had encountered implementation problems. In the case of a water purification plant in Asia, a mission that visited two months after the project had been cleared by MIGA found that the site is located within a complex of fish ponds, and had not been released by the fish farmers using it. There was also an issue with the acceptability of the projects' 21-km water pipeline along the rear of property lines. The local government needed another six months to resolve this problem, which delayed the start of project construction. This illustrates the type of issues that could be avoided by having a community consultation in advance of the project.

Under the new PPSSSES, MIGA has devoted greater attention to the clients' management of potential community risks and impacts. The client's commitments for two of the recent Category B projects approved under the new sustainability framework clearly express what the process involves. For a medium sized industrial project in Asia, the client committed that it will disclose planned activities and other social and environmental effects to the communities' leadership, as well as undertake regular consultations and procedures for resolving community grievances. For a power transmission line in Latin America, the host country's legislation requires, and the client

committed to a social communication program that provides landowners and local residents the opportunity to report environmental concerns or safety issues that might arise throughout the construction period. In the absence of monitoring, however, it is not possible for MIGA to ascertain if these commitments have yielded the desired outcomes.

Box 5: Spotlight on local community development effectiveness reporting

As part of the 2007 policy reform, MIGA proposed that it would regularly report on the local community impacts for a small number of projects where such impacts may be significant. On this basis, two action plans were under preparation, but the guarantees did not go forward.

Land Acquisition and Involuntary Resettlement

The objective of Performance Standard 5 is to mitigate adverse social and economic impacts from land acquisition, or restriction of affected persons' use of land, by (i) providing compensation for loss of assets at replacement cost; (ii) ensuring that resettlement activities are implemented with appropriate disclosure of information, consultation, and the informed participation of those affected; and (iii) improving or at least restoring the livelihoods and standards of living of persons displaced by a project. This Performance Standard basically carries over and builds on the objectives of MIGA's 2002 Interim Policy on Involuntary Resettlement. As indicated in Chapter 2, MIGA's screening process identified a potential for adverse social impacts in 17 percent (6/35) of the projects in the sample and encountered significant implementation problems with most of these.

The impact on outcomes is difficult to establish with accuracy, given MIGA very limited approach to monitoring the safeguards performance of projects, but some costs are evident. As an example, for a power transmission project in Africa that was approved in 2000, no resettlement plan had been prepared, even though the due diligence mission found that over 200 affected homesteads were going to be affected. However, MIGA's Contract of Guarantee committed the client to verify the number of people affected and actively monitor the compensation and land allocated to the affected people. Four years after, the first monitoring mission found that in the majority of cases, resettlement and compensation schemes had not been satisfactorily handled, leading to numerous grievances, and agreed with the client to correct the outstanding problems. Nevertheless, a follow-up monitoring mission two years later found that, while a few of the more important claims had been settled, most of the claimants had moved and could not be traced, and concluded that the resolution of their outstanding resettlement was impractical.

A second example shows how active monitoring can help address unexpected problems that arise during implementation and create a better outcome. Land compensation for a highway project in Latin America had been delayed because of conflicting ownership claims on the same land arising out of faulty historical transfers and records. Two years after project approval, a monitoring mission staffed by a qualified social scientist scoped out the problems and requested the government to give priority to resolving such cases through the courts system. A year later, a follow-up visit verified that the resolution of these cases has accelerated, albeit the project is still much delayed from the original schedule.

The above examples illustrate how MIGA's very limited project monitoring capacity is constraining its ability to ensure that its projects meet the applicable performance standards. While it can be argued that the resettlement process and outcomes would have been worse if MIGA had not been involved, they also point to key areas where more attention and resources are needed. Specifically, these cases highlight (i) the importance of insisting on the preparation of a full resettlement plan prior to the start of construction whenever a significant number of households are displaced, as an instrument for the monitoring and evaluation of the compensation process,¹¹ and (ii) the importance of timely supervision, particularly in the early phases of a project when most resettlement can be expected to occur.

Biodiversity, Natural Resources, Indigenous Peoples, and Cultural Heritage

BIODIVERSITY CONSERVATION AND SUSTAINABLE NATURAL RESOURCE MANAGEMENT

Performance Standard 6 on Biodiversity Conservation and Sustainable Natural Resource Management aims to protect and conserve biodiversity and to promote the sustainable management of natural resources. It restates the objectives of MIGA's 2002 Interim Policy on Natural Habitats to make them consistent with the Convention on Biological Diversity, and extends the principle of sustainable forest management in MIGA's 2002 Interim Policy on Forests to address the sustainable management of all renewable resources.

MIGA has been fairly consistent in its implementation of this policy, although some avoidable losses occurred. Many projects support the sustainable use of natural resources by incorporating environmentally friendly, energy efficient, and resource saving technologies which ensure that their impact will be positive in comparison to the facilities they replace and local comparators. A few projects incorporate intensive water treatment and recycling technologies that ensure their viability and minimize their impact in water scarce locations. Without monitoring information, however, the overall impact is impossible to determine.

The portfolio review found that two of the projects in the sample were associated with some destruction of natural habitats, including mangroves, coral reefs and tropical forests. MIGA's at-entry reviews mention these losses, but do not explain how the precautionary approach to natural habitats conservation mandated by its 2002 Interim Policy on Natural Habitats was implemented.

In contrast, two other MIGA projects supported the restoration of previously degraded habitats. One example is a power plant in Southern Europe that includes the creation of small ponds and wetlands that will not only compensate for the loss of such landscape features in its own ash disposal site, but also for the loss of some of the habitat converted by an older plant that it replaces. The other case is a waste water treatment plant in the Middle East that will significantly improve the currently anoxic water flow into a major reservoir, enabling its restoration as a viable aquatic ecosystem and wintering ground for migratory birds. Even in the absence of monitoring information, these examples illustrate how MIGA projects could have a positive outcome for biodiversity protection and conservation.

¹¹ The World Bank uses a 50-household threshold for preparation of a full Resettlement Action Plan.

INDIGENOUS PEOPLES

Performance Standard 7 on Indigenous Peoples, carried over from MIGA's 2002 Interim Policy on Indigenous Peoples, is designed to avoid adverse impacts of projects on communities of indigenous peoples, or when avoidance is not feasible, to ensure that the project provides development benefits for indigenous peoples in a culturally appropriate manner. Based on MIGA's screening and review process, this policy was not triggered by any of the projects in the portfolio review sample. It was also not raised in any MIGA project investigated by the Inspection Panel or audited by the Compliance Advisor/Ombudsman.

CULTURAL HERITAGE

Performance Standard 8 on Cultural Heritage, carried over from MIGA's 2002 Interim Policy on Physical Cultural Resources, is designed to protect cultural heritage from the adverse impacts of project activities, support its preservation and promote the equitable sharing of benefits from business activities arising therefrom. In the four sample projects where this policy was applicable, it was implemented through the inclusion of a chance find provision in the construction contract. Under such a provision, if cultural resources are found during construction, the host government's Department of Antiquities or equivalent would be consulted and a decision made on how to proceed.

Some host country requirements go further. For example, for a power transmission project in Latin America, the host country government has required the implementation of a Program for Survey, Archaeological Rescue, and Preservation of Archaeological, Historical and Cultural Heritage. Construction crews will be trained to recognize the presence of cultural resources, and request expert assistance when there is the risk of chance find. Should this program be implemented as planned, it could be an example of best practice in this field.

Quality of Outcomes from the Perspective of MIGA's New Sustainability Framework

From a compliance perspective, the implementation of MIGA's new sustainability framework is still a work in progress. The portfolio review found evidence of substantial advancements in the following areas:

- The at-entry review's attention to the projects' SEMS increased from 39 percent to 70 percent, including 50 percent of financial intermediary projects.
- The at-entry review's attention to labor and working conditions increased from virtually nil to 100 percent.
- The at-entry review's attention to community consultations had been a weak area in the pre-PPSSES projects, but has been the subject of specific client commitments for half of the post-PPSSES Category B projects.
- The provision of technical assistance to SEMS-challenged clients in Africa, under which nine activities have already been launched.

In contrast, little or no progress was found in several important areas:

- The monitoring of environmental and social performance of projects, which remains inadequate in relation to the projects' potential risks and impacts.
- The implementation of the child labor policy.
- The disclosure of Environmental and Social Review Summaries of projects, whose intent has been largely undermined by the exemption for SIP projects.
- The reporting of local community impacts, which is still at the planning and preparation stage.

From an outcomes perspective, the little available information found by the portfolio review suggests that MIGA's impact on the social and environmental performance of projects has been generally relevant, efficient, effective, and positive:

- The at-entry screening and review pinpoint areas where corrective action is needed and provide some comfort that the clients have adequate capacity to manage the environmental and social risks.
- MIGA's limited available environmental and social capacity is tightly focused on the review and monitoring of the highest risk projects.
- The field missions are effective in scoping out hidden issues and designing appropriate measures to address them.
- The sparse information on outcomes indicates that MIGA's intervention have had positive impacts on mitigating social and environmental risks.

Overall, the portfolio review found that MIGA's new sustainability framework has had a positive impact on compliance and outcomes, but there are still substantial gaps between the level of compliance and the extent of outcomes when compared with the stated objectives of the PPSSSES. Some gaps may be due to deficiencies in the screening process, which are a key factor for the allocation of resources, but mostly the gaps are due to an overall shortage of capacity and resources devoted to MIGA's environmental and social function. In the author's judgment, it is not feasible to fully comply with the requirements of the PPSSSES and meet the expectations of the Performance Standards when:

- The at-entry review of only 27 percent of Category A and B projects is based on a site visit by an environmental or social specialist.
- Only half of the Category A and B projects in the sample (older than two years) were ever visited by a monitoring mission.
- There is a two- or three-year interval between monitoring missions for even the most problematic and challenging of projects.

4. Concluding Recommendations

Overall, MIGA is managing the limited resources devoted to its sustainability function remarkably well, in a relevant, efficient and effective manner, with positive outcomes in comparison to the absence of intervention. Given the changing nature of its clients and portfolios, the challenge going forward is to ensure the continued relevance and effectiveness of its Policy and Performance Standards on Social and Environmental Sustainability while complementing the emphasis on compliance with effective implementation. Based on the analysis in this review, IEG's recent study on *Safeguards and Sustainability in a Changing World* (IEG 2010) recommends that MIGA should:

- Increase the capacity of the Environmental and Social Unit to the level needed to provide credible assurance on performance against the standards for every project. Should MIGA be unable to increase its resources devoted to implementation of Performance Standards, it should revise its Policy on Social and Environmental Sustainability to disclaim responsibility for monitoring the projects' social and environmental performance and ensuring that they comply with the standards. Under this option, MIGA's role would be limited to reviewing the client's assessment of the project's environmental and social risks against the standards, identifying corrective actions as needed, and securing the client's commitment to implement these actions.
- Require that Category B Small Investment Program projects follow the same disclosure requirements as for regular Category B projects.
- Focus the due diligence reviews of financial sector projects on the Social and Environmental Management Systems of developing country subsidiaries the project supports, rather than the corporate policies of the parent banks.
- Expand the size and eligibility of the Trust Fund for Addressing Environmental and Social Challenges to all low-capacity clients on the basis of need.
- Disclose project-level environmental and social information from monitoring and supervision reports.
- Develop a credible mechanism to ensure that Performance Standards are adhered to by financial sector projects.
- Work together with the World Bank and IFC to jointly adopt and use a shared set of objective criteria to assess social and environmental risks to ensure adequacy and consistency in project categorization across the WBG, using the more inclusive criteria for Category A, and refining the categorization system to address the bunching of higher and lower-risk projects with the current Category B.

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Appendix A: Ratings Criteria Used for Safeguards Review Questionnaire

- **Excellent (E):** The project has exceeded and performed “beyond compliance,” for example, by raising industry/government standards and serving as a good practice example for and peer companies/organizations regulators). In addition, the project has consistently met this requirements and WBG should be able to use a project rated as “excellent” as a role model for positive environmental and social effects.
- **Satisfactory (S):** the project is in material compliance with this requirement.
- **Partly unsatisfactory (PU):** the project is not in material compliance with this requirement, but deficiencies are being addressed through ongoing and/or planned actions.
- **Unsatisfactory (U):** the project is not in material compliance with this requirement, and mitigation prospects are uncertain or unlikely; or earlier non-compliance (meanwhile corrected) resulted in substantial environmental damage.
- **No opinion possible (NOP):** Where, after best efforts, the relevant information to establish material compliance with the requirement (or lack thereof) cannot be obtained, for example, because of insufficient or missing reports, a rating of “no opinion possible” (NOP) may be assigned. Use of NOP should be a last resort, after reasonable effort has been made to obtain the necessary information.

Appendix B: Environmental and Social Safeguards Review Questionnaire

Project name:		Country:	Project ID:	Date of Approval:
Evaluator:	Date of Review:	Project Status: Active/Completed	ESRS date:	ESC Category:
Guarantee amount:		Other MDB financing:		
Project description and key E&S risks:				

No. of Safeguard Policies Triggered										
Env. Assesm. OP 4.01 (SAP)	Nat. Habitats OP 4.04 (SAP)	Forest OP 4.36 (SAP)	Pest Managem. OP 4.09 (SAP)	Cultural H. OP 4.11 (SAP)	Indig. OP 4.10 (SAP)	Inv Resettl. OP 4.12 (SAP)	Dam Safety OP 4.37 (SAP)	Int. Wways OP 7.50 (SAP)	Disp Areas OP 7.60 (SAP)	No. of SPs Triggered
No. of Performance Standards applicable										
1. S&E Assessment and Management System	2. Labor and Working conditions	3. Pollution Prevention and abatement	4. Community Health, Safety and Security	5. Land Acquisition and Involuntary Resettlement	6. Biodiversity Conservation and Sust Nat Res Mgmt.	7. Indigenous Peoples	8. Cultural Heritage	No. of PSs Applicable		

1. Safeguards Identification and Screening: Give Rating

Question	Comments/Explanation										
		Yes	No	NOP	NA	U	PU	S	E		
1.1 Was the project assigned to the appropriate EA Category (A, B, C, FI, U) based on the nature and magnitude of impacts?											
1.2 Did client identify persons to be displaced by the project and those eligible for compensation and assistance through a											

1. Safeguards Identification and Screening: Give Rating

Question	Comments/Explanation	Yes	No	NOP	NA	U	PU	S	E
baseline census with appropriate socio-economic baseline data?									
1.3 Did client identify adverse impacts on indigenous peoples and avoid impacts wherever possible?									

2 Environmental Social Impact Assessment at Appraisal: Give Rating

Question	Comments/Explanation	Yes	No	NOP	NA	U	PU	S	E
2.1 Were the Environmental Assessment/EMP/ Pest Management Plan (PMP) prepared as appropriate and required? Were gaps in meeting WBG EHS guidelines regarding air emissions, airshed quality, effluent treatment, waste and toxic waste management, storing of fuels and chemicals, soil/groundwater contamination, energy efficiency and resource conservation, workers' H&S, and fire safety identified and Corrective Action Plans and other project specific requirements properly prepared?									
2.2 Were the Social Assessment/ Resettlement Instrument/ Indigenous Peoples Plan prepared as appropriate and required?									
2.3 Did the client's operations incorporate resource conservation and energy efficiency measures? Were opportunities to improve project performance beyond standard compliance identified, for example, energy efficiency programs, carbon credit schemes, biodiversity and gender programs, and supply chain management & certification? Were additional technical assistance programs designed to address the opportunities?									
2.4 If pesticides were to be used, was their selection and									

2 Environmental Social Impact Assessment at Appraisal: Give Rating

Question	Comments/Explanation	Yes	No	NOP	NA	U	PU	S	E
management consistent with good international industry practice part of an integrated pest management and/or vector management strategy?									
2.5 If the national law substantially restricted workers' organizations, did the client provide alternate means for workers to express their grievances and protect their rights organizations without retaliation or discrimination?									
2.6 If the client anticipated retrenchment of a significant number of employees did they developed a plan to mitigate adverse impacts?									
2.7 During design and construction, operations, and decommissioning and closure, did the client evaluate the potential for community impacts?									
2.8 If the project may impact on biodiversity, did the client specifically address the significance of this impact as part of its social and environmental assessment process?									
2.9 Did the client identify renewable natural resources (for example, forests, aquatic resources) which the project would use, and commit to managing them in a sustainable manner?									
2.10 If the project may impact on cultural heritage, has the client carried out due diligence in respect of using appropriate experts, looking for alternatives or providing for preservation in situ?									

3 Disclosure and Consultation: Give Rating

Question	Comments/Explanation	Yes	No	NOP	NA	U	PU	S	E
3.1 Was the EA made available at a public place, accessible to									

3 Disclosure and Consultation: Give Rating

Question	Comments/Explanation	Yes	No	NOP	NA	U	PU	S	E
project-affected groups and local NGOs prior to appraisal?									
3.2 Was an appropriate Resettlement Action Plan document prepared and disclosed to affected communities? Did the client disclose all relevant information, consult with affected persons and communities and facilitate their informed participation in the decision making process relating to resettlement?									
3.3 Does the client have an appropriate HR policy that is readily accessible by employees and provide information on rights under national labor and employment law?									
3.4 Has client consulted with relevant national or local regulatory agencies entrusted with the protection of cultural heritage and with affected communities who use, or have used within living memory, the cultural heritage, and incorporated the views of these communities into the client's decision making process?									

4 WBG Capacity: Give Rating

Question	Comments/Explanation	Yes	No	NOP	NA	U	PU	S	E
4.1 Did project identification and appraisal include environmental or social specialists as necessary?									
4.2 Did WBG adequately supervise the project's compliance with project specific environmental safeguard requirements based on client reporting and site visits, and promptly act on non-compliances?									
4.3 Did WBG adequately supervise the project's compliance with project specific social safeguards requirements based on client reporting and site visits, and promptly act on non-									

4 WBG Capacity: Give Rating

Question	Comments/Explanation	Yes	No	NOP	NA	U	PU	S	E
compliances?									
4.4 Overall, did the WBG have sufficient internal capacity to ensure adequate implementation of the safeguards policy framework for this project?									

5 Client Capacity: Give Rating

Question	Comments/Explanation	Yes	No	NOP	NA	U	PU	S	E
5.1 Was the adequacy of client/borrower capacity for overseeing E&S implementation of the project and subprojects assessed at appraisal?									
5.2 Was there a responsible person to review E&S complaints and follow up on them in a timely and transparent manner?									
5.3 To what extent did the borrower/client have sufficient capacity to implement the WBG safeguards policy framework for this project?									
5.4 How did the WBG address capacity constraints, if any?									
5.5 To what extent did the WBG's safeguards policies helped strengthen the country's own capacities for safeguards and the use of the country's own safeguards systems through this project?									

6 Client Implementation: Give Rating

Question	Comments/Explanation	Yes	No	NOP	NA	U	PU	S	E
6.1 Did the client ensure that Corrective Action Plans and other project specific requirements to meet WBG EHS guidelines were									

6 Client Implementation: Give Rating

Question	Comments/Explanation	Yes	No	NOP	NA	U	PU	S	E
duly implemented and compliance achieved?									
6.2 Did the client ensure that child labor was not used in their supply chain and do they commit contractors and suppliers to not use child labor?									
6.3 Did the client ensure that forced labor was not used in their supply chain and do they commit contractors and suppliers to not use forced labor?									
6.4 Did the client provide its workers with a safe and healthy work environment?									
6.5 Did the client have an emergency prevention, preparedness and response arrangement?									
6.6 Did the client manage hazardous materials so as to avoid uncontrolled releases to the environment?									
6.7 Did the client establish a grievance mechanism allowing affected communities (including indigenous peoples) to present and obtain a robust client response to E&S issues related to the project?									
6.8 Did the client provide opportunities to displaced persons and communities (including indigenous peoples) to derive appropriate development benefits from the project?									
6.9 Did the client provide replacement property, compensation, targeted assistance and/or transitional support to all people affected by the project in accordance with WBG requirements?									
6.10 If the project was located in legally protected areas, did the client address the requirement for natural habitat protection, and comply with applicable regulations and the protected area management plans?									

6 Client Implementation: Give Rating

Question	Comments/Explanation	Yes	No	NOP	NA	U	PU	S	E
6.11 Did client mitigated unavoidable adverse impacts on indigenous peoples and compensated in a culturally appropriate manner?									
6.12 Did client appropriately mitigate impacts on critical heritage with the informed participation of the affected communities?									

7 Monitoring and Evaluation: Give Rating

Question	Comments/Explanation	Yes	No	NOP	NA	U	PU	S	E
7.1 Did the client report to WBG on compliance with and WBG EHS guidelines, Corrective Action Plans and other project specific EHS requirements?									
7.2 Were there arrangements for independent M&E of resettlement plan?									
7.3 Did the client document and report on occupational accidents, diseases, and incidents?									
7.4 Where GHG emissions (direct plus indirect from purchased electricity) exceed 100,000 tons CO2 annually, did the client conduct annual monitoring, and evaluate options for emissions reductions or offsets?									
7.5 Overall, has the monitoring and evaluation of the implementation of the safeguards framework been effective for this project?									
7.6 Overall, to what extent has the WBG's safeguards policy framework and its implementation been effective in ensuring that the project meets the safeguard policies' objectives?									

7 Monitoring and Evaluation: Give Rating

Question	Comments/Explanation	Yes	No	NOP	NA	U	PU	S	E
7.7 To what extent has compliance with the WBG safeguard policies led to improved environmental and social performance and impacts at the project and sector level?									
7.8 What have been the financial costs and benefits to the borrower/client of the implementation of the WBG's safeguards policies for this project?									
7.9 For this project, were there other costs and benefits to the borrower/client, in terms of project design, avoided/added components/subprojects, and risk management?									

