

July 25, 2020

Mr. Andrew M. Herscowitz
Chief Development Officer
U.S. International Development Finance Corporation
1100 New York Avenue NW
Washington, D.C. 20527

Dear Mr. Herscowitz,

Thank you for the opportunity to comment on the United States International Development Finance Corporation's (DFC) Impact Quotient (IQ). As organizations that support communities around the world to raise their voices and input into the development decisions that affect them, we are writing to ensure that the IQ is as strong as possible and results in development that benefits instead of harms communities.

We commend the BUILD Act's requirement¹ for DFC to develop a successor to the Overseas Private Investment Corporation's (OPIC) development impact measurement system, as several reports have noted shortcomings with the manner in which OPIC assessed and monitored the development impacts of projects.² With the creation of a new development impact measurement system, DFC has a tremendous opportunity to ensure that all of its projects result in positive, demonstrable development outcomes. Accordingly, we provide the following recommendations for strengthening the IQ:

Consultation Process

To start, we note that it is positive that DFC has opened the IQ to public comment. Given DFC's development mandate and its potential to positively impact communities around the world, it is crucial that such an important framework be opened up to the general public for consultation. To assure the public that DFC is indeed considering the feedback received, it should publish a matrix of all recommendations and comments received during this consultation process and

¹ The BUILD Act was passed as a part of the FAA Reauthorization Act. FAA Reauthorization Act of 2018, Pub. L. No. 115-254, §1442 (b)(1), (4), <https://www.congress.gov/115/bills/hr302/BILLS-115hr302enr.pdf#page=300>.

² These reports include: USAID OFFICE OF INSPECTOR GENERAL, OPIC INVESTMENTS INCREASED CHILE'S ENERGY CAPACITY, BUT WEAK PROCESSES AND INTERNAL CONTROLS DIMINISH OPIC'S ABILITY TO GAUGE PROJECT EFFECTS AND RISKS (Report No. 9-OPC-19-002-P, Feb. 1, 2019), <https://oig.usaid.gov/index.php/node/1892> [hereinafter "2019 OIG Report"]; OFFICE OF ACCOUNTABILITY, ASSESSMENT OF OPIC'S ENVIRONMENTAL AND SOCIAL (E&S) MONITORING OF PROJECTS (Feb. 7, 2018), https://www.dfc.gov/sites/default/files/2019-08/OA_Assessment_OPIC_ES%20Monitoring-Final-02072018.pdf [hereinafter "OA Monitoring Report"]; U.S. GOVERNMENT ACCOUNTABILITY OFFICE, OVERSEAS PRIVATE INVESTMENT CORPORATION, ADDITIONAL ACTIONS COULD IMPROVE MONITORING PROCESSES (GAO-16-64, December 2015), <http://www.gao.gov/assets/680/674142.pdf> [hereinafter "GAO Report"]; and USAID OFFICE OF INSPECTOR GENERAL, ASSESSMENT OF THE OVERSEAS PRIVATE INVESTMENT CORPORATION'S DEVELOPMENT OUTCOME AND COMPLIANCE RISKS (Report No. 8-OPC-15-002-S, May 15, 2015), <https://oig.usaid.gov/sites/default/files/2018-06/8-opc-15-002-s.pdf> [hereinafter "2015 OIG Report"].

whether each recommendation was adopted and why, as OPIC did after the conclusion of the consultation on the Environmental and Social Policy Statement in January 2017.³ Furthermore, as the ultimate development outcomes of a project are influenced by every aspect of DFC's work, DFC should commit to subjecting all of its policies and procedures to a public consultation process, including the policies and procedures for DFC's independent accountability mechanism and any changes to DFC's Environmental and Social Policy and Procedures.⁴

Accounting for Negative Environmental and Social Impacts

The IQ mainly focuses on positive development impacts, while negative potential environmental and social impacts, as well as the risk that the project will not meet its development aims, are an afterthought in the project's score. Negative environmental, social, and human rights impacts can severely undermine the effectiveness of development projects, and research has shown that the costs of these negative impacts are chronically undervalued.⁵ It is thus important to ensure that potential negative impacts are comprehensively assessed, and projects with significant negative impacts that cannot be avoided or effectively mitigated should not receive DFC funding. Furthermore, environmental sustainability should not merely result in a few bonus points but should be a main focus for relevant projects, such as power projects.

Under the current IQ scoring, up to 22.5 points (out of a total 150 points) can be deducted from the project's score for environmental, social, or developmental risks. However, a project could be considered developmental with a score of only 37.5 points, meaning that it is highly unlikely that the deductions for risks will affect the classification of any particular project. The IQ should give more weight to environmental and social risks so that the presence of significant risks has a meaningful impact on the score and can direct DFC to not invest in a project. The breadth of potential negative impacts associated with projects warrants an equal number of negative points as positive points to ensure that negative impacts are sufficiently and properly accounted for.

The IQ additionally mentions that the risk adjustments "are based on the assessments done for each project on the investor's demonstrated capacity to meet DFC's stringent environmental and social standards and may include prior experience with the investor...." This examination should look at not only DFC's or OPIC's experience with the investor, but also the investor's

³ OPIC, MANAGEMENT RESPONSE TO PUBLIC COMMENTS (JAN. 11, 2017), <https://www.dfc.gov/sites/default/files/2019-08/ESPS%20Response%20011117.pdf>.

⁴ For more recommendations for the independent accountability mechanism and the consultation process, see Accountability Counsel, RECOMMENDATIONS FOR THE U.S. INTERNATIONAL DEVELOPMENT FINANCE CORPORATION'S INDEPENDENT ACCOUNTABILITY MECHANISM, <https://www.accountabilitycounsel.org/wp-content/uploads/2020/06/6-1-20-recommendations-for-the-dfes-independent-accountability-mechanism.pdf>. Importantly, future comment periods should be 60 days, as was the case during the 2016 consultation on OPIC's draft Environmental and Social Policy Statement, to provide sufficient time for public comment.

⁵ Rachel Davis & Daniel M. Franks, *Costs of Company-Community Conflict in the Extractive Sector*, 66 CORPORATE SOCIAL RESPONSIBILITY INITIATIVE REPORT (2014), https://www.esrm.uq.edu.au/media/docs/603/Costs_of_Conflict_Davis-Franks.pdf.

engagement with other international financial institutions and communities affected by their projects. Specifically, DFC should examine the investor's track record of addressing grievances from communities, including grievances submitted to independent accountability mechanisms⁶ and OECD National Contact Points.⁷ A history of not constructively addressing grievances indicates practices that undermine development outcomes and should prevent an investor from receiving DFC support.

Climate Change

One category of impacts missing completely from the IQ are those impacts associated with climate change. The communities that DFC aims to help are the same communities that are most impacted by the negative impacts of climate change. Therefore, properly accounting for those negative impacts is essential to ensure that any projects, especially those that aim to increase access to electricity, do not contribute to worsening the effects of climate change. While DFC's greenhouse gas cap and reduction schedule for its portfolio emissions will prevent DFC from supporting the largest greenhouse gas emitters, it does not account for the wide breadth of negative impacts associated with climate change. These impacts include sea level rise, increased temperatures and acidity of oceans, reduced snow accumulation, changing rainfall patterns, increased intensity of forest disturbances like wildfires and occurrence of invasive species, and livestock at risk from heat stress and reduced food supply.⁸ The IQ must include these impacts and deduct points accordingly.

Financial Intermediaries

Pillar One of the IQ includes financial intermediaries (FIs) as a positive factor for development. Although investing in financial intermediaries can help mobilize funds and attract private capital for economic development, this type of lending also comes with significant risks, particularly around clients' adherence to environmental and social safeguards.⁹ DFC should not uncritically

⁶ See the Independent Accountability Mechanism Network of 21 independent accountability mechanisms at international financial institutions. INDEPENDENT ACCOUNTABILITY MECHANISMS Network, <http://independentaccountabilitymechanism.net/> (last visited July 24, 2020). The Accountability Console contains a database of clients involved in independent accountability mechanism complaints. Accountability Counsel, *IFI Clients*, ACCOUNTABILITY CONSOLE, <https://accountabilityconsole.com/clients/> (last visited July 24, 2020).

⁷ For a current list of OECD National Contact Points see OECD, *National Contact Points*, OECD RESPONSIBLE BUSINESS CONDUCT, <http://mneguidelines.oecd.org/specificinstances.htm> (last visited July 24, 2020). For a list of all of the companies involved in an OECD National Contact Point complaint, see OECD Watch, *Company Search*, OECD WATCH, [HTTPS://COMPLAINTS.OECDWATCH.ORG/CASES/ADVANCED-SEARCH/COMPANIES/CASESEARCHVIEW?TYPE=COMPANY](https://COMPLAINTS.OECDWATCH.ORG/CASES/ADVANCED-SEARCH/COMPANIES/CASESEARCHVIEW?TYPE=COMPANY) (last visited July 24, 2020).

⁸ U.S. Environmental Protection Agency, "Climate Change Impacts", https://19january2017snapshot.epa.gov/climate-impacts_.html (last updated Jan. 17, 2017).

⁹ See the "Outsourcing Development" investigative series by Inclusive Development International, in collaboration with Bank Information Center, Urgewald, 11.11.11, Ulu Foundation, and Accountability Counsel. INCLUSIVE DEVELOPMENT INTERNATIONAL, *OUTSOURCING DEVELOPMENT: LIFTING THE VEIL ON THE WORLD BANK GROUP'S LENDING THROUGH FINANCIAL INTERMEDIARIES*, <https://www.inclusivedevelopment.net/wp-content/uploads/2016/09/Outsourcing-Developmnet-Introduction.pdf>; see also COMPLIANCE ADVISOR OMBUDSMAN, *CAO AUDIT OF A SAMPLE OF IFC INVESTMENTS IN THIRD-PARTY FINANCIAL INTERMEDIARIES* (Oct. 10, 2012), http://www.cao-ombudsman.org/newsroom/documents/Audit_Report_C-I-R9-Y10-135.pdf; COMPLIANCE ADVISOR

consider FIs as a positive factor for development and should ensure that FI clients have robust environmental and social practices, including human rights, environmental, and social due diligence and monitoring of sub-projects as well as accountability and access to remedy, including through DFC's independent accountability mechanism. DFC must properly screen and identify potential clients that lack these practices.

Underrepresented Populations

We commend the prioritization of inclusion in the IQ, including a prioritization on projects that serve underrepresented populations. The IQ currently lists the poor, low-income, women and women-owned enterprises, smallholder farmers, youth, people with disabilities, Indigenous Peoples, refugees, and ethnic and religious minorities as examples of underrepresented populations. Added to this list should be populations that are marginalized because of social status, disability, sexual orientation or gender identity, age (including children), health status or political opinion, and those who have little flexibility to rebound when disruptions to their livelihoods occur due to their economic and social circumstances.

Additionally, in order to properly assess the potential impacts of a project on these populations, there must first be a baseline against which comparisons can be made. Prior to any operation, DFC should require a baseline assessment of all project affected people related to potential (and differential) impacts, including environmental, social, and development risks and impacts.¹⁰

IQ Metrics

The sample metrics that the IQ presents focus on total numbers rather than the quality of the metrics themselves. For instance, the sample metric for energy is the amount of energy delivered to the offtaker in gigawatt hours, but that misses the important factors of whether those in need of improved access to electricity will be able to afford that electricity and whether they are even the ones being served. For many of these metrics, who is actually receiving the benefit is missing from the equation. In addition, there is an emphasis on the oil and gas and mining sectors even though neither of these industries is associated with strong development outcomes and can produce significant negative impacts on local communities. DFC must emphasize quality over quantity of its metrics to ensure that its projects actually help local communities in need.

Monitoring

OMBUDSMAN, THIRD MONITORING REPORT OF IFC'S RESPONSE TO: CAO AUDIT OF A SAMPLE OF IFC INVESTMENTS IN THIRD-PARTY FINANCIAL INTERMEDIARIES (Mar. 6, 2017), http://www.cao-ombudsman.org/newsroom/documents/documents/CAOMonitoringReport_FIAudit_March2017.pdf.

¹⁰ See Overseas Private Investment Corporation Office of Accountability, OA REVIEW: BUCHANAN RENEWABLE ENERGY PROJECTS IN LIBERIA 32-33 (2014), https://www.dfc.gov/sites/default/files/2019-08/OA_Buchanan_Report.pdf [hereinafter "2014 OA Report"].

The IQ does not currently provide detailed information on how DFC will monitor to ensure that projects will meet their development outcomes. Several reports, including a recent report from the USAID Office of Inspector General (OIG), have outlined shortcomings in OPIC's monitoring practices, including in the monitoring of development outcomes.¹¹ The reports in particular criticized OPIC's reliance on client-provided data for reporting on the performance of projects.¹² Relying on clients to report back on projects is not enough for a comprehensive view of a project's performance or environmental and social impacts. DFC should drastically increase the frequency of site visits to projects. If resources are insufficient for enhanced monitoring and site visits, particularly of high-risk projects, DFC should decline to support the project.¹³

Under the IQ, DFC will leverage USAID missions and U.S. embassies to verify client-submitted data. However, the details of this verification and other site monitoring is not included in the IQ. We recommend that DFC commit to site monitoring of all Category A and B projects by DFC staff or independent consultants during the construction phase of projects (when environmental and social risks are typically highest) and at regular intervals throughout DFC's participation in the project. For Category A and B projects, site visits should be conducted every 6 months during construction, every 12 months during implementation and at any time that project risk is reassessed and found to have increased. Monitoring should assess development outcomes, as well as environmental and social risks and impacts. All project monitoring reports should be made publicly available in a timely manner. In addition, DFC should support participatory monitoring, as it is an important tool for monitoring and managing human rights risk, building trust and fostering inclusive development.

Moreover, DFC should ensure that it has a robust process for considering the information that it receives from monitoring and other sources, and has the ability to course correct and ensure that projects meet their developmental goals and avoid and mitigate adverse environmental and social impacts. DFC should not provide continued support to projects that have unmitigated negative impacts or clearly cannot meet their development goals.

DFC should learn from OPIC's experience of supporting the Buchanan Renewables (BR) project in Liberia. Between 2008 and 2011, OPIC approved \$217 million for the BR project, which aimed to rejuvenate smallholder rubber farms and convert the old trees into biofuel. Notwithstanding this developmental goal, a subsequent OPIC Office of Accountability (OA) investigation found that OPIC's risk management system failed to explicitly assess the elevated risks that the BR project would not achieve its projected development benefits.¹⁴

¹¹ 2019 OIG report, *supra* note 2 at 18-19. *See* OA Monitoring Report, GAO report, and 2015 OIG Report, *supra* note 2.

¹² GAO Report at 40-43.

¹³ 2014 OA Report, *supra* note 10, at 10, 71.

¹⁴ 2014 OA Report, at 9, 12, 68-69.

Moreover, a document released under the Freedom of Information Act (FOIA) shows that OPIC was well aware of the challenges that BR faced ahead of a decision to provide the third loan for the project.¹⁵ Staff in the U.S. Embassy in Monrovia wrote to OPIC expressing “significant concerns” about the viability and sustainability of the BR project.¹⁶ The embassy identified a number of risks that ultimately eventuated and became the subject of the Liberian communities’ complaint to the OA and the OA’s report, including: the uncertain and potentially detrimental supply relationships with smallholder plantations,¹⁷ lower than projected rates of rubber replanting, and potentially negative impacts on the downstream charcoal industry, posing particular risks for women and other vulnerable groups that rely on this source of income.¹⁸

In relation to BR’s asserted engagement with a local rubber plantation association, the embassy received information that directly conflicted with information provided by BR. For these and other reasons, the embassy concluded that it could not support the project without additional information.¹⁹ We assume, based on the approval of the third loan and the ultimate failure of the BR project, that these warnings were not adequately accounted for within OPIC’s project appraisal and monitoring processes. DFC should avoid a repeat of the experience with the BR project in Liberia and ensure that there are internal processes in place to ensure a robust response to monitoring information and other project updates.

Accountability

As mentioned above, negative environmental and social impacts can undermine the development goals of DFC and the sustainability of projects. As a part of its commitment to measuring impact, DFC should ensure that it has a strong accountability framework to address negative impacts from projects when they arise. This means designing and implementing a robust independent accountability mechanism (IAM) to address community complaints from projects, a requirement already in the BUILD Act. A strong accountability mechanism provides real-time community feedback on the impacts of projects. DFC should immediately launch a consultation process to shape the policies and procedures of its IAM to address shortcomings from OPIC’s OA and align the mechanism to international best practices.²⁰

Conclusion

Thank you for considering our recommendations. We look forward to continued engagement with DFC to ensure that the agency is a leader in development impact, as well as environmental,

¹⁵ Doc. No. C05960391 (Jan. 3, 2011), <https://www.accountabilitycounsel.org/wp-content/uploads/2020/07/state-response-doc-no-2.pdf>.

¹⁶ *Id.* at para. 1.

¹⁷ *Id.* at paras. 1, 9-11.

¹⁸ *Id.* at paras. 1 and 14.

¹⁹ *Id.* at paras. 10, 15-16.

²⁰ Adva Saldinger, *Taking stock of DFC's early months*, DEVEX, Jun. 15, 2020 <https://www.devex.com/news/taking-stock-of-dfc-s-early-months-97457>.

social, and human rights accountability, so that projects will result in benefits to communities around the world.

Sincerely,

Abibiman Foundation – Ghana

AbibiNsroma Foundation (ANF) – Ghana

Accountability Counsel – United States

Action Paysanne Contre la Faim – Democratic Republic of the Congo

Alliance for Empowering Rural Communities (AERC-Ghana) – Ghana

Bank Information Center – United States

Buliisa Initiative for Rural Development Organisation (BIRUDO) – Uganda

CECIDE (ONG) – Guinea

Community Outreach for Development and Welfare Advocacy (CODWA) – Nigeria

Conseil Régional des Organisations Non Gouvernementales de Développement – Democratic Republic of the Congo

Endorois Welfare Council – Kenya

Foundation for Environmental Rights, Advocacy & Development (FENRAD) – Nigeria

Foundation for the Conservation of the Earth – Nigeria

Friends of the Earth U.S. – United States

Green Advocates International – Liberia

International Accountability Project (IAP) – United States/International

Maryknoll Office for Global Concerns – United States

Mazingira Network -Tanzania (MANET) – Tanzania

Mr. Patrick Bond (University of the Western Cape) – South Africa

Narasha Community Development Group – Kenya

Observatoire d'Etudes et d'Appui à la Responsabilité Sociale et Environnementale – Democratic Republic of the Congo

Peace Point Development Foundation (PPDF) – Nigeria

Recourse – The Netherlands

Sustainable Holistic Development Foundation (SUHODE Foundation) – Tanzania

World Voices Uganda – Uganda

Youth For Environment Education And Development Foundation (YFEED Foundation) – Nepal

Zambia Alliance of Women – Zambia

CC: The Honorable Adam Bohler, Chief Executive Officer

Ms. Claire F. Avett, Vice President, Office of Development Policy