

**International Finance Corporation**  
**Activities Related to Indigenous Peoples' Issues**

**January 2014**

## **IFC ACTIVITIES RELATED TO INDIGENOUS PEOPLES' ISSUES—EXECUTIVE SUMMARY**

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1. The International Finance Corporation (IFC) is addressing Indigenous Peoples' issues both in policy and in practice. The recently updated Sustainability Framework consists of a wide range of environmental and social policies, including an explicit commitment to respect human rights (in Performance Standard 1) and a stand-alone policy on Indigenous Peoples (Performance Standard 7).
2. Performance Standard 7 confirms and strengthens the objective of ensuring that the development process fosters full respect for the human rights, dignity, aspirations, culture, and natural resource-based livelihoods of Indigenous Peoples. It also requires the Free, Prior, and Informed Consent (FPIC) of Indigenous Peoples in certain circumstances directly and adversely impacting them.
3. In 2013, IFC undertook its first assessment of a project applying the FPIC principle under the revised Performance Standards, on an oil and gas project in Colombia. IFC expects to have more FPIC projects in its portfolio moving forward, and strives to continue learning from its own experience, as well as through collaboration with other interested stakeholders.

## **IFC ACTIVITIES RELATED TO INDIGENOUS PEOPLES' ISSUES**

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1. The International Finance Corporation (IFC or the Corporation), a member of the World Bank Group, is the largest global development institution focused exclusively on the private sector in developing countries. In 2013, IFC invested in 612 new projects in 113 countries, providing \$18.3 billion in financing from IFC's own account, with an additional \$6.5 billion mobilized. Advisory services included \$232 million in program expenditures.

2. IFC capitalizes on the power of partnerships to provide global solutions. The Corporation works with private-sector and financial institution clients, sovereign wealth funds and institutional investors, bilateral donors and private foundations, international financial institutions (IFIs) and development finance institutions (DFIs), civil society, and host-country governments. In 2013, IFC's investment clients provided 2.7 million jobs, as well as education and health services, opportunities for farmers, electric power, and water distribution for millions of people.

3. On environmental and social issues in general, and in the case of Indigenous Peoples specifically, IFC is building on its own experience as well as coordinating with the World Bank and other DFIs. IFC's own Sustainability Framework was recently updated after nearly two years of extensive consultations globally with a wide range of stakeholder groups, including the United Nations and civil society. The Corporation is currently taking an active role in conversations about the update of the World Bank Safeguard Policies to ensure consistency with international principles.

4. The adoption of IFC's updated Sustainability Framework, effective January 2012, was an important milestone both for IFC and its private-sector clients. The Sustainability Framework articulates IFC's strategic commitment to sustainable development, and is an integral part of its approach to risk management. It consists of the Policy on Environmental and Social Sustainability, which describes how IFC implements its commitment to sustainable development; the Performance Standards, which define clients' roles and responsibilities in relation to environmental and social risk management; and the Access to Information Policy, which defines IFC's institutional obligations in relation to transparency and accountability. Over the last years, the Performance Standards have become a global benchmark for environmental and social performance. They are used by a wide range of financial institutions and, increasingly, as a reference point for governments in their policy guidance. IFC uses the Sustainability

Framework along with other strategies, policies, and initiatives, to direct the business activities of the Corporation in order to achieve its overall development objectives.

5. The eight Performance Standards in the Sustainability Framework are directed towards clients, providing guidance on how to identify risks and impacts, and are designed to help avoid, mitigate, and manage risks and impacts as a way of doing business in a sustainable way. Throughout the Performance Standards, updated policies have strengthened and made more explicit the guidance for community engagement, through processes of informed consultation and participation, with robust grievance mechanisms where needed.

6. Performance Standard 1 applies to all projects that have environmental and social risks and impacts, and establishes the importance of (i) integrated assessment to identify the environmental and social impacts, risks, and opportunities of projects; (ii) effective community engagement through disclosure of project-related information and consultation with local communities on matters that directly affect them; and (iii) the client's management of environmental and social performance throughout the life of the project.

7. Performance Standard 1 also includes an explicit recognition of the private sector's responsibility in relation to human rights, incorporating the principles of the recently adopted UN Framework and Guiding Principles on Business and Human Rights. Performance Standard 1, paragraph 3, requires that business should “avoid infringing on the human rights of others and address adverse human rights impacts business may cause or contribute to.” In certain high risk circumstances, it may be necessary for users of the Performance Standards to undertake specific human rights due diligence.

8. Building on the overall principles of Performance Standard 1, Performance Standard 7 is a stand-alone policy on Indigenous Peoples, which confirms and strengthens the objective of ensuring that the development process fosters full respect for the human rights, dignity, aspirations, culture, and natural resource-based livelihoods of Indigenous Peoples.

9. Performance Standard 7, paragraph 1, recognizes that “Indigenous Peoples, as social groups with identities that are distinct from mainstream groups in national societies, are often among the most marginalized and vulnerable segments of the population. In many cases, their economic, social, and legal status limits their capacity to defend their rights to, and interests in, lands and natural and cultural resources, and may restrict their ability to participate in and benefit from development. Indigenous Peoples are particularly vulnerable if their lands and resources are

transformed, encroached upon, or significantly degraded. Their languages, cultures, religions, spiritual beliefs, and institutions may also come under threat. As a consequence, Indigenous Peoples may be more vulnerable to the adverse impacts associated with project development than nonindigenous communities. This vulnerability may include loss of identity, culture, and natural resource-based livelihoods, as well as exposure to impoverishment and diseases.”

10. In recognition of the unique rights and potential vulnerabilities of Indigenous Peoples, IFC’s Performance Standard 7 was revised in 2012 to require the Free, Prior, and Informed Consent (FPIC) of Indigenous Peoples in certain circumstances directly and adversely impacting them. Application of FPIC, as defined by IFC for the purpose of providing operational guidance for users of the Performance Standards, requires at least one of the following circumstances: (i) project impacts on lands and natural resources subject to Indigenous Peoples’ traditional or customary use; (ii) relocation of Indigenous Peoples from traditional or customary lands or natural resources; or (iii) significant impacts on Indigenous Peoples critical cultural heritage, or proposed commercial use of their cultural heritage.

11. FPIC is part of the stakeholder engagement hierarchy introduced in Performance Standard 1, and builds upon and expands the process of Informed Consultation and Participation (ICP). It is established through Good Faith Negotiation (GFN) between the company and indigenous community. As defined for IFC’s project and clients in Performance Standard 7, FPIC refers to the combination of a mutually accepted and documented process of culturally appropriate negotiation between the company and appropriate institutions representing Indigenous Peoples and evidence of agreement between the parties as the outcome of the negotiations. In IFC’s view, it is not possible to achieve the outcome without the process, and it is not inevitable that a legitimate process will lead to an outcome of agreement.

12. In 2013, IFC undertook its first assessment of a project applying the FPIC principle under the revised Performance Standards, with the Pacific Infrastructure oil and gas company in Colombia. The project had identified likely impacts on Indigenous Peoples and Afro-descendants, both considered Indigenous Peoples by national law. Colombia has a strong *Consulta Previa* (prior consultation) law, which is consistent with IFC's FPIC requirements, facilitating the incorporation of Performance Standard 7. Previously, the community had had negative experiences with private-sector development and viewed *Consulta Previa* as being about conflict. However, through this process, they came to see that it could be about collaboration. Together, the company and the community walked the proposed pipeline

route and jointly identified impacts (e.g., potential pollution, problems associated with an influx of workers, protection of medicinal plants, etc.).

13. Community members had the opportunity to raise concerns, and the company was able to respond and explain—and to document their interactions in a *libro de actas* (book of records). Staff employed a wide range of tools to communicate with local indigenous communities; for example, they presented posters with a visual representation of a problem tree that effectively illustrated relevant concerns, which allowed community members to become directly involved in identifying, classifying, and proposing solutions to issues. Even young people participated in these workshops; the children organized their own committee, which participated actively in the *Consulta Previa* and took on—and resolved—a number of problems affecting their community.

14. The client, in turn, sought opportunities to consider and respond to community concerns. For example, they decided to change the location of the access road following community complaints during project planning, and entered into an agreement with the Municipality to build a new road and bridge—at the company’s expense—to avoid direct and potential induced impacts of traffic on the community. Overall, the process and progress helped the community organize among themselves, and they expressed satisfaction with the project’s stakeholder engagement.

15. In its appraisal mission, IFC determined that the company had met a range of good practice principles, including good analysis, stakeholder mapping (by village and household), prior information, good faith negotiation, evidence that stakeholders affected decision-making, agreement and documentation, grievance mechanism, and plans for reporting and monitoring. Consent was expressed in officially signed agreements on (i) the consultation and negotiation process, (ii) identified impacts and risks stemming from the project, and (iii) measures to manage the risks.

16. IFC determined that FPIC for the Sociedad Portuaria Puerto Bahía terminal was achieved after taking into account (i) the level and quality of community engagement conducted; (ii) the review of project documentation, and the robustness of the applicable Colombian regulatory framework on FPIC; (iii) validation of the information reviewed through two site visits and interviews with representatives of the five affected Afro-Colombian communities, company staff in charge of community relations, and relevant government officials; and (iv) documented agreements with all five affected Afro-Colombian communities. IFC received a full series of

decrees, resolutions, workshops minutes, acts, and other official records of site visits and meetings between the company and community organizations, duly signed by the parties. Agreements were also officially recorded by governmental authorities with statutory responsibility as guarantors of Colombia's *Consulta Previa* process.

17. IFC expects to have more projects requiring FPIC in its portfolio moving forward, and strives to learn from its own experience, as well as through collaboration with other interested stakeholders. These are complex issues, often exacerbated by local conflicts over land or resources, or legacy issues that can jeopardize the successful application of IFC's standards. IFC recognizes that it is important to learn from past mistakes, and has recently committed to an action plan that, inter alia, will strengthen clients' security practices and preparedness in fragile country situations. IFC will also develop more systematic approaches to assessing and managing macro-level and contextual risks.

18. To ensure that these principles of addressing Indigenous Peoples' issues are known and understood within the organization and by external audiences—including clients, other development finance institutions, and civil society—IFC has engaged in a wide range of outreach programs, from presentations to training programs.

19. Internally, the Sustainability Framework, including Performance Standard 7 on Indigenous Peoples, is at the core of IFC's Sustainability Framework Learning Program (SFLP). Launched in February 2012, the SFLP represents the most comprehensive initiative to date to strengthen IFC's internal capacity to manage environmental and social risks, impacts, and performance in its portfolio. The SFLP consists of five modules over two days, combining presentations, case studies, and group discussions. Considerable resources went into making the SFLP a success. Professional adult learning experts were contracted to train the presenters on the best practices for instructional design and facilitation techniques. Moreover, the Program was updated and improved continuously based on participant feedback and tailored to address specific regional issues and concerns. By April 2013, the SFLP reached 1,026 IFC Investment and Advisory staff and consultants through extensive global coverage of 25 events (including one video conference) in 16 locations around the world. This intensive, in-person SFLP is complemented by an eLearning module on Managing Environmental and Social Performance. In FY12, 235 staff participated in the eLearning, which was updated in January 2012 to reflect the revised Performance Standards.

20. In addition to the Learning Program, which targets internal staff, IFC organized several workshops on the Performance Standards for external stakeholders. These one-day events were scheduled to follow the SFLP in some regional locations. Between February 2012 and February 2013, more than 410 clients and third-party consultants participated in Technical Orientations on the Performance Standards at regional events in Beijing, Cairo, Delhi, Dhaka, Hong Kong, Istanbul, Jakarta, Johannesburg, Mexico City, Moscow, and São Paulo. These in-person trainings are complemented by a free, one-hour eLearning module: *Managing Environmental and Social Performance*, available at <http://ifc.org/sustainability>. This online course trains users on how they can help clients manage their environmental and social risks, thereby having a positive impact on their bottom line, reputation, and development impact. In FY13, 154 individuals participated in this one-hour learning.

21. IFC has also engaged in a number of workshops and learning events with stakeholders outside of the World Bank Group—to learn from their experience and concerns related to Indigenous Peoples’ issues, particularly FPIC, and to share policy interpretations and early experience. In each of these events, issues related to Indigenous Peoples were discussed in detail. Some recent examples include:

- **December 2013:** Development Finance Institution Social Experts working group annual conference, hosted by IFC in Washington, DC. Over 50 representatives from 17 institutions participated.
- **November 2013:** Annual Performance Standards Community of Learning, Tokyo, Japan. Over 100 representatives from EPFIs, DFIs, ECAs, IFC clients and members of the Sustainable Banking Network for Regulators participated.
- **October 2013:** Human Rights Roundtable of the Multilateral Finance Institution Working Group on Environmental and Social Sustainability Manila Philippines. Over 30 representatives from over 12 institutions participated.
- **October 2013:** WBG Annual Meetings Civil Society Forum, Human Rights Due Diligence and Management in IFC's Sustainability Framework, Washington DC.
- **October 2013:** OECD Export Credit Agencies, IFC's Approach to Indigenous Peoples and FPIC OECD Export Credit Agencies, Ottawa Canada.
- **September 2013:** Nordic Trust Fund on Human Rights Annual Workshop on Human Rights and Development, Stockholm Sweden.



22. There are many challenges in translating overarching policy principles into practical application on the ground. It requires commitment, capacity, and clarity, and, above all, continued transparency and sharing of information and learning. IFC is continuing efforts to provide policy interpretation and implementation guidance regarding these principles, to work directly with private-sector clients to improve practices at the project level, and to convene communities of practice and other events to share experiences and solutions.