

CSOs Call on DFC to Strengthen its Revised ESPP

April 28, 2023

The undersigned organizations welcome the opportunity to provide input on the U.S. International Development Finance Corporation's (DFC) review of its Environmental and Social Policy and Procedures (ESPP). We submit for your consideration redline comments and edits on the revised ESPP and recommendations detailed below.

The ESPP is DFC's primary safeguards document and outlines the environmental, social, labor, and human rights requirements for DFC's activities. Therefore, the ESPP must be as strong and robust as possible so that DFC-supported projects and investments benefit and do not harm communities around the world, including marginalized groups.

Several of our endorsing organizations participated in the last public review of the ESPP under DFC's predecessor, the Overseas Private Investment Corporation. We commend DFC for adding increased references to the heightened social risk vulnerable groups face, the need to respect universal human rights, the need to assess and mitigate gender-specific impacts of projects, and the purpose of stakeholder engagement throughout the draft ESPP. For instance, we positively note that DFC describes in detail the purpose of monitoring site visits, stating that DFC will check for on-the-ground compliance and interact and gather feedback from workers, project affected people, and other stakeholders.

However, there are several areas where DFC needs to strengthen the revised ESPP, and our redline document contains recommendations on improving transparency, human rights alignment, climate requirements, biodiversity protections, stakeholder engagement, and preventing gender-based violence (GBV) and sexual exploitation and harassment (SEA/H), among other topics.

In addition to the recommendations included in the redline document, DFC should strengthen the following components within the revised ESPP or through separate policies:

- 1) **Match MDB Policies:** DFC should meet and exceed the highest industry standards and at least what the U.S. requires of the multilateral development banks (MDBs) in which it is a member. As one of the largest shareholders of the MDBs and historically the most vocal advocate for high environmental, social, and accountability standards at the institutions, the U.S. can demonstrate its commitment to sustainable and inclusive development by holding its own development finance institution (DFI) to the same standards it calls on the MDBs to meet. DFC should address the following inconsistencies within the ESPP:
 - a) Section 5.1.3 requires the disclosure of Category A project documents for public comment for 60 days. However, DFC should match the Pelosi Amendment MDB disclosure requirement, which requires U.S. Executive Directors at the MDBs to abstain or vote against any project with significant environmental impacts if an appropriate environmental assessment has not been conducted and made available to the public 120 days before a vote. Shorter disclosure times hinder opportunities for civil society and project-affected communities to have a voice in the approval process.
 - b) IFC requires extractive industry clients to disclose material project payments to host governments (e.g., royalties, taxes, profit sharing) as well as the principal contracts with host governments, as per their Sustainability Policy. However, DFC's revised ESPP does not meet the same standard.

- c) Section 6.1.2 states that DFC Agreements require “timely notification” to DFC of incidents at project sites resulting in death or adverse impacts on the environment, workers, or project affected people. However, the African Development Bank’s recently updated Integrated Safeguards System (ISS) requires notification of similar incidents within three days. DFC’s policy should provide a specific time bound requirement for notification of incidents and should match or exceed the standard set in the ISS.
- 2) **Scope:** Section 1.1 limits the scope of the ESPP, stating that it does not apply to DFC’s technical assistance activities. Technical assistance activities lead to the design and implementation of projects and can cause harm to project-affected communities. Several complaints have been filed to DFIs’ accountability mechanisms concerning the environmental and social impacts of technical assistance projects. To prevent harm, the ESPP should apply to all of DFC’s activities, including technical assistance.
- 3) **Specificity:** We have identified several areas where the ESPP uses vague language, such as “a substantial duration of time” (*Section 2.3.1*), “time frame considered reasonable and feasible” (*Section 3.02*), and “require timely notification” (*Section 6.1.2*). DFC should add greater specificity in line with industry best practices to clarify the ESPP’s requirements of itself and its clients.
- 4) **Retaliation and Reprisals:** We are pleased that DFC outlines its requirement that clients do not tolerate any action that amounts to retaliation or reprisals – including threats, intimidation, harassment, or violence (*Section 1.2*), matching the priorities of the U.S. at the MDBs. We also commend DFC for including the risk of reprisals as a key element for DFC to consider when assessing the contextual risk that could negatively impact the ability of a client to meet the Applicable Standards (*Appendix C*). However, DFC should expand and clarify this language, either in the ESPP itself or in a separate public policy, to include the following:
- a) Guidance for staff and clients on designing projects sensitive to reprisal risks and include measures to prevent reprisals, especially within stakeholder engagement and grievance redress components.
 - b) Protocols for responding to reprisals.
 - c) A clear commitment to investigate and take action on each complaint received.
- 5) **Financial Intermediaries (FI):** DFC must disclose environmental and social impact documents for FIs and subprojects and commit to greater implementation oversight. To date, the undersigned groups have not seen any environmental and social impact documents for subprojects despite the great deal of support that DFC provides to FIs. These FIs have been involved in impact-heavy sectors, such as energy, which should have required the release of environmental and social impact documentation and accounting. This gap demonstrates a concerning disconnect between the ESPP and what policies are applied during implementation. DFC should provide sufficient oversight of FIs to confirm environmental and social impact documents are created and submitted to DFC, then disclose these materials publicly on DFC’s website.
- 6) **Risk Categorization:** OPIC’s 2017 Environmental and Social Policy Statement had an additional risk category, Special Consideration, that “may apply to projects that have heightened potential for adverse project-related social risks related to the involvement of or impact on Project Affected People including Workers.” DFC deleted this category in the

revised ESPP, meaning that potentially less scrutiny is placed on projects that are not classified as Category A but still have heightened potential for adverse impacts on project-affected people. DFC should reinstate the Special Consideration category. Additionally, a serious concern within all DFI projects is projects that do not receive a risk category that adequately accounts for project risks. DFC should be an industry-wide standard setter, pushing other DFIs to improve by assigning appropriate project risk categories and re-evaluating categorization periodically.

- 7) **Remedy:** When projects harm communities, these harms must be fully remediated. The ESPP's requirement that clients minimize, mitigate, compensate, and/or remedy impacts through the application of the mitigation hierarchy in the event of adverse environmental and social impacts (*Section 1.2.1*) is a step in the right direction. However, DFC should also develop, through public consultation, a separate policy on remedy that:
 - a) Develops processes to facilitate and provide remedy in consultation with project-affected stakeholders.
 - b) Includes options for remedy from the earliest stages of project negotiation and design, creates provisions in case of harm in contractual agreements with borrowers and clients, and establishes a framework for DFC to contribute to remedy.
 - c) Accounts for how DFC and its clients will remediate harm when the client or DFC exits a project investment.

- 8) **Biological diversity:** If DFC is to “ensure the environmental and social sustainability of DFC-supported projects,” as stated in this policy’s Statement of Purpose, then the ESPP must explicitly aim to halt and reverse biodiversity loss. To achieve this, it is crucial that DFC:
 - a) Anchors its policy in a “no loss” approach and removes references to “no net loss.” This is because a “no net loss” approach does not take a proactive, preemptive approach in conserving biodiversity and thus accelerates biodiversity loss and environmental damages.
 - b) Excludes direct and indirect financing to harmful, unsustainable activities which may be located in or impact critical ecosystems. We urge DFC to adopt more exclusion areas as part of the ESPP’s Categorical Prohibitions because a project’s location itself can be a critical factor in causing or exacerbating negative environmental and social impacts. Currently, DFC’s Categorical Prohibitions List includes certain critical areas, such as World Heritage Sites and IUCN protected areas categories I-IV, and primary forests, and can be expanded to protect sensitive areas which are crucial for their biodiversity and climate regulatory value. DFC’s policy can and should go farther.
 - c) Adopts the Banks and Biodiversity No Go areas which capture eight sensitive areas and at risk ecosystems in need of urgent protection, including, among others, nationally and internationally recognized areas, habitats of threatened species, primary and vulnerable secondary forests, free flowing rivers, at risk coastal and marine areas, and areas where free prior and informed consent (FPIC) has not been obtained by local and Indigenous communities. These proposed areas have earned nearly 100 endorsements to date, including from civil society organizations and environmental scientists, and are consistent with international trends recognizing the importance of prohibiting harmful investments in sensitive areas, such as the World Heritage Committee and the UN Environment’s Principles for Sustainable Insurance Initiative (PSI).

We encourage DFC to consider the above recommendations and attached redline edits and hold an additional round of consultations after integrating public comments into the revised ESPP. A single-phase consultation process is inadequate for the scale of DFC's review on its ESPP and not aligned with what the U.S. pushes for on similar policy reviews at the MDBs, for instance, the Asian Development Bank's ongoing review of its Safeguards Policy Statement (SPS). Effective stakeholder engagement is critical when developing a strong policy to help support marginalized groups, including persons with disabilities, gender and sexual minorities, Indigenous Peoples, and other local communities, in accessing full project benefits.

While having a strong ESPP is important, it is of little use without proper implementation and accountability. DFC should allocate ample budget, resources, and training to build the institutional capacity needed to strengthen its due diligence and supervision processes as the new ESPP goes into effect. Additionally, DFC must finalize the procedures of its Office of Accountability so that project-affected communities can raise concerns about the implementation of the ESPP and the environmental and human rights impacts of DFC's projects.

We appreciate your consideration of our comments and look forward to further discussion on strengthening DFC's policies to better facilitate sustainable development and prevent harm to the environment and project-affected communities.

Endorsed by:

Accountability Counsel
Bank Information Center
Center for International Environmental Law
Friends of the Earth United States
Green Advocates International
Inclusive Development International
International Accountability Project
Jamaa Resource Initiatives
Just Ground
Observatoire d'Etudes et d'Appui à la Responsabilité Sociale et Environnementale (OEARSE)
Oxfam America
RECODH
Transparentem

Updated ESPP for Public Comment

DFC is currently reviewing and updating its Environmental and Social Policy and Procedures (ESPP) – the first major revision effort since 2016. The purpose of the review is to update DFC’s ESPP to more closely align with DFC’s specific mandate and products and to keep up with evolving best practices and the standards of its peer Development Financial Institutions. During the review process, DFC consulted a range of stakeholders, including clients and civil society organizations, to help inform the revisions. DFC now invites the public to provide comments on the draft of the updated policy.

Please complete the following steps to submit your feedback to DFC:

1. Review the draft ESPP below
2. Notate your feedback by adding comments directly into the draft and/or by completing the table at the bottom of the document
3. Once all feedback is incorporated, save this document
4. Attach the document to an email and send to ODP@DFC.gov
 - Please include your name and organization (if applicable) in the body of the email

**NOTE: All comments must be submitted using this template between February 27, 2023 and April 28, 2023 to be considered.*

1. INTRODUCTION

The U.S. International Development Finance Corporation (DFC) is the U.S. Government's development bank. DFC partners with the private sector to support solutions to the most critical challenges facing the developing world today. We invest across sectors including energy, healthcare, critical infrastructure, and technology projects. DFC also provides financing for small businesses and women entrepreneurs in order to create jobs in emerging markets. DFC believes that environmental and social sustainability is an essential component of the solutions it supports. Therefore, DFC investments adhere to high standards and respect the environment, local communities, human rights, women's, and worker rights.

The Better Utilization of Investments Leading to Development Act of 2018 (BUILD Act, Div. F of P.L. 115-254, 22 U.S.C. §9612 et seq.) is the governing legislation for DFC.

1.0. Statement of Purpose

The purpose of the Environmental and Social Policy and Procedures (ESPP) is to set out DFC commitments for environmental and social screening, review, risk mitigation and monitoring that will help ensure the environmental and social sustainability of DFC-supported projects. This ESPP also includes guidance for what DFC **Clients** and owners of subprojects need to prepare, submit, and implement.¹

1.1. Scope

The environmental and social requirements described in this document apply to all **Projects**, **Subprojects**, and **Clients** supported through DFC's products including insurance, reinsurance, direct loans, investment guaranties, equity, and support through **Financial Intermediaries**. This document also applies to DFC and describes its responsibilities. ~~This ESPP does not apply to DFC's technical assistance activities.~~

1.2. DFC Commitment to Environmental and Social Sustainability

1.2.1. DFC will ensure through its processes that **Projects** receiving support are environmentally and socially sustainable. To this end, DFC will partner with its **Clients** to assist them in identifying opportunities to add value, promote longer-term sustainability and strengthen their environmental and social management capacity. Specifically, DFC ~~requires expects and will support~~ **Clients** to:

- Identify, assess, and avoid adverse environmental and social impacts of the **Project** and, if such impacts are unavoidable, properly minimize, mitigate, compensate, and/or remedy impacts through application of the mitigation hierarchy, leaving open the possibility of a "no project" option
- Ensure the **Project** is compatible with low and preferably no-carbon and methane economic development
- Include measures in the **Project** to safeguard and, where feasible, enhance ecosystems and the biodiversity they support with the aim of achieving no net loss of biodiversity as well as to sustainably manage and use living natural resources
- Assess and mitigate the risks of deforestation and other land conversion for investments in infrastructure development, agriculture, land use planning or zoning, and energy siting and generation
- Promote inclusion and non-discrimination in the **Project**, particularly with respect to disadvantaged or **Vulnerable Groups**

¹ Bolded text in this document refers to defined terms which can be found in the Glossary – Appendix C.

- Respect **Human Rights, Labor Rights**, and the rights of **Project Affected People**, specifically including Indigenous peoples' right to free, prior, and informed consent (FPIC) as well as the individual and collective rights of customary land rights holders;
- Identify disproportionate and overlapping, gender-specific impacts of the **Project** and take steps to mitigate the risks of exclusion, discrimination, and harm, including the risk of **Gender-Based Violence and Harassment (GBVH)**
- Undertake **Meaningful Consultation** with **Project Affected People** regarding **Project** activities, including engagement with **Vulnerable Groups**
- Undertake **Projects** in a host country that is taking steps to adopt and implement laws that extend **Internationally Recognized Worker Rights**
- Ensure that **Project Affected People** are aware of, understand the role of, and have access to efficient mechanisms for voicing complaints and seeking remedy for harm
- Not tolerate any action that amounts to retaliation or reprisals – including threats, intimidation, harassment, or violence – against those who voice their opinion regarding the activities of DFC or its Clients. DFC will treat retaliation or reprisals as material non-compliance in accordance with section 7.1.
- Publicly disclose and share information for Category A and B projects on its website, including stakeholder engagement plans and co-financing data

1.2.2. DFC will implement best practices in environmental management and reporting in accordance with the provisions of Executive Order 14057 – Catalyzing Clean Energy and Jobs Through Federal Sustainability (December 8, 2021).

1.2.3. DFC makes information concerning its activities available on DFC's website to enable members of the interested public an opportunity to better understand DFC's business activities.

1.3. Revision and Update of ESPP

The ESPP will be reviewed and updated periodically as needed to reflect and align with institutional priorities, international best practice, and lessons learned from implementation.

1.4. DFC's Independent Accountability Mechanism

DFC has established an Office of Accountability (OOA) to assess and review complaints about DFC-supported **Projects and Sub-projects**. The OOA, which functions as DFC's independent accountability mechanism, gives local communities, which may be materially, directly and adversely affected by DFC-supported **Projects and Sub-projects**, a means through which complaints may be raised. OOA's mandate is to deliver problem-solving and compliance review services in a manner that is fair, objective and transparent, thereby enhancing DFC's mission effectiveness.

1.4.1. DFC and OOA requires all **Clients** and FI sub-projects to disclose DFC's potential participation in a proposed investment and the existence of DFC's OOA to **Project Affected People** in a culturally appropriate, gender sensitive, and accessible manner. DFC will confirm that this disclosure has taken place and will post this confirmation online.

1.4.2. Further information on the OOA and how to request its services can be found at DFC's website in an accessible way.² The existence of the OOA and how to contact it will also be included in appropriate project documents.

² <https://www.dfc.gov/who-we-are-office-accountability/guide-communities>

2. ENVIRONMENTAL AND SOCIAL STANDARDS

Objectives: (1) to specify DFC's required standards of performance necessary to achieve environmentally and socially sustainable outcomes; and (2) to specify additional sector-specific requirements.

2.0. Source of Requirements

2.0.1. This ESPP adopts, as a standard for the environmental and social review process, the **International Finance Corporation's (IFC) Performance Standards on Social and Environmental Sustainability (Performance Standards)**, and the **World Bank Group Environmental, Health and Safety (EHS) Guidelines**.³ DFC will align with the pro-homine principle of human rights and adopt the policy that is most protective of vulnerable groups, specific to each project and context. Any subsequent revisions to those standards (and any underlying standard or guideline) are incorporated into this ESPP by reference.⁴

2.0.2. When co-financing **Projects** with other development finance institutions, DFC may apply the standards, in whole or in part, (other than the **Performance Standards**), of the respective institution to facilitate DFC participation in the transaction. However, DFC will always adopt the highest standard, whether that is the standard of DFC or a co-financing development institution. In such circumstances, DFC may adopt a common approach with co-financiers for **Project** assessment, review, management of environmental and social risks and impacts, monitoring, and reporting only when that approach is considered materially consistent in content and outcomes with the ESPP and the **Applicable Standards**. In all circumstances, the DFC's OOA shall be able to receive and address complaints concerning co-financed projects.

2.1. Minimum Requirements

2.1.1. In addition to compliance with all applicable laws, at a minimum, DFC requires that all **Projects and Sub-projects** meet the **Performance Standards**, applicable **EHS Guidelines**, and **Labor Rights**. Additionally, clients must abide by the United Nations Guiding Principles on Business and Human Rights and the OECD Guidelines for Multinational Enterprises, and international human rights treaties ratified by the country where the client will operate.⁵ These are collectively referred to as DFC's **Applicable Standards**. The relevant provisions of this ESPP together with the **Applicable Standards** are referred to as DFC's **Environmental and Social Requirements**.

2.1.2. **Performance Standard 1** (Assessment and Management of Environmental and Social Risks and Impacts) and **Performance Standard 2** (Labor and Working Conditions) are applicable to all **Projects, Sub-projects, and Clients** regardless of their environmental and social risks and impacts. Applicability of the other **Performance Standards** and any other sector-specific requirements is dependent on the nature of the **Project or Sub-project** and its environmental and social risks and impacts.

2.1.3. In accordance with the provisions of **Performance Standard 3** (Resource Efficiency and

³ The World Bank EHS Guidelines can be found here https://www.ifc.org/wps/wcm/connect/topics_ext_content/ifc_external_corporate_site/sustainability-at-ifc/policies-standards/ehs-guidelines.

⁴ The EHS Guidelines incorporate by reference standards issued by other international organizations, such as the World Health Organization (WHO). If an international organization updates such standards, then DFC will apply the updated standards.

⁵ DFC will apply updated versions of these standards as they are issued.

Pollution Prevention), alternative pollution prevention and control technologies may be approved, provided that (1) the alternative performance levels are consistent with the overall requirements of **Performance Standard 3**; and (2) the alternative performance levels are protective of the environment and **Project Affected People** within the **Area of Influence**.

- 2.1.4. Where host country requirements differ from the **Applicable Standards**, the **Project** or **Sub-Project** is expected to meet whichever are more stringent.

2.2. Revision of Standards

2.2.1. The U.S. Government, international organizations and industry groups periodically revise guidelines and standards embedded in DFC's **Environmental and Social Requirements** to reflect technological advances and improved understanding of environmental, health, safety and social risks. Complete **Client** applications to DFC that are received after the effective date of a new guideline or standard will be assessed against that new guideline or standard.

2.2.2. Complete **Client** applications to DFC that are received before the effective date of a new guideline or standard will be assessed against the guideline or standard in effect on the date of application provided that DFC commitment to provide support is achieved within one year of the effective date of the new guideline or standard. If commitment is not achieved within one year after the effective date, the **Project** will be subject to the new guideline or standard.

2.3. Scope of Application of Requirements

2.3.1. The **Environmental and Social Requirements** apply to all **Project**-related activities including those carried out by on-site contractors and sub-contractors of the **Project** that work for more than a 90 days substantial duration of time on the **Project** or are material to the core business processes of the **Project**. **Clients** are responsible for ensuring that on-site contractors and sub-contractors meet the requirements.

2.3.2. **Projects** that involve new facilities or business activities must be designed to meet the **Applicable Standards**.

2.3.3. For existing projects, including privatizations, compliance with the **Applicable Standards** must be attained within a designated period of time following the receipt of DFC support that is considered acceptable to DFC and captured in **DFC Agreements**. If material compliance has not been demonstrated at the time of DFC approval, **Clients** will be required to implement additional measures within a specified time period (See Paragraph 7.0.3).

2.4. Supplemental Sector-Specific Requirements

DFC is responsible for identification of supplemental standards when additional preventative or protective measures are necessary to adequately mitigate specific project-related environmental and social risks and impacts.

Supplemental standards may include (1) relevant and applicable U.S. federal standards; (2) standards issued by other international organizations relating to public health, safety, and the environment such as those from the World Health Organization, the International Maritime Organization, the Food and Agriculture Organization, or the International Civil Aviation

Organization; and (3) standards of best practice developed by governments, other development finance institutions, industry associations, or non-governmental organizations.

2.4.1. Construction and Operations of Dams

For projects involving the construction and operation of dams that are not otherwise categorically prohibited (See Appendix A), DFC applies screening and environmental and social assessment criteria consistent with international best practice, including the core values and strategic priorities as identified in the 16 November 2000 Report from the World Commission on Dams.⁶ The emphasis should be on preserving free flowing rivers as they are critical, at risk freshwater ecosystems. Specific factors that are considered in DFC's screening and review of projects involving dams may be found at:

- IFC Good Practice Handbook on Environmental Flows for Hydropower Projects (March 2018)⁷
- World Bank Good Practice Note on Dam Safety: New Guidance on Managing Risks Associated with Dams (April 2021)⁸
- IFC Good Practice Note: Environmental, Health and Safety Approaches for Hydropower Projects (March 2018)⁹
- ICMG Global Industry Standard on Tailings Management¹⁰

2.4.2. Forestry Projects

2.4.2.1. DFC will not support **Projects** that directly or indirectly involve the extraction of timber from or the conversion or degradation of **Critical Forest Areas** or **Critical Natural Habitats** (See Appendix A).

2.4.2.2. All other **Projects** involving timber extraction from **Natural Forests**, including all boreal, temperate, and plantation **Forests** must be certified by an independent non-governmental organization. The purpose of certification is to demonstrate that timber extraction activities are managed sustainably and should include traceability of wood to the point of harvest. Certification must be maintained throughout the term of DFC support. The cost of this certification is the responsibility of the **Client**. Certifiers must be accredited by an international accreditation body that can hold the certifier accountable to a common set of environmental and social principles and procedural protocols, including periodic review and re-accreditation.¹¹

2.4.2.3. Any forest product labeling associated with a certified **Forest** must be guaranteed by a credible independent certification body that connects the labeled product to its certified forest-of-origin.

2.4.2.4. **Projects** involving forest products that source raw materials from third parties must demonstrate that the raw materials are not being sourced from a **Critical Forest Area**

⁶ https://archive.internationalrivers.org/sites/default/files/attached-files/world_commission_on_dams_final_report.pdf

⁷ https://www.ifc.org/wps/wcm/connect/topics_ext_content/ifc_external_corporate_site/sustainability-at-ifc/publications/publications_handbook_eflows

⁸ <https://www.worldbank.org/en/topic/watersupply/publication/good-practice-note-on-dam-safety-new-guidance-on-managing-risks-associated-with-dams>

⁹ https://www.ifc.org/wps/wcm/connect/79ad4356-6f18-4955-bf35-adcd6d072897/GPN_EHSHydropower.pdf?MOD=AJPERES&CVID=mR5BwAV

¹⁰ https://globaltailingsreview.org/wp-content/uploads/2020/08/global-industry-standard_EN.pdf

¹¹ Such as the Forest Stewardship Council - <https://us.fsc.org/en-us>

or **Critical Natural Habitat** and that the raw material extraction is conducted in compliance with the Applicable Standards.

2.4.3. Health Care

- 2.4.3.1. All **Projects** providing patient care must obtain satisfactory accreditation based on a quality evaluation of the technical competence of the institution's resources and organization by an internationally recognized accreditation organization.¹² In the case of a health care service provider for which accreditation standards are not available, a certification or similar high-quality rating by a third-party expert in the health care field must be obtained satisfactory to DFC. All projects must maintain this accreditation, certification or high-quality rating throughout the term of DFC support. The cost of this accreditation or certification is the responsibility of the **Client**.¹³
- 2.4.3.2. DFC may consider support for health care **Projects** that include elements of traditional medicine where there is an established national policy that regulates traditional treatments; establishes the role of traditional medicine within the national health care system; and clarifies the relationship between traditional medicine and the official health service system.¹⁴
- 2.4.3.3. All hospitals, medical centers, and other projects that purchase pharmaceuticals for the purpose of providing them, directly or indirectly, to patients shall restrict drug purchasing to pharmaceuticals registered for use in the host country and to drug suppliers that comply with the World Health Organization's Good Manufacturing Practices for both imported and locally produced goods.¹⁵
- 2.4.3.4. **Projects** involving the manufacturing of pharmaceuticals or medical equipment are reviewed closely. Prior to supporting such **Projects**, evidence that the safety and effectiveness of such products are certified by the U.S. Food and Drug Administration, or an equivalent foreign public health authority must be provided to DFC. DFC also requires evidence that the products have not been withdrawn from the U.S. market for reasons of safety or lack of effectiveness.

2.4.4. Biomass as Fuel Projects

Projects involving the use of **Renewable Biomass** as fuel that are not otherwise categorically prohibited (see Appendix A) must demonstrate (1) that the fuel was sourced in a sustainable manner, i.e. that avoids pollution or degradation of the source ecosystem and retains its primary productivity; (2) the fuel supply did not result in the conversion of **Natural Habitat, Critical Forest Areas** or **Critical Natural Habitats**; and (3) combustion of the **Renewable Biomass** results in fewer **Greenhouse Gas (GHG)** emissions than the least GHG-intensive fossil fuel alternative.

¹² Such as those accredited by ISQua <https://www.isqua.org/>

¹³ In the case of MSMEs providing needed healthcare goods and services to the most economically disadvantaged segments of a country's population and third-party accreditation is prohibitively expensive, but where there is a well-established consultation process in place to identify the most appropriate standards to apply given the country context, minimum requirements for accreditation or certification may be determined in conjunction with USAID's mission health officer and documented accordingly.

¹⁴ Additional guidance on this issue may be found at <https://www.who.int/teams/integrated-health-services/traditional-complementary-and-integrative-medicine>

¹⁵ <https://www.who.int/teams/health-product-policy-and-standards/standards-and-specifications/gmp>

2.4.5. High Risk Supply Chain

DFC applies screening and environmental and social assessment criteria consistent with international best practice for **Projects** utilizing a **Supply Chain** at risk for the use of forced or child labor, significant health and safety issues or significant conversion of **Critical Forest Areas** or **Critical Natural Habitat**. **Clients** must provide relevant information on suppliers throughout the tiers of the **Project's Supply Chain** in sectors considered to be at high risk for these issues.

3. SCREENING AND CATEGORIZATION

Objectives: (1) to determine eligibility of the **Project** and **Client** for DFC support on environmental and social grounds; (2) to determine a risk categorization for the **Project** based on the nature and magnitude of environmental and social risks and impacts, including those project impacts that could preclude support; (3) to identify issues to be investigated in detail in the environmental and social review process; and (4) to determine requirements for documentation, consultation, disclosure, monitoring and reporting.

3.0. DFC Responsibilities

- 3.0.1. DFC screens applications as early as possible to identify the risk of adverse environmental and social impacts of proposed projects, develop robust alternatives analysis, and determine if a **Project** is eligible for DFC support. DFC will make such screens public.
- 3.0.2. Support for a **Project** will be declined when (1) a **Project** is a **Categorically Prohibited Project (Appendix A)**; (2) a **Project** fails to address environmental and social issues, providing evidence that the project will not lead or exacerbate negative environmental and/or social issues, in a satisfactory manner and cannot be expected to meet the requirements of the **Applicable Standards** over a time frame considered reasonable and feasible; (3) residual impacts exist after mitigation ~~are unacceptable~~; (4) a **Project** does not comply with the host country's environmental and social laws or regulations and cannot be expected to comply over a time frame considered reasonable and feasible; or (5) a **Project** does not respect **Human Rights** including **Labor Rights and rights of Project Affected Peoples, including when Indigenous Peoples and customary land rights holders have withheld consent. Also, in case the affected communities say "no" to the project in line with ILO 169 Convention.**
- 3.0.3. During the screening process, DFC reviews the **Project's** anticipated risks and impacts, its defined **Area of Influence**, and information on **Project Affected People** to determine whether the information is adequate, accurate, objective, and appropriate to the significance or severity of potential impacts size and nature of **Project** activities. Additional information may be required from the **Client** and from independent experts.
- 3.0.4. In screening **Projects**, environmental, ~~and~~ social, and human rights impacts that are direct, indirect, induced, supply-chain related, regional, trans-boundary, associated facilities related, contextual and cumulative are considered. DFC assesses risk at key stages in the **Project** life cycle including pre-construction, construction, operations, decommissioning, closure, and where applicable, post-closure and will make such assessments public. DFC will additionally reassess risk upon changes in the project or local context.
- 3.0.5. In screening investments in existing **Projects**, DFC assesses environmental and social

impacts and risks associated with (1) current operations; and (2) planned expansions or modifications.

3.1. E&S Risk Categorization

3.1.1. DFC categorizes **Projects** based on a preliminary assessment of (1) the potential environmental and social risks and human rights impacts within a **Project's Area of Influence** in the absence of any required mitigation; (2) the **Client's** commitment and capacity to effectively manage the environmental and social risks and impacts, including the ability to implement any required mitigation and comply with DFC Commitment to Environmental and Social Sustainability (section 1.2.); (3) the potential role of third parties in achievement of successful outcomes; and (4) the scope and profile of **Project Affected People**, including **Workers**.

3.1.2. **Projects** under consideration for direct DFC support are categorized as Category A, B, or C based on environmental and social risk factors. See Chapter 8 on **Financial Intermediaries (FIs)** for risk categorization and additional requirements specific to FIs. In order to avert abuse in risk categorization, DFC should err on the side of categorizing a project as the higher level.

Environmental and Social Risk Categories for Direct Support		
Category	Description	Examples
Category A	Projects that may have significant adverse environmental and/or social impacts that are <u>difficult to reverse</u> irreversible , sensitive, diverse, or <u>rare</u> unprecedented in the absence of adequate mitigation measures. Category A projects are considered high risk.	Appendix B provides an illustrative list of sensitive sectors and project siting factors that may lead to a Category A categorization.
Category B	Projects that are likely to have limited adverse environmental and/or social impacts that are fewer in number, generally site-specific, largely reversible and readily addressed through mitigation measures. Category B projects are considered medium risk. The scope of environmental and social assessment for Category B projects may be narrower than that required for Category A projects.	Examples of Category B projects may include small-to-medium scale small-to-medium scale construction, manufacturing, and processing; commercial/retail businesses; rooftop solar, and facility expansions within an existing footprint.
Category C	Projects that are likely to have minimal adverse environmental or social impacts. Category C Projects are considered low risk.	Examples of Category C projects may include financial services, web-based platforms, software development, and project development activities that do not involve physical impacts.

3.1.3. Categorization should be kept under review throughout the implementation of a project and change when new impacts and/or contextual risks come to light. Below are aspects of **Projects** that merit~~may lead to~~ a higher categorization of environmental or social risk:

- **Projects** that discharge high levels of contaminants (including **Greenhouse Gases**) into the environment in the absence of 1)of adequate pollution controls sufficient to eliminate measurable risk to human or ecosystem health or 2) sound environmental

and social management, consistent with international goals (Sustainable Development Goals, Paris Agreement.) and standards.

- Large-scale **Projects** are generally considered to represent a higher risk because of the greater potential to impact the environment and/or people in nearby communities over large geographic areas outside of a **Project's** immediate boundary. Although quantitative screening thresholds that define what is meant by "large-scale" are not available for all **Projects**, several examples are provided in Appendix B.
- **Projects** that could result in the significant diminishment of priority ecosystem services or social values at a particular site. Ecosystem services are benefits that people obtain from ecosystems including food, freshwater, shelter, timber, surface water purification, carbon storage and sequestration, climate regulation, and protection from natural hazards. Examples of social values include site attributes important for ethnic or religious reasons or attributes of cultural or historic significance, including those considered important to indigenous peoples.
- **Projects** in locations, industries, or sectors with greater potential for exclusion or adverse impacts on **Project Affected People** and **Human Rights**, including impacts to land and resources; health and safety; physical and/or economic displacement; demonstrated local opposition; significant in-migration; impacts to cultural heritage; gender-related impacts; or impacts to Indigenous peoples or **Vulnerable Groups**.
- **Projects** in locations, industries, or sectors that are labor-intensive; involve hazardous work with a documented history of **Labor Rights** issues; or rely on large pools of contracted, migrant, casual or unskilled **Workers**, including within the Supply Chain. **Projects** in locations, industries or sectors with elevated risks of gender discrimination, violence against women (VAW), GBV, and SEA/Hexclusion or GBVH may also be higher risk. Examples of such **Projects** are those that involve significant construction activities, manual harvesting of agricultural commodities, **Extractive Industries**, and are in industries in which **Workers** face difficulty in exercising trade union rights, or have a higher likelihood of using forced (including trafficked) or child labor, including in their supply chains.
- **Contextual Risk** factors in the external environment that the **Client** does not control may further exacerbate the **Project's** environmental and social risks and lead to a higher risk categorization.

3.2. Corporate Investments

- 3.2.1. Where the use of proceeds of a **Corporate Investment** and the environmental and social footprint of the business activities are known at the time of DFC's environmental and social review, the risk categorization of a **Corporate Investment** will be based on the potential environmental and social risks of the known use of proceeds. Where the use of proceeds are unknown or not well defined, the risk category will be based on the inherent risks associated with the particular sector, the environmental and social characteristics of the business activity and the country context.
- 3.2.2. Where the use of proceeds of a **Corporate Investment** is known and understood the environmental and social review should proceed as it is done for traditional project finance and the **Applicable Standards** will apply only to the business activities financed using the DFC funds. Where the use of proceeds involves working capital, equity or an

investment in holding companies, the DFC review will consider the full range of operations undertaken by the entity in which DFC is investing, and the **Applicable Standards** will apply to the entire company, including its subsidiaries and companies in which it has management control. In all cases, the DFC review involves investigation of the capacity, maturity, and reliability of the company's corporate environmental and social management. **Corporate Investment Projects** deemed to be Category A will have the same requirements as for traditional project finance Category A projects including **Environmental and Social Impact Assessment (ESIA) /Baseline Audit** and disclosure requirements as described in Sections 4.2. and 5.1.

4. ENVIRONMENTAL AND SOCIAL REVIEW

Objectives: (1) to determine whether the **Project** seeking DFC support can be implemented in accordance with this ESPP and the **Applicable Standards**; (2) to identify opportunities to avoid adverse impacts and, if impacts are unavoidable, to identify required mitigation measures; and (3) to identify opportunities to improve the environmental and social performance of the **Project** seeking DFC support.

4.0. DFC Responsibilities

- 4.0.1. After screening and categorization, and prior to DFC approval, DFC undertakes a review of the **Project** and the **Client's** organizational capacity to determine whether the **Client** meets or can meet the requirements of the **Applicable Standards**. This may involve reviewing a **Project's** ESIA (See Section 4.2.), its **Environmental and Social Management System (ESMS)**, and/or the **Client's** relevant policies, plans and procedures.¹⁶
- 4.0.2. DFC's review will consider direct, indirect, induced, **Supply Chain**-related, associated facilities, regional, trans-boundary, and cumulative environmental and social risks and impacts. DFC will also consider **Contextual Risks** and their potential to affect the environmental and social risk profile of the **Project**.
- 4.0.3. DFC reviews the available documents related to environmental and social performance of the **Project** as well as the Client's organizational capacity to assess whether they are adequate to address identified environmental and social risks and impacts and are appropriate to the significance or severity of potential impacts ~~ze~~ and nature of the **Project** activity. During the review process, DFC will identify the relevant **Performance Standards** that the **Project** is required to meet in addition to project-specific conditions and actions required to reach or maintain compliance with the **Applicable Standards**.
- 4.0.4. DFC's review will consider direct, indirect, induced, **Supply Chain**-related, associated facilities, regional, trans-boundary, and cumulative environmental, ~~and~~ social, and human rights risks and impacts. DFC will also consider **Contextual Risks** and their potential to affect the environmental and social risk profile of the **Project**. These risks will be addressed by following the mitigation hierarchy which requires that such risks first be avoided; residual risks will be minimized and mitigated and impacts compensated for, remedied, or as a last resort where compensation and remedy fail to fully address residual risks and impacts, offset.
- 4.0.5.
- 4.0.6. For those projects with the potential for significant adverse impacts on **Project Affected People**, DFC will confirm prior to project approval through Meaningful Consultation that there is **Broad Community Support** for the **Project** by carrying out a meaningful consultation process and/or the process to obtain the Free, Prior and Informed Consent (FPIC) of Indigenous Communities: taking into account ILO Convention No. 169. DFC may rely on support from independent experts to assess

¹⁶ Additional guidance on the format and content requirements for **ESMS**, **ESIAs** and **Baseline Audits** may be found in Guidance Note 1 – Social and Environmental Assessment and Management Systems at: https://www.ifc.org/wps/wcm/connect/ab6cfa1-e357-42e3-a27b-c759ffa561a1/2007%2BUpdated%2BGuidance%2BNote_1.pdf?MOD=AJPERES&CVID=iqeuOU7

Meaningful Consultation and Broad Community Support. DFC will publish evidence of how they have determined there is Broad Community Support or FPIC, including evidence of any agreements reached with Project Affected People.

- 4.0.7. During due diligence, DFC consults with the **U.S. Department of State** on how project-specific activities interact with country-level human rights concerns. For consistency across U.S. Government agencies, DFC relies on guidance provided by the **U.S. Department of State**, the lead U.S. agency on **Human Rights** matters and determinations.
- 4.0.8. ~~As-needed,~~ DFC will may undertake on-site due diligence visits for Category A and other higher risk projects and/or engage independent experts for additional support in its review.

4.1. Client Responsibilities

- 4.1.1. The Client must demonstrate a sound understanding of the **Project** and have undergone a process to (1) identify all factors that define the **Project's Area of Influence**, including indirect or secondary impacts; (2) identify potential project-related environmental and social risks and impacts, including any disproportionate, gender-specific risks and impacts such as the risks of exclusion, gender discrimination, and risks of harm; (3) identify and commit to appropriate mitigation measures including adequate resources for implementation; and (4) identify relevant **Project Affected People** and other interested **Stakeholders** that may be directly or indirectly affected by the **Project**, including groups that may be differentially or disproportionately affected by the **Project** because of their disadvantaged or vulnerable status. The process of identifying risks, impacts, **Area of Influence** and **Project Affected People** shall be adequate, accurate, objective, and appropriate to the severity of **Project** risks and significance of **Project** impacts.
- 4.1.2. For Category A and B **Projects**, the **Client** should submit and disclose one or more documents that describe the following aspects. The level of detail required will vary depending on the nature, size, and level of risk of the **Project**. Key aspects include:
- The **Project** activities and/or key components, its **Area of Influence**, and its environmental and social aspects
 - Maps, drawings or schematics of the **Project** and its **Area of Influence**
 - Key potential environmental impacts and risks, including estimated **Direct and Indirect Emissions of Greenhouse Gases**
 - Key potential social impacts and risks, including identification and a description of impacts on any Project Affected People and each disadvantaged or **Vulnerable Groups**, as well as gender-related risks and impacts
 - An **Environmental and Social Management System (ESMS)** and/or related policies and management plans that describe proposed mitigation measures
 - A description of the process of stakeholder identification and Meaningful, accessible, inclusive Consultation and/or FPIC process, including a Stakeholder engagement plan (if available), and a description of the outcomes/results of the process of Meaningful Consultation.
 - A description of project GRM in accordance with 7.0.2
 - Organizational capacity and resources for environmental and social management

4.1.3. For high-risk projects and any projects involving the extraction of minerals including

those used in renewable energy infrastructures, to conduct human rights impact assessments as part of their ESIA, integrate these findings into their Environmental and Social Management system (ESMSs), and to disclose these systems and assessments publicly.

- conduct human rights impact assessments as part of their ESIA, integrate these findings into their Environmental and Social Management system (ESMSs), and to disclose these systems and assessments publicly
- Refuse to conduct business with any entity whose key personnel or beneficial owners have conflicts of interest that cannot be adequately managed or with those that have a record of corruption where there is no evidence of mitigation of corruption risks. Companies should document this commitment in a publicly available policy and report on their implementation of this policy
- Adopt, disclose and enforce strong “revolving door,” lobbying and political donation rules
- Adopt responsible tax principles and implement responsible tax practices, including minimizing use of subsidiaries in tax havens, avoiding project-specific tax incentives, committing to cooperative engagement with tax authorities, and publishing tax transparency reports

4.1.3.4.1.4. Category C **Projects** are not required to establish a formal **ESMS** but are required to have in place appropriate environmental and social policies and procedures that will guide the **Project** (as described in **Performance Standard 1**), human resource management systems, and internal and external facing grievance mechanisms.

4.1.4.4.1.5. Clients are required to undertake, and provide demonstration of, **Meaningful Consultation with Project Affected People** and meet the requirements related to **Stakeholder** engagement of Performance Standard 1. The form and scope of the consultation should be commensurate with the project risks and the nature and scope of the project. **Meaningful Consultation** must be safe, inclusive, including through consultations and materials offered in languages of all groups within the project's area of influence including in accessible formats and **Stakeholder** analysis and engagement should capture the views of diverse groups including women, men, youth, the elderly, displaced, disabled persons, indigenous populations, and any other disadvantaged or vulnerable groups. In some contexts, separate engagements with certain groups may be required to obtain different perspectives, priorities and concerns about impacts, prioritize safety and transparency for marginalized groups, mitigation mechanisms and project benefits. For those **Projects** with the potential for significant adverse impacts on **Project Affected People**, the **Client** is also required to demonstrate there is **Broad Community Support** for the **Project** through Meaningful, accessible, inclusive Consultation and a FPIC process. Consultation sessions with the community will be conducted more than once throughout the life of the project. At milestone moments, DFC and clients will conduct follow-up and validation to ensure that the project continues to mitigate harm and has broad community support.

4.1.5.4.1.6. Clients are required to have in place and maintain over the life of DFC support adequate organizational capacity and resources to manage the environmental and social risks associated with the Project and implement the Project in accordance with the terms of the DFC Agreement.

4.2. Environmental and Social Impact Assessments and Audits

4.2.1. For all Category A and Category B Projects that involve significant greenfield development or expansions or modifications of existing projects, the Client is required to

prepare an **ESIA** aligned with DFC's **Applicable Standards** (or other standards deemed equivalent by DFC). **ESIAs** are required to include a **Climate-related Vulnerability and double materiality**¹⁷ assessment (See Chapter 9). ~~This is applicable to all greenfield Category A Projects, and some greenfield Category B Projects.~~

- 4.2.2. ~~In addition to an ESIA, f~~For any Category A and for some Category B Projects that include existing or operating facilities, DFC requires the submission of a **Baseline Audit** or targeted study depending on potential environmental and social risks. The purpose of a **Baseline Audit** or targeted study is to identify past and present concerns, current status of regulatory and Applicable Standards compliance, management systems and performance, as well as potential risks and liabilities of the **Project**.
- 4.2.3. ~~For lower risk, category B projects that don't fall under Paragraph 4.2.1. and 4.2.2. above, such as those that include modernization and upgrade of existing production facilities or no major expansion or transformations, a limited or focused environmental and social analysis or study may be sufficient.~~
- 4.2.4. **Projects** that have been screened as Category C (i.e., **Projects** with minimal environmental or social impacts) are not required to prepare an **ESIA** or **Baseline Audit**.

¹⁷ This means that clients have to assess and report not only on how climate might create risks for the project (climate vulnerability), but also on the project's own impacts on climate and the environment (climate/environmental impact).

5. TRANSPARENCY AND DISCLOSURE

Objectives: (1) to enhance transparency and accountability related to DFC's environmental and social management; and (2) to enhance transparency and the provision of information to **Stakeholders** of DFC-supported **Projects**.

5.0. DFC's Institutional Disclosure

- 5.0.1. Institutional information that is made available on DFC's website includes this ESPP, annual reports, audited financial statements, program handbooks, Board resolutions, claims determinations, arbitral awards, bilateral agreements, ESIAs, risk assessments, and annual **Greenhouse Gas** accounting for DFC's portfolio. In cases where DFC exits an investment as a result of client non-adherence to the ESPP, documentation of a 'responsible exit' approach is also made available.
- 5.0.2. DFC may withhold records or portions of records that are exempted from public disclosure under the Freedom of Information Act (FOIA) or as required under other laws or regulations.¹⁸
- 5.0.3. DFC provides at least 120 days advance notice and information about potential Projects to be voted on by DFC's Board of Directors to ensure that interested parties are aware in advance of public hearing dates and have sufficient information to prepare for the public hearing.¹⁹
- 5.0.4. DFC is committed to disseminating information that meets its standards for objectivity, integrity, and utility in accordance with its Information Quality Guidelines.²⁰
- 5.0.5. DFC reports annually to Congress and the public regarding its implementation of this ESPP. That report, which is contained within DFC's Annual Report, is published on the DFC website.

5.1. DFC's Project-related Disclosure Requirements

- 5.1.1. DFC prepares and discloses project information summaries which contain environmental and social information for each **Project**. The summaries include the following environmental and social information as appropriate to the nature and scale of the **Project** and commensurate with the potential environmental and social risks and impacts:
 - Rationale for environmental and social risk categorization
 - Environmental and social standards applicable to the **Project**
 - Description of the major environmental and social risks and impacts of the **Project**
 - Approved alternative pollution prevention and control technologies that meet Performance Standard 3 (if applicable)
 - Description of action(s) required to achieve compliance with **Applicable Standards**
 - Information related to DFC environmental and social due diligence visits (if applicable)

¹⁸ Additional information on DFC's FOIA implementing regulation is available at: <https://www.dfc.gov/who-we-are/transparency-and-accountability>

¹⁹ DFC Board disclosure requirements are contained in the DFC Board of Directors Public Engagement Policy: https://www.dfc.gov/sites/default/files/media/documents/BDR21%2805%29BoardPublicEngagementPolicy_0.pdf

²⁰ DFC's Information Quality Guidelines are available at: <https://www.dfc.gov/who-we-are-transparency/information-quality-guidelines>

- Monitoring data, including summaries of third-party audits (conducted in accordance with 6.0.4) and annual environmental and social reports (conducted in accordance with 6.1.3)
 - Description of the Client's consultation with Project Affected People and/or FPIC processes and the outcomes of these ~~that~~ consultations (if applicable), including demographic information to show which groups and at what level groups have been consulted.
 - For Extractive Industry projects, in addition to the standard disclosures, Clients are required to disclose material project-level payments to host governments (e.g. royalties, taxes, profit sharing), the principal contracts with host governments, as well as beneficial ownership information, in line with the Extractive Industries Transparency Initiative (EITI).
- 5.1.2. For **Projects** that require Board approval, DFC provides advance notice by disclosing the project information summaries at least 90~~7~~ days in advance of the Board meeting or action, and 120 days for Category A projects.
- 5.1.3. For all Category A **Projects** (including Category A **Subprojects**), **Clients** are required to submit to DFC an **ESIA and/or Baseline Audit** (see Section 4.2.), a local language translation of the executive summary of the **ESIA/Baseline Audit** (See Paragraph 5.2.4.), and a **Stakeholder** engagement plan. DFC will post these documents for disclosure on DFC's website for a public comment period of at least 120~~60~~ days. DFC may require additional, topic-specific environmental and social documents to be disclosed alongside the **ESIA/Baseline Audit** on DFC's website depending on the nature and type of the **Project** and the materiality of the specific plan or report. All **Project** documents posted for public disclosure must be deemed adequate by DFC. DFC may require revision to the documents to achieve adequacy.
- 5.1.4. After the 6~~120~~-day public comment period ends, DFC will post on its website any comments received, as well as DFC management's response, at least 30~~7~~ days prior to DFC's final decision on whether to support a **Project**. If no comments are received, DFC may proceed directly to final project approval.
- 5.1.5. No Category A or Category B **Project** may be approved without this public disclosure, opportunity for public comment, and management response (if needed). Disclosure of documents for public comment does not imply project approval.
- 5.1.6. At the same time the **ESIA** and/or **Baseline Audit** is released for public comment, DFC drafts and posts on its website an initial project summary. The initial project summary outlines:
- **Project** name, location, and description
 - DFC's initial environmental and social screening and categorization
 - Description of the anticipated major environmental and social risks and impacts of the **Project**, including anticipated impacts on Project Affected People
 - Anticipated **Applicable Standards**
 - Location of local disclosure of **ESIA** and/or **Baseline Audit**
- 5.1.7. DFC notifies host country governments of any Category A **Project** considered for support. This notification is required to identify guidelines and other standards of international organizations relating to public health, safety or the environment that are

applicable to the **Project** and, to the maximum extent practicable, any restriction related to public health or safety that would apply to the **Project** if it were undertaken in the U.S. All **Host Country Notifications** are disclosed on DFC's website.

- 5.1.8. A **Project's ESIA** and/or **Baseline Audit** submitted for disclosure may not contain all of the final negotiated measures to mitigate or remediate environmental and social risks and impacts. However, DFC will develop official protocol to confirm ESIA's are valid documents that are robust and credible, particularly in cases where external consultants, project developers, and/or local governments create the ESIA. DFC's project information summary (see Paragraph 5.1.1.) describes any additional measures required to achieve compliance with the **Applicable Standards**.

5.2. Client Disclosure Responsibilities

- 5.2.1. As per the **Performance Standards**, **Clients** are expected to maintain appropriate, regular, and timely communication channels with **Stakeholders**. This communication must be in appropriate languages and formats that are accessible to **Stakeholders**, particularly **Project Affected People**.
- 5.2.2. For Category A and Category B **Projects**, **Clients** are required to submit to DFC an **ESIA** and/or **Baseline Audit** and **Stakeholder** engagement plan for public disclosure on the DFC website (See Paragraph 5.1.3.).
- 5.2.3. **ESIAs**, **Baseline Audits** (including labor and social audits) and any other environmental and social documents requested by DFC that are submitted for public disclosure must be in English or accompanied by an English language translation.
- 5.2.4. The **Client** is required to provide to DFC a local language translation of the executive summary of the ESIA and/or **Baseline Audit** and make the summary available to **Project Affected People** in a format that is readily understandable, at a location that is accessible locally to the **Project**, and tailored to meet the information needs of **Project Affected People**. The translated summary should be distributed by means that account for the ability of **Project Affected People** to receive, address and effectively comment on the content. The location of local disclosure by the **Client** will be disclosed in DFC's initial project summary (see Paragraph 5.1.6.).

6. MONITORING AND REPORTING

Objectives: (1) to review and evaluate DFC-supported **Projects'** compliance with the **Applicable Standards**; and (2) to evaluate the effectiveness of mitigation measures, action plans, and corrective actions.

6.0. DFC Responsibilities

6.0.1. DFC monitors **Projects'** compliance with all **Environmental and Social Requirements** (and underlying representations) that are reflected in conditions and covenants in **DFC Agreements** throughout the term of the contract. DFC also monitors changes in the **Project** and its local context that may affect its environmental and social risk profile and the **Project's** ability to achieve ongoing compliance.

6.0.2. The extent and frequency of monitoring will be commensurate with the environmental and social risks associated with the **Project**. DFC undertakes monitoring through review of environmental and social reports (client self-reporting and ~~for~~ third-party reports), communication with **Clients** regarding the **Project's** environmental and social performance and site visits to **Projects** by DFC's environmental and social specialists and/or independent experts.

6.0.3. Selection for monitoring site visits is determined through a risk-based prioritization process. The scope, timing, and periodicity of the visits are commensurate with the significance and severity of environmental and social risks and impacts of a **Project, Client, or Financial Intermediary**. However, for all Category A and B projects site visits will be conducted by DFC staff or independent consultants every 6 months during construction, every 12 months during implementation, and at any time that project risk is reassessed and found to have increased. DFC will additionally facilitate participatory monitoring by project-affected communities.

~~6.0.3.~~6.0.4. These visits are intended to check for on-the-ground compliance, identify areas where the **Project** is implementing good practices and/or potential areas for improvement, and enable an opportunity for **Workers, Project Affected People**, and other **Stakeholders** to interact and provide feedback on the **Project** to DFC.

~~6.0.4.~~6.0.5. For Category A and some Category B **Projects**, DFC requires a third-party audit to monitor the environmental and social performance of the **Project** against the **Applicable Standards**. At least one third-party audit is required for all Category A **Projects**. The audit should be performed at a time specified in the **DFC Agreement**, and at most within the first three years of receiving DFC support. For certain **Projects**, additional third-party audits may be required during the construction phase. DFC must approve the scope of work of the monitoring activities and selection of the independent experts.

~~6.0.5.~~6.0.6. If DFC identifies deficiencies in performance and/or non-compliance with the **Applicable Standards**, DFC will work with clients to identify recommendations for improvements and appropriate corrective measures, in the case of non-compliances. If the **Client** fails to comply with the agreed corrective measures, DFC may take such action and/or exercise such rights and/or remedies contained in the **DFC Agreement** that it deems appropriate (See Para 7.0.3.).

6.0.7. DFC will publicly disclose all project monitoring, midterm, and completion reports.

including reports provided to DFC by its applicants.
~~6.0.6.~~

6.1. Client Responsibilities

- 6.1.1. **Clients** are required to submit and publicly disclose a Development Outcomes Survey (DOS) starting 12 months after receiving DFC support and on an annual basis thereafter. The DOS reporting requirement provides an avenue for DFC to evaluate project data regarding development impact outcomes as well as compliance with DFC's **Environmental and Social Requirements**.
- 6.1.2. All **DFC Agreements** require timely notification within three working days to DFC of any incident occurring at the **Project** site that results in the loss of life or that has a material, adverse impact on or poses material risk to the environment, **Workers**, or **Project Affected People**.
- 6.1.3. All Category A and some Category B **Projects** are required to submit and publicly disclosed annual environmental and social reports. At a minimum, environmental and social reports must include information on the following:
- Compliance with all conditions and covenants in **DFC Agreements**
 - Results of environmental and social monitoring activities
 - Project-related environmental and social incidents (see Paragraph 6.1.2.)
 - Summary of training provided on environment, social, health, and safety issues
 - Environmental, labor, health and safety deficiencies identified by the local regulatory authorities, labor and social audits conducted, as well as any remedial actions taken
 - **Stakeholder** engagement activities
 - Summary of grievances received from **Project Affected People** or **Stakeholders** and actions taken to resolve them
- 6.1.4. **Clients** are required to facilitate the third-party audit(s) as required by DFC, including covering all costs associated with conducting the audit. **Clients** are required to submit to DFC and publicly disclose the third-party audit reports so DFC can ensure that the audit was conducted in accordance with the agreed scope of work and that the **Project** is in compliance with the **Environmental and Social Requirements** contained within the **DFC Agreement**.
- 6.1.5. In the event that monitoring by DFC, DFC's independent experts, or third-party audits finds gaps in the **Project's** or **Client's** compliance with the **Environmental and Social Requirements** of the **DFC Agreement**, **Clients** will be required to develop corrective action plans in consultation with DFC and affected communities, and implement all agreed corrective actions within a timeframe that is reasonable and feasible as determined by DFC in order to achieve compliance and to provide DFC and affected communities with periodic updates (normally quarterly, but no less than every six months) on implementation. The **Client** may be subject to additional monitoring by DFC or its independent experts to ensure corrective actions are adequately implemented and that compliance has been achieved and maintained through legally binding contracts.
- 6.1.6. **Clients** are required to retain the rights afforded under each investment structure, to ensure that DFC has the rights to (1) visit and inspect **Project** site(s); (2) access **Project** and **Subproject** environmental and social performance monitoring records, including human resources records; and (3) meet with **Project** and **Subproject** management and

Project Affected People, including Workers.

7. LEGAL CONDITIONS AND COMPLIANCE

Objectives: (1) to establish specific requirements for environmental and social performance in **DFC Agreements**; and (2) to define corrective actions and remedies in the event such requirements are not met.

7.0. DFC Standard Contractual Obligations

- 7.0.1. In addition to compliance with all applicable laws, DFC requires that all **Projects** must meet the **Applicable Standards**.
- 7.0.2. At a minimum, all **DFC Agreements** include standard project requirements to have an overarching environmental and social policy statement, commensurate human resources policies and appropriate internal and external grievance mechanisms. External grievance mechanisms shall be gender sensitive, age appropriate, culturally adapted, and established and operate incorporating the UN Guiding Principles on Business and Human Rights' Effectiveness Criteria for non-judicial grievance mechanisms.²¹ For all Category A and B **Projects**, **Clients** are required to establish and maintain an **ESMS** that meets the requirements in **Performance Standard 1**.²² The level of detail and complexity of the ESMS should be risk-based, extend across a project's Area of Influence, and ~~and~~ commensurate with the significance of potential impacts or the severity of the risks of the **Project**.
- 7.0.3. Based on DFC's environmental and social review (See Section 4.0.), DFC develops appropriate, project-specific conditions required of the **Client** to achieve compliance with the **Applicable Standards**. These conditions are included in the **DFC Agreement** as part of the **Environmental and Social Requirements** and remain in effect throughout the term of the **DFC Agreement**. This may come in the form of an **Environmental and Social Action Plan (ESAP)**. ESAPs are required for all Category A projects and for some Category B **Projects** that are dependent on mitigation and monitoring measures to avoid or reduce potentially significant environmental and social impacts.
- 7.0.4. All **DFC Agreements** include contractual language that addresses **Internationally Recognized Worker Rights** in substantially the following form (as outlined in Section 1451(d)(2) of the **Build Act of 2018**):
The person receiving support agrees not to take actions to prevent employees of the foreign enterprise from lawfully exercising their right of association and their right to organize and bargain collectively. The person further agrees to observe applicable laws relating to a minimum age for employment of children, acceptable conditions of work with respect to minimum wages, hours of work, and occupational health and safety, and not to use forced labor or the worst forms of child labor (as defined in section 507 of the Trade Act of 1974 (19 U.S.C. 2467)). The person is not responsible under this paragraph for the actions of a foreign government.

²¹ https://www.ohchr.org/sites/default/files/documents/publications/guidingprinciplesbusinesshr_en.pdf Principle 31. Additionally, external grievance mechanisms will be subject to a periodic independent audit of their effectiveness.

²² Additional guidance on the establishment of an **ESMS** may be found in Guidance Note 1 – Assessment and Management of Environmental and Social Risks and Impacts: https://www.ifc.org/wps/wcm/connect/6df1de8f-2a00-4d11-a07c-c09b038f947b/GN1_English_06142021_FINAL.pdf?MOD=AJPERES&CVID=nXqn5Ts

- 7.0.5. The terms of the **DFC Agreement** are applicable to all project-related activities including those carried out by on-site contractors and sub-contractors of the **Project** that work for a substantial duration of time on the **Project** or are material to the core business processes of the **Project**.
- 7.0.6. **Clients** are required to comply with all contractual conditions, including any applicable **ESAP**, whether or not the **Client** has a controlling interest in the **Project**. The terms of the conditions take into account, among other things, the level of project control which the **Client** will have regarding compliance with **Applicable Standards** and the **Client's** role in the **Project**.
- 7.0.7. In addition to other matters, all **Projects** must satisfy DFC's "know your customer" due diligence process. DFC's "know your customer" due diligence reviews **Client's** ownership and corporate governance structures, including verifiable beneficial ownership information, -and compliance with anti-money laundering sanctions and prohibited payments, as well as the **Client's** organizational capacity to continue to comply with such laws. **DFC Agreements** include contractual provisions to ensure acceptable ownership structures, corporate governance, environmental and social due diligence, and continued compliance with such laws.

7.1. Non-Compliances

- 7.1.1. For all **Projects**, material misrepresentations or material non-compliance with contractual environmental and social provisions, including reporting requirements, may constitute an event of default under the terms of the **DFC Agreement**.
- 7.1.2. DFC determines what is material and whether a default is curable or incurable. DFC makes determinations as to materiality based, for example, on the severity of the environmental, health, safety, social, or labor impacts or other result caused by the non-compliance and the nature and degree of such non-compliance by the **Client**.
- 7.1.3. In the case of a curable default, remediation and corrective actions are generally required by DFC to cure the default. In the case of an incurable default, DFC may exercise contractual remedies including insurance contract termination, acceleration of loan repayment, divestiture of an investment of a DFC-supported investment fund, or sale of a direct equity investment. Upon deciding to terminate a contract, accelerate loan repayment or divest from an investment the DFC will create and disclose a plan for responsible exit from the project in coordination with project affected people. This will ensure remediation and corrective actions are taken to address harms to project affected people before the exit occurs.

8. FINANCIAL INTERMEDIARIES

Objectives: (1) to define environmental and social risk categories specific to **Financial Intermediaries**; (2) to outline approach for DFC’s review of **Financial Intermediaries** and their **Subprojects**; and (3) to specify requirements for documentation, disclosure and reporting.

8.0. Overview

8.0.1. **Financial Intermediaries (FIs)** are vehicles or entities that provide debt to, make equity investments in, or provide financial services to eligible companies (referred to as **Subprojects**). DFC supports **FIs** to achieve DFC’s mandated role as the U.S. Government’s development bank and to more efficiently deliver and utilize DFC’s resources to benefit a larger number of investments with more development benefits than possible without the use of these intermediaries.

8.0.2. The nature of **FI Transactions** means that **FIs** assume partial or fully delegated responsibility for environmental and social assessment, risk management and monitoring as well as overall portfolio management. The nature of delegation may take various forms depending upon a number of factors, such as the type of investment provided by DFC and the nature and type of investments by the **FIs**.

8.1. FI Screening and Categorization

8.1.1. No **FI** may use DFC support for the purpose of investing in, lending to, or providing services to an entity engaged in a **Categorically Prohibited Project**. All **DFC Agreements** for **FI Transactions** will require the **FI** to apply DFC’s Categorical Prohibition List (See Appendix A).

8.1.2. DFC determines the environmental and social risk categorization for **FI Transactions**. The environmental and social risk categorization is commensurate with the environmental and social risk profile of the **FI**’s existing ~~and or~~ proposed portfolio and considers the type, size, and sector exposure of the **Subprojects** in the portfolio.

Environmental and Social Risk Categories for Financial Intermediaries		
Category	Description	Examples
Category FI-A	The use of proceeds of the DFC investment is expected to include exposure to business activities with potentially significant adverse environmental or social risks or impacts that are diverse, difficult to reverse irreversible or rare unprecedented in the absence of adequate mitigation measures. FI-A Transactions are not eligible for fully delegated environmental and social responsibility. Category A Subprojects supported by FI-A Transactions must be referred to DFC for a policy review of each Subproject.	FIs that invest in major infrastructure construction, Extractive Industries, or large-scale forestry; lending to micro-, small- and medium-enterprises ; and equity investments in banks that have significant portfolio exposure to Extractive Industries or fossil fuel-related infrastructure; FI investments projects affecting Indigenous peoples, their land, and/or livelihoods. ; RE investments that require land acquisition or resettlement.
Category FI-B	The use of proceeds of the DFC investment is expected to include exposure to business activities that have limited adverse environmental or social risks and impacts that are few in number, generally site specific, largely reversible reversible and readily addressed	FIs that invest in medium and small-to-medium scale construction, manufacturing, and processing; commercial/retail businesses; rooftop solar; and facility

	through mitigation measures. FI-B subproject environmental and social risks are often characterized as “moderate” or risks that are considered less adverse than Category A risks in terms of magnitude and likelihood of occurrence. FI-B Transactions are eligible for fully delegated environmental and social responsibility.	expansions within an existing footprint.
Category FI-C	The use of proceeds of the DFC investment is expected to include exposure to business activities that have minimal adverse environmental or social risks or impacts. FI-C Transactions are eligible for fully delegated environmental and social responsibility.	FIs that invest in tech or tech-enabled investments that do not involve significant physical assets and investments in financial institutions or fund-of-funds. Also applicable to loans to banks where the use of proceeds will involve lending to micro-, small- and medium-enterprises , mortgage and retail banking, leasing of small or light equipment, factoring and insurance.

8.2. DFC review of FIs and Subprojects

- 8.2.1. The FI’s proposed investment or lending strategy is considered in DFC’s assessment of the risk of adverse environmental and social impacts associated with the **Subprojects** at the time the FI’s structure is approved by DFC.
- 8.2.2. DFC will review and assess: (1) the FI’s existing environmental and social policies and procedures and its capacity to implement them; (2) available environmental and social due diligence or monitoring reports that may illustrate the FI’s prior environmental and social performance; (3) environmental and social risks and impacts associated with the FI’s existing portfolio and expected future **Subprojects**; ~~and~~ (4) measures necessary to strengthen the FI’s existing **Environmental and Social Management System (ESMS)**; ~~and~~ (5) existence and quality of a grievance and redress mechanism.
- 8.2.3. For ~~FI-A, and some FI-B Transactions,~~ DFC ~~will~~may conduct on-site due diligence to further evaluate the FI and its management capacity to implement the **ESMS**. ~~For some FI-B Transactions, DFC may conduct on-site due diligence.~~ As needed, DFC may engage independent experts for additional support in its due diligence.
- 8.2.4. The FI is required to submit to DFC an **ESIA** and/or **Baseline Audit (including labor and social audits)** (See Section 4.2.) and **Stakeholder** engagement plan prioritizing right to participation and meaningful consultation of communities throughout the project life cycle for review prior to DFC support for all Category A and some Category B **Subprojects**, as determined by DFC.
- 8.2.5. DFC will evaluate and monitor the effectiveness of the FI’s environmental and social risk management throughout the project lifecycle. This ~~will~~may include review of annual environmental and social reports, communication and meetings with the FI on environmental and social performance of its portfolio and/or on-site monitoring of the **Subprojects**.

8.3. Standard Policy Requirements for FI Transactions

- 8.3.1. **FI-A Transactions** are required to establish and maintain an **ESMS** that meets the requirements of all Performance Standards, and FI-B Transactions are required to establish and maintain an **ESMS** that meets the requirements of **Performance Standards 1, 2, 5 and 7 among others, commensurate with the potential risks and impacts of the portfolio. The level of detail and complexity of the **ESMS** should be commensurate with the potential risks and impacts of the portfolio.**
- 8.3.2. The **ESMS** must include a process for: (1) screening **Subprojects** against the **Applicable Standards**; (2) environmental and social risk categorization of **Subprojects**; (3) environmental and social due diligence including the use of third-party support where needed and the establishment of **ESAPs**, as applicable; (4) monitoring and reporting of environmental and social performance of the **FI** and its **Subprojects**; (5) ensuring adequate and qualified staff dedicated to environmental and social performance; and (6) the **FI's** external communication channels and the evaluation of **Subprojects'** stakeholder engagement and grievance mechanisms.
- 8.3.3. **FI-C Transactions** are not required to establish an **ESMS** but are required to have in place appropriate environmental and social policies and procedures, human resource management systems, and internal and external facing grievance mechanisms.
- 8.3.4. The **FI** is required to put in place a methodology to track, monitor, and report its **Greenhouse Gas Scope 1, 2 and 3** emissions at the portfolio level and disaggregated by sector and/or asset class and financial instrument, and to provide annual accounting to DFC.
- 8.3.5. The **FI** is responsible for ensuring the applicable requirements of this ESPP are met by the individual **Subprojects**.
- 8.3.6. The **FI** shall provide DFC with any requested **ESIAs**, environmental and social due diligence reports, monitoring reports, and other environmental and social documentation, including stakeholder engagement plans, and grievance and redress mechanism policy and procedures, and alternatives assessments.
- 8.3.7. **FI-A Transactions** and some **FI-B Transactions** will be required to submit to DFC an annual report on their environmental and social performance. The report should include information on the implementation of the **ESMS** and the status of any **ESAP** activities for **Subprojects**.
- 8.3.8. All **FIs** are required encouraged to publish relevant environmental and social policies and performance indicators on their website. This will may include corporate environmental and social policies, a summary of their **ESMS**, and/or environmental and social performance reports, if available.

8.4. Disclosure of Category A Subprojects

- 8.4.1. For any **Subproject** determined to be Category A and some Category B, the **FI** is required to submit to DFC an **ESIA** and/or **Baseline Audit** and **Stakeholder** engagement plan for the **Subproject** which are deemed adequate by DFC for disclosure on DFC's website for a public comment period of not less than 60 days. These documents will be disclosed for public comment on DFC's website prior to DFC support, in line with DFC's public disclosure requirements (See Section 5.1.).

8.4.2. FIs are ~~required~~ encouraged to list on their website the link to any publicly disclosed ESIA reports including stakeholder engagement plans and alternatives assessments for Category A **Subprojects** and some Category B **Subprojects**.

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9. CLIMATE

Objectives: (1) to support the elimination or reduction of **Greenhouse Gas** emissions associated with **Projects**; (2) to promote energy efficiency and conservation; (3) to promote low- and no-carbon fuels and technologies; and (4) to encourage carbon sequestration in **Sustainable Landscapes**; and (5) to promote the adoption of climate adaptation and resilience measures.

9.0. DFC Responsibilities

9.0.1. Investments are screened for **Climate-related Risks** and **Climate-related Vulnerability**.²³ Investments are screened for alignment with the goals of the Paris Agreement.

9.0.2. DFC is continuing OPIC's commitment to reduce the **Direct Emissions** associated with **Projects** in OPIC/DFC's active portfolio by 50 percent over a fifteen-year period (June 30, 2008 – September 30, 2023).²⁴ "In addition, DFC will reduce the Direct and Indirect Emissions associated with Projects in OPIC/DFC's portfolio by not less than (i) 60 percent by 2025; and (ii) 100 percent by 2028. PActive portfolio" is defined as all insurance contracts in force, equity investments and all guaranty and direct loans that DFC has provided with an outstanding principal balance. Annual accounting reports that track this commitment and detail the methodology associated with this commitment may be found on DFC's website.²⁵

9.0.3. DFC has previously committed to achieve net-zero emissions in the DFC lending and investment portfolio by 2040, and is now bringing this commitment forward to 2025 to incentivize clients' climate action consistent with best practice among DFIs. DFC will track and annually report on portfolio **Greenhouse Gas** emissions in conformance with *The Global Greenhouse Gas Accounting and Reporting Standard for the Financial Industry*, as updated periodically by the Partnership for Carbon Accounting Financials (PCAF).

9.0.3.9.0.4. DFC will fully implement Executive Order 14008: Tackling the Climate Crisis at Home and Abroad (2021)²⁶ by ending international financing of carbon-intensive fossil fuel-based energy while simultaneously advancing sustainable development and a green recovery, as well as the Glasgow Commitment on ending overseas fossil fuel finance by the end of 2022.

9.1. Client Responsibilities

9.1.1. For certain sectors, the **EHS Guidelines** establish resource efficiency requirements, which require identification and implementation of technically and financially feasible and cost-effective measures for improving efficiencies in consumption of energy, water, and other resources and material inputs. Rehabilitation and other modifications of existing **Projects** should plan to meet these resource efficiency requirements within a feasible timeframe.

²³ Executive Order 13677 (September 23, 2014) requires the integration of climate-resilience considerations into all United States international development work.

²⁴ "Public Law 111-117 Sec 7079(b) (12/16/2009) statutorily required OPIC/DFC to implement a revised climate change plan to reduce the Greenhouse Gas emissions associated with its projects by at least 30% over 10 years and by 50% over 15 years."

²⁵ <https://www.dfc.gov/media/reports/archived>

²⁶ <https://www.energy.gov/sites/default/files/2021/02/f83/eo-14008-tackling-climate-crisis-home-abroad.pdf>

- 9.1.2. **Clients** must demonstrate that measures to reduce significant, project related **Greenhouse Gas** emissions were evaluated and that technically and financially feasible and cost-effective measures were incorporated into the final design of the **Project**.
- 9.1.3. As a condition of DFC support, all **Projects** must quantify and annually report to DFC the **Direct Emissions** (Scope 1) from their **Project**.²⁷ As a condition of DFC support, **Clients** shall quantify the significant **Indirect Emissions** (Scope 2 and Scope 3) associated with off-site production of electricity, steam, heating, or cooling used or purchased by the **Project**.
- 9.1.4. As a condition of DFC support, **Projects in Energy Intensive Sectors** must meet energy efficiency guidelines and benchmarks established by international organizations or develop and implement an energy management program to achieve these guidelines and benchmarks within a feasible time period. Energy management programs should be appropriate to the nature and scale of project operations. The **Project** shall document methods to reduce overall energy usage patterns through reduction in energy losses and improvements in energy conversion efficiency. In some **Projects**, process modifications will be required to achieve such guidelines and benchmarks.

²⁷ Clients shall use the highest quality data available for each Project for emissions calculations and, where relevant, improve the quality of the data over time. Types of emissions data, listed from highest to lowest quality according to the PCAF Standard, include: verified emissions data; unverified, calculated emissions data; primary data on energy consumption; primary data on economic production; sectoral data.

10. COUNTRY ELIGIBILITY - LABOR

10.0. U.S. Law Requirements

Section 1451(d) of the **Build Act of 2018** contains the following provision:

The Corporation shall only support projects under title II in countries that are taking steps to adopt and implement laws that extend internationally recognized worker rights (as defined in section 507 of the Trade Act of 1974 (19 U.S.C. 2467)) to workers in that country, including any designated zone in that country.

10.1. Determining Country Eligibility: The USTR Process

- 10.1.1. The statute establishing the U.S. **Generalized System of Preferences (GSP)** trade preference program provides that the President of the United States shall not designate a country as a **GSP** beneficiary if it “has not taken or is not taking steps to afford **Internationally Recognized Worker Rights** to workers in that country” (See 19 U.S.C. 2462). For consistency of worker rights country-level determinations across the U.S. Government, DFC accepts the determinations made by the President on the “taking steps” worker rights standard for the purpose of the **GSP** program.
- 10.1.2. Through the **Office of the U.S. Trade Representative (USTR)**, the Trade Policy Staff Committee (TPSC), an interagency committee chaired by **USTR** and made up of specialists from the **U.S. Department of State**, **U.S. Department of Labor**, and other U.S. Government agencies, advises the President as to which countries should be designated as **GSP** beneficiaries. Any person may request to have the **GSP** status of any beneficiary country reviewed with respect to any of the eligibility criteria, including the “taking steps” country standard for worker rights, in accordance with **USTR**'s petition process. The TPSC may also self-initiate a review of a beneficiary country's **GSP** eligibility.
- 10.1.3. If a petition is accepted for review, the TPSC review typically includes an examination of the issues raised in the petition, as well as engagement with the foreign government to implement worker rights reforms. **USTR** also solicits comments through the **Federal Register** and holds a public hearing.
- 10.1.4. Upon completion of a country review, a country's eligibility status may remain unchanged, or be withdrawn, suspended, or limited. Modifications to a country's **GSP** eligibility are implemented by **Executive Order** or **Presidential Proclamation** and are published in the **Federal Register**. Based on the country review, should the President determine that a country is failing to meet the statutory “taking steps” worker rights standard, then the country will become ineligible for DFC programs. DFC will determine an effective date for ineligibility. The country list on DFC's website is updated to remove the country as of the effective date of the country's ineligibility, and DFC staff are notified of the change of country status. However, if a country becomes ineligible for **GSP** benefits on grounds other than worker rights, that country remains eligible for DFC programs.

10.2. Reviewing Country Eligibility: The DFC Process

10.2.1. In making its determinations as to whether non-**GSP**-eligible countries²⁸ where DFC

²⁸ Previously GSP-eligible countries whose benefits were withdrawn or suspended for failure to meet the statutory worker rights standard are considered under the USTR process in 9.1.

programs are being offered are taking steps to adopt and implement laws that extend **Internationally Recognized Worker Rights to Workers**, DFC utilizes a similar petition and review process. Petitions can be submitted to DFC at its public hearings to reexamine whether the status of any such country should be changed on worker rights grounds.

10.2.2. Upon an initial petition review, if DFC makes the determination that the petition merits a formal review, DFC will follow a similar interagency process and consult with, at a minimum, the **U.S. Department of State**, **U.S. Department of Labor**, and **USTR** to carry out such a review.

10.3. Granting Country Eligibility on Worker Rights Grounds

For non-GSP-eligible countries that are deemed particularly sensitive on worker rights grounds due to a documented history of issues relating to **Internationally Recognized Worker Rights**, and where DFC seeks to implement its programs for the first time or to lift suspension of DFC programs due to foreign policy or other priorities, DFC will also follow an interagency process and consult with, at a minimum, the **U.S. Department of State**, **U.S. Department of Labor**, and **USTR** in making its “taking steps” determination.

10.4. Country Eligibility Review Criteria

10.4.1. In addition to interagency consultation, DFC may use additional instruments to inform its country reviews on worker rights, including:

- The **U.S. Department of State’s Annual Country Reports on Human Rights Practices**, **Trafficking in Persons Reports**; **Investment Climate Statements**, and **Business Advisories**,
- The **U.S. Department of Labor’s International Child Labor & Forced Labor Reports**;
- Reports, observations and recommendations of the **International Labor Organization (ILO)**;
- **International Trade Union Confederation (ITUC) annual reporting**
- Third party specialist review of country level worker rights practices;
- Information received through DFC’s public hearings; and
- Consultations with labor organizations.

10.4.2. The “taking steps” standard is a purposely flexible standard to reflect the varying levels of economic and social development in developing countries. In its country reviews, DFC takes into account the totality of circumstances and facts available relevant to **Internationally Recognized Worker Rights**, and uses certain general criteria to assess whether countries meet the statutory standard, including: (1) Progress towards ratification of the relevant **ILO** fundamental conventions; and (2) the progress the country has taken or is taking to adopt and implement laws and practices that extend **Internationally Recognized Worker Rights** in areas where national law and practice have not met the international standard.

10.5. Country Status Effect on DFC-Supported Projects

If a country becomes ineligible for DFC support on worker rights grounds, the change of status does not affect **Projects** to which DFC made a legally binding commitment prior to the date on which the country status changed. All other **Projects** that have not been formally committed to by DFC prior to the official ineligibility date will not be eligible for DFC support during the term of the country’s ineligibility. If a country is under a formal review on worker rights grounds (by either **USTR’s TPSC** or **DFC**), projects that are in the application process are subject to a review that is

sensitive to the labor issues highlighted in the **GSP** or DFC petition.

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APPENDIX A – Categorical Prohibitions

1. Any projects that are likely to cause, contribute to, or exacerbate human right violations²⁹.
2. Conversion or degradation of Critical Forest Areas, which includes primary forests, old growth forests and vulnerable secondary forests, or Critical Natural Habitats.
- 4.3. Leasing or financing of logging equipment, unless an environmental and social impact assessment indicates that; (i) all timber harvesting operations involved will be conducted in an environmentally sound manner which minimizes forest degradation and destruction; and (ii) the timber harvesting operations will produce positive economic benefits (i.e. net positive after taking into account loss of natural capital) and sustainable forest management systems.
- 2.4. Construction of dams that significantly and irreversibly impact: (a) biodiversity; (b) natural ecosystems, upstream or downstream of the dam; (c) natural hydrology; (d) large land areas; or (e) that will displace, physically or economically, large numbers of inhabitants (5,000 persons or more).
- 3.5. Production or trade in any product or activity deemed unlawful under host country laws or regulations; international agreements, including multilateral conventions; or subject to international phase-outs or bans such as pharmaceuticals;³⁰ pesticides/herbicides;³¹ ozone depleting substances;³² polychlorinated biphenyls³³ and other hazardous substances;³⁴ wildlife or wildlife products regulated under the Convention on International Trade and Endangered Species of Wild Fauna and Flora (CITES);³⁵ and trans-boundary trade in waste or waste products.³⁶
- 4.6. The export of mercury and mercury compounds, and the manufacture, export and import of a large range of mercury-added products.
- 5.7. Shipment of oil or other hazardous substances in vessels, which do not comply with IMO requirements.
- 6.8. Resettlement of 25,000 or more persons and/or any Indigenous communities.
- 7.9. Any direct or indirect impact on areas recognized by international conventions and agreements, including but not limited to the Bonn Convention, Ramsar Convention, World

²⁹ Including (but not limited to) violations of ILO core labor standards/ fundamental rights at work, rights of Indigenous Peoples as established under UNDRIP, rights of women per UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), and rights of children per UN Convention on the Rights of the Child.

³⁰ World Health Organization Pharmaceuticals: Restrictions in Use and Availability

<https://www.who.int/publications/i/item/9789240014770>

<https://www.who.int/publications/i/item/9789240014770>

³¹ WHO Recommended Classification of Pesticides by Hazard and Guidance to Classification. 2019 Edition is available at: <https://www.who.int/publications/i/item/9789240005662>

³² As defined by the Montreal Protocol, a list of the chemical compounds that react with and deplete stratospheric ozone together with target reduction and phase-out dates is available at <https://www.epa.gov/ozone-layer-protection/ozone-depleting-substances>

³³ Polychlorinated biphenyls are likely to be found in oil-filled electrical transformers, capacitors, and switchgear dating from 1950 to 1985.

³⁴ As defined by the Rotterdam Convention, A list of hazardous chemicals is available at

<http://www.pic.int/TheConvention/Chemicals/AnnexIIIChemicals/tabid/1132/language/en-US/Default.aspx>

³⁵ A list is of CITES species is available at: <http://www.speciesplus.net>

³⁶ As defined by the Basel Convention; see <http://www.basel.int>

Heritage Convention and Convention on Biological Diversity, or other international bodies such as UNESCO (Biosphere Reserves, UNESCO Global Geoparks, etc.) or Food and Agricultural Organization (vulnerable marine ecosystems), International Maritime Organization (particularly sensitive areas), IUCN Designated Areas (Categories IA – VI), unless it can be demonstrated through an environmental and social assessment that the Project (i) will not result in degradation of the protected area and (ii) will produce positive environmental and social benefits. Any impact on World Heritage Sites³⁷ unless it can be demonstrated through an environmental and social assessment that the Project (i) will not result in the degradation of the protected area and (ii) will produce positive environmental and social benefits.

8.10. Any direct or indirect impact on areas that are nationally or sub-nationally recognized and protected by law or other regulations/policies, including sites which may be located in or overlap with formally, informally, or traditionally held conserved areas such as Indigenous and community conserved areas (ICCA), Indigenous Territories (ITs) or public lands not yet demarcated, unless it can be demonstrated through an environmental and social assessment that the Project (i) will not result in the degradation of the protected area and (ii) will produce positive environmental and social benefits. Any impact on areas on the United Nations List of National Parks and Protected Areas³⁸ unless it can be demonstrated through an environmental and social assessment that the Project (i) will not result in the degradation of the protected area and (ii) will produce positive environmental and social benefits.

9.11. Any direct or indirect impact on habitats with endemic or threatened species (categorized as Near Threatened, Vulnerable, Endangered, and Critically Endangered by the IUCN Red List), including Key Biodiversity Areas, unless it can be demonstrated through an environmental and social assessment that the Project (i) will not result in degradation of the protected area and (ii) will produce positive environmental and social benefits. Extraction or infrastructure in or impacting protected area Categories I, II, III, and IV (Strict Nature Reserve/Wilderness Areas, National Parks, Natural Monuments and Habitat/ Species Management Areas), as defined by the International Union for the Conservation of Nature (IUCN) unless it can be demonstrated through an environmental and social assessment (i) there is no degradation of the protected area and (ii) there are positive environmental and social benefits.

10.12. Activities prohibited by host country legislation or international conventions relating to the protection of biodiversity resources or cultural heritage.

11.13. Production of, trade in or use of un-bonded asbestos fibers.³⁹

14. Any direct or indirect impact on free-flowing rivers, defined as bodies of water whose flow and connectivity remain largely unaffected by human activities, unless it can be demonstrated through an environmental and social assessment that the Project (i) will not result in degradation of the protected area and (ii) will produce positive environmental and social benefits.

15. Any direct or indirect impact on protected or at-risk marine or coastland ecosystems, including mangrove forests, wetlands, reef systems, and those located in formally, informally, or traditionally held areas, Indigenous Territories (ITs), or public lands not yet demarcated, or Indigenous and community conserved areas (ICCA), unless it can be demonstrated through an environmental and social assessment that the Project (i) will not result in degradation of the protected area and (ii) will produce positive environmental and social benefits. Marine and coastal fishing practices, such as

³⁷ The list can be found here: <https://whc.unesco.org/en/list/>

³⁸ The list can be found here: <https://www.protectedplanet.net/>

³⁹ This does not apply to the purchase and use of bonded asbestos cement sheeting where the asbestos content is less than 20%.

~~large-scale pelagic drift net fishing and fine mesh net fishing using nets in excess of 1-2.5 km in length.~~

- ~~16. Any direct or indirect impact on Indigenous Peoples and Community Conserved Territories and Areas (ICCAs), community-based conservation areas, formally, informally, traditionally, customarily held resources or areas, Indigenous Territories, sacred sites and/ or land with ancestral significance to local and Indigenous communities' areas where the free, prior, informed consent (FPIC) of Indigenous and Local Communities have not been obtained.~~
- ~~12:17. Any direct or indirect impact on Iconic Ecosystems, defined as ecosystems with unique, superlative natural, biodiversity, and/or cultural value which may sprawl across state boundaries, and thus may not be wholly or officially recognized or protected by host countries or international bodies, such as the Amazon, the Arctic, among other at-risk ecosystems, unless it can be demonstrated through an environmental and social assessment that the Project (i) will not result in degradation of the protected area and (ii) will produce positive environmental and social benefits.~~
- ~~13:18. Production or activities involving ~~harmful or exploitative forms of~~ forced labor⁴⁰ or child labor.⁴¹~~
- ~~14:19. Production or activities that result in or contribute to the sexual exploitation, abuse, harassment, or trafficking of individuals.~~
- ~~15:20. Projects or companies known to be in violation of local applicable law related to protection of environment, and of social, health, safety, and labor rights, and public disclosure requirements.~~
- ~~16:21. Projects or companies where the primary business activities are in the following prohibited sectors: gambling; media communications of an adult or political nature; military production or sales; alcoholic beverages (if contrary to local religious or cultural norms); or tobacco and related products.~~
- ~~17:22. Projects or companies that replace U.S. production or are likely to cause a significant reduction in the number of employees in the U.S. including "runaway plants" and outsourcing the provision of goods and services (e.g., business process outsourcing) from the U.S.~~
- ~~18:23. Projects or companies that provide significant, direct support to a government that engages in a consistent pattern of gross violations of internationally recognized Human Rights, as determined by the U.S. Department of State.~~
- ~~24. Projects or companies that ~~perform abortions as a method of family planning; motivate or~~ coerce any person to practice abortions; perform involuntary sterilizations as a method of family planning; coerce or provide any financial incentive to any person to undergo sterilizations; or perform any biomedical research which relates in whole or in part, to methods of, or in the performance of; ~~abortions or~~ involuntary sterilization as a means of family planning.~~
- ~~25. Projects that involve extractive industries or related infrastructure in or impacting the Arctic Ocean.~~
- ~~26. Projects or activities that would fund, or in any way support, the construction, upkeep, or rehabilitation of institutions for persons with disabilities.~~

⁴⁰ Forced labor means all work or service, not voluntarily performed, that is exacted from an individual under threat of force or penalty, such as indentured labor, bonded labor, or similar labor-contracting arrangements. IFC Performance Standard 2, ¶ 22 (2012).

⁴¹ Child labor means the employment of children (persons below the age of 18) that is economically exploitative or is likely to be hazardous to or interfere with the child's education, or be harmful to the child's health or physical, mental, spiritual, moral, or social development. IFC Performance Standard 2, ¶ 21 (2012).

27. Companies found by a court or administrative body of competent jurisdiction engaging in unlawful monopolistic practices.
- 19-28. Projects or companies that provide significant, direct support to a government that engages in a consistent pattern of gross violations of internationally recognized Human Rights, as determined by the U.S. Department of State.
29. Companies which are treated as inverted domestic corporations under 6 U.S.C. 395(b).
30. Projects or sub-projects that promote the use of biomass from (1) wood, wood waste materials, or genetically engineered trees, (2) waste-to-energy or solid waste incineration, and (3) methane gas from livestock manure digesters (factory farm gas) .
31. Large-scale peat extraction.
32. Quarries and opencast mining where the surface of the site exceeds 25 hectares, or peat extraction, where the surface of the site exceeds 150 hectares.
33. Major exploration and development of onshore oil and gas reserves or coal mining and industrial operations that involve coal as a fuel.
34. Exploration and development of offshore oil and gas reserves.
35. Installations for storage of petroleum, petrochemical, or chemical products with a capacity of 200,000 tons or more.
36. Large-scale logging or deforestation of large areas of natural forest.
37. Large-scale primary agriculture/plantation or forestation involving intensification, land use change or conversion of priority biodiversity features and/or Critical Natural Habitat or conversion of Natural Habitat.
38. Pipelines with a diameter of more than 800 mm and a length of more than 40 km, terminals, and associated facilities for the large-scale transport of gas, oil, metals/minerals and chemicals.
39. Any operation that involves rearing animals in feeding operations or feedlots that involve extreme and prolonged confinement, limiting or eliminating animals' access to the outdoors, routine administration of antibiotics with potential for development of antimicrobial resistance, and the routine use of other inhumane practices, including medically unnecessary, painful mutilations.
40. Any production of or trade in commodities that originate from illegally deforested land.
41. Projects, not otherwise categorically prohibited, that are located in or sufficiently near sensitive locations of national or regional importance, or proposed for such status by national governments which may have apparent negative environmental or social impacts on:
- Wetlands;
 - Areas of archeological or cultural significance including critical cultural heritage;
 - Areas prone to erosion and/or desertification;
 - Areas of importance to indigenous peoples;
 - Primary temperate/boreal Forests;
 - Areas that provide significant ecosystem services;
 - Coral reefs;
 - Mangrove swamps;
 - Habitats or other ecosystems which support priority biodiversity features;
 - Nationally designated seashore areas; and
 - 20-● Managed resource protected areas, protected landscape/seascape (International Union for the Conservation of Nature (IUCN) categories V and VI) as defined by IUCN's

Guidelines for Protected Area Management Categories. Additionally, these projects must meet IUCN's management objectives and follow the spirit of IUCN definitions.

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APPENDIX B – Illustrative List of Category A Projects

Risk categorization takes into account a number of different factors including but not limited to: sector, technology/methods, scale, location, leverage, and the specifics of the business relationships. Although decisions on categorization are made on a case-by-case basis, the following list is indicative of the types of projects that are screened by DFC as Category A.

1. Large-scale industrial plants and/or estates.
2. Crude oil refineries (excluding undertakings manufacturing only lubricants from crude oil) and installations for the gasification and liquefaction of 500 tons or more of coal or bituminous shale per day.
3. Major Greenhouse Gas emitting projects, defined as projects with Direct Greenhouse Gas Emissions of more than 91,000 metric tons of CO_{2eq} per year.
4. Cement manufacturing with an annual production rate of greater than one million dry weight tons.
5. Integrated works for the initial smelting of cast iron and steel; installations for the production of non-ferrous crude metals from ore, concentrates, or secondary raw materials by metallurgical, chemical or electrolytic processes.
6. Installations for the extraction of asbestos and for the processing and transformation of asbestos and products containing asbestos; for asbestos-cement products with an annual production of more than 20,000 tons of finished product; for friction material with an annual production of more than 50 tons of finished product; and for other asbestos utilization of more than 200 tons per year.
7. Integrated chemical installations, i.e. those installations that manufacture, on an industrial scale, substances using chemical conversion processes in which several units are juxtaposed and are functionally linked to one another and which produce: basic organic chemicals; basic inorganic chemicals; phosphorous, nitrogen or potassium based fertilizers (simple or compound fertilizers); basic plant health products and biocides; basic pharmaceutical products using a chemical or biological process; explosives.
8. Projects that manufacture, store, transport or dispose hazardous or toxic materials.
9. Projects that pose significant occupational or community health and safety risks.
9.1. Projects that will require large labor influx and / or pose significant risks or exacerbate existing risks of GBV and SEA/H, including child SEA/H.
10. Construction of lines for long-distance railway traffic, and airports with a basic runway length of 2,100 meters or more. Motorways, express roads and new roads with four or more lanes or realignment and/or widening of an existing road so as to provide four or more lanes where such new road, or realigned and/or widened section of road, would be 10 km or more in a continuous length.
11. ~~Pipelines with a diameter of more than 800 mm and a length of more than 40 km, terminals, and associated facilities for the large-scale transport of gas, oil, metals/minerals and chemicals.~~
12. Large-scale seaports and inland waterways and ports for inland waterway traffic; trading ports, piers for loading and unloading connected to land and outside ports (excluding ferry piers).
13. Waste-processing and disposal installations for the incineration, chemical treatment or landfill of hazardous, toxic or dangerous wastes.
14. Large-scale waste disposal installations for the incineration or chemical treatment of non-hazardous wastes with a capacity exceeding 100 tons per day.

15. Construction or significant expansion of large dams and reservoirs not otherwise prohibited.
16. Groundwater abstraction activities or artificial groundwater recharge schemes in cases where the annual volume of water to be abstracted or recharged amounts to 10 million cubic meters or more.
17. Works for the transfer of water resources between river basins where that transfer aims at preventing possible shortages of water and where the amount of water transferred exceeds 100 million cubic meters/year, or works for the transfer of water resources between river basins where the multi-annual average flow of the basin of abstraction exceeds 2,000 million cubic meters/year and where the amount of water transferred exceeds 5 per cent of that flow. (In both cases transfers of piped drinking water are excluded.)
18. Industrial plants for the (i) production of pulp from timber or similar fibrous materials; or (ii) production of paper and board with a production capacity exceeding 200 air-dried metric tons per day.
- ~~19. Large-scale peat extraction.~~
- ~~20. Quarries and opencast mining where the surface of the site exceeds 25 hectares, or peat extraction, where the surface of the site exceeds 150 hectares.~~
- ~~21. Major exploration and development of onshore oil and gas reserves.~~
- ~~22. Exploration and development of offshore oil and gas reserves.~~
- ~~23. Installations for storage of petroleum, petrochemical, or chemical products with a capacity of 200,000 tons or more.~~
- ~~24. Large-scale logging or deforestation of large areas.~~
- ~~25:~~19. Large-scale power transmission and/or long-distance overhead transmission lines.
- ~~26:~~20. Municipal wastewater treatment plants servicing more than 150,000 people.
- ~~27:~~21. Large-scale municipal solid waste-processing and disposal facilities.
- ~~28:~~22. Large-scale tourism and retail development.
- ~~29:~~23. Large-scale wind power installations for energy production (wind farms) with an installed capacity greater than 100 MW.
- ~~30:~~24. Large-scale land reclamation and sea dredging operations.
- ~~31. Large-scale primary agriculture/plantation or forestation involving intensification, land use change or conversion of priority biodiversity features and/or Critical Natural Habitat or conversion of Natural Habitat.~~
- ~~32:~~25. Plants for the tanning of hides and skins where the treatment capacity exceeds 12 tons of finished products per day.
- ~~33:~~26. Installations for the intensive rearing of poultry or pigs with more than: 85,000 places for broilers and 60,000 places for hens; 3,000 places for production pigs (over 30 kg); or 900 places for sows.
- ~~34:~~27. Greenfield housing developments that contain more than 2,500 residential units.
- ~~35:~~28. Project activities that entail significant, adverse transboundary and/or cumulative environmental, social, or human rights impacts, including any sort of GBV, violence against women, and / or violence against children.
- ~~36:~~29. Projects that require significant physical or economic displacement and/or government managed resettlement processes.

~~37:30.~~ Projects that entail direct, adverse impacts to marginalized and excluded populations including indigenous peoples, and women, girls, and gender diverse individuals, and areas of importance for indigenous peoples.

~~38:31.~~ Projects that require the utilization or reliance to a large degree on large pools of sub-contracted, unskilled, temporary, casual and/or migrant **Workers** including among primary and secondary suppliers.

~~39:32.~~ Projects that involve a high degree of **Contextual Risk** that have the potential to amplify the significance of the project's environmental and social impacts.

~~40.~~ ~~Projects, not otherwise categorically prohibited, that are located in or sufficiently near sensitive locations of national or regional importance, or proposed for such status by national governments which may have apparent negative environmental or social impacts on:~~

- ~~• Wetlands;~~
 - ~~• Areas of archeological or cultural significance including critical cultural heritage;~~
 - ~~• Areas prone to erosion and/or desertification;~~
 - ~~• Areas of importance to indigenous peoples;~~
 - ~~• Primary temperate/boreal **Forests**;~~
 - ~~• Areas that provide significant ecosystem services;~~
 - ~~• Coral reefs;~~
 - ~~• Mangrove swamps;~~
 - ~~• Habitats or other ecosystems which support priority biodiversity features;~~
 - ~~• Nationally designated seashore areas; and~~
- ~~•33.~~ ~~Managed resource protected areas, protected landscape/seascape (International Union for the Conservation of Nature (IUCN) categories V and VI) as defined by IUCN's Guidelines for Protected Area Management Categories. Additionally, these projects must meet IUCN's management objectives and follow the spirit of IUCN definitions.~~

APPENDIX C – Glossary

Annual Country Reports on Human Rights Practices – Reports that are submitted annually by the U.S. Department of State to the U.S. Congress in compliance with sections 116(d) and 502B(b) of the Foreign Assistance Act of 1961 (FAA), as amended, and section 504 of the Trade Act of 1974, as amended.

Applicable Standards – includes the IFC Performance Standards, applicable EHS Guidelines, and Labor Rights.

Area of Influence – The area ~~potentially~~**likely** to be affected by: (i) the Project and the Client's activities and facilities that are directly owned, operated or managed (including by contractors) and that are a component of the Project; (ii) impacts from unplanned but predictable developments caused by the project that may occur later or at a different location; or (iii) indirect project impacts on biodiversity or on ecosystem services upon which Project Affected People's livelihoods are dependent. The Area of Influence also encompasses:

- Associated facilities, which are facilities that are not funded as part of the Project and that would not have been constructed or expanded if the Project did not exist and without which the Project would not be viable.
- Cumulative impacts that result from the incremental impact, on areas or resources used or directly impacted by the Project, from other existing, planned or reasonably defined developments at the time the risks and impacts identification process is conducted.

Baseline Audit - An assessment of environmental and social impacts of pre-existing or ongoing activities that is required for all Category A projects that involve the acquisition of or support to pre-existing facilities. For new construction or expansion to an existing site, an ESIA will also be required.

Broad Community Support – The collective expression by Project Affected People, through individuals or their recognized representatives, in support of a Project. Broad Community Support may exist even if some individuals or groups object to a Project.

Build Act of 2018 - Better Utilization of Investments Leading to Development Act of 2018 (P.L. 115-254).

Categorically Prohibited Project – A Project of the type listed in Appendix A where potential adverse environmental or social impacts of the Project preclude DFC support.

Climate-related Risks – Combination of the magnitude of the potential consequence(s) of climate change impacts and the likelihood that the consequence(s) will occur.

Client – The direct recipient or prospective recipient of DFC support, including Financial Intermediaries.

Climate-related Vulnerability – The degree to which a system is susceptible to, or unable to cope with, adverse effects of climate change, including variability and extremes. Vulnerability is a function of the character, magnitude and rate of climate variation to which a system is exposed, its sensitivity and its adaptive capacity.

CO_{2eq} – Carbon Dioxide Equivalents are a metric measure used to compare the emissions from various **Greenhouse Gases** based upon their global warming potential (GWP) over a given timeframe. The carbon dioxide equivalent for a gas is derived by multiplying the tons of the gas by the associated GWP. For example, the ~~20100~~-year GWP for methane (CH₄) is ~~286~~ and ~~the 100-year GWP~~ for nitrous oxide (N₂O) 265. This means that the emissions of 1 million metric tons of methane and nitrous oxide are equivalent,

respectively, to emissions of 286 million and 265 million metric tons of carbon dioxide.⁴²

Contextual Risk - Risks in the external environment (at a country, sector, or subnational level) that the Client does not control but which could negatively impact a Project's or Client's ability to meet the Applicable Standards. Risks may be due to current circumstances or systemic, legacy and/or historic issues. Key risk factors may include:

- Socially sensitive and/or labor-intensive sectors (e.g., sectors with known labor or human rights violations, risk of child/forced labor, hazardous work, elevated risks of work and employment gender-discrimination against Vulnerable Groups or GBVH, hazardous work, involvement of significant armed security personnel, major environmental and social risks associated with the supply chain and/or sectors that have been subject to recent, documented public opposition)
- Broader, socially sensitive historical context (e.g., political, or social or violent conflict, country contexts with reported human rights violations, weak governance systems, lack of rule of law/enforcement, recent or ongoing humanitarian crisis, war, restricted civic space/ reprisal risk, relatively higher levels of gender inequality or GBVH, ethnic discrimination/violence, large nearby presence of indigenous peoples and/or Vulnerable Groups)
- Residual or unmitigated adverse social and environmental impacts including from previous development projects (e.g., legacy of displacement, inadequate consultation, or unresolved grievances)
- Environmental and community health and safety factors (e.g., biodiversity, ecosystem services, and climate change; access to natural resources; health and population)

Corporate Investment - A transaction in which (i) the use of proceeds is not limited to specific assets and the application of which is at the discretion of company management (e.g. working capital); (ii) the proceeds are for specific corporate activities (e.g., restructuring, financial engineering, long term strategic support, or corporate-wide investments); or (iii) DFC is making a subscription for shares in a private company (equity).

Critical Forest Areas - A type of **Natural Forest** that qualifies as **Critical Natural Habitat**. Critical Forest Areas include primary Forests and old growth Forests and vulnerable secondary forests, that may serve as critical carbon sinks.

Critical Natural Habitats - (1) Existing internationally recognized protected areas, areas initially recognized as protected by traditional local communities, forest-dependent communities and indigenous peoples (e.g., sacred groves), and sites that maintain conditions vital to the viability of protected areas; and (2) sites identified on supplementary lists by authoritative sources identified by DFC. Such sites may include areas recognized by traditional local communities, forest-dependent communities and indigenous peoples (e.g., sacred groves), areas with known high suitability for biodiversity conservation and sites that are critical for vulnerable, migratory or endangered species. Listings are based on systematic evaluations of such factors as species richness, the degree of endemism, rarity, and vulnerability of component species, representativeness and the integrity of ecosystem processes.

Cultural Heritage - Tangible property or sites having archaeological (prehistoric), paleontological, historical, cultural, artistic and religious value, as well as unique environmental features that embody cultural values, such as sacred groves. Cultural Heritage also includes intangible forms of culture, such as cultural knowledge, innovations and practices of communities embodying traditional lifestyles.

DFC Agreement - Any contract pursuant to which DFC support is provided, including a finance agreement, guaranty, note, insurance contract, share purchase agreement, or technical assistance agreement.

⁴² GWP values from the IPCC Fifth Assessment Report, 2014. - <https://www.ipcc.ch/report/ar5/syr/>

Direct Emissions – Emissions from Project sources that are owned or controlled by the Client, including stationary combustion emissions, mobile combustion emissions, process emissions and fugitive emissions.

Economic Displacement – Loss of land, assets or restrictions on land use, assets, and natural resources that leads to loss of income sources or means of livelihood.

Energy Intensive Sectors – Projects in the following sectors: aluminum, brewing, cement, mining, corn refining, forest products, glass, metal casting, motor vehicle manufacturing, oil and natural gas production, petrochemicals, petroleum refining, pharmaceuticals, pulp and paper, steel and iron, and thermal power.

Environmental and Social Action Plan (ESAP) – The ESAP will include specific corrective and preventive actions, mitigation measures, monitoring, and reporting commitments to achieve compliance with the Applicable Standards. The ESAP provides an implementation schedule for measures that must be carried out as part of the Project and reflects sequencing, periodicity, adequate budget, and responsible parties. Required on all Category A projects.

Environmental and Social Impact Assessment (ESIA) – An instrument to identify and assess the potential environmental and social impacts of a proposed project, evaluate alternatives including renewables for energy projects, and design appropriate mitigation, management, monitoring, and reporting measures. The assessment will be based on current and/or recent information, and environmental and social baseline data, including gender disaggregated data, at an appropriate level of detail and using scientifically-sound methodologies. Required for all Projects involving significant, new (greenfield) developments or significant expansion of existing facilities.

Environmental and Social Management System (ESMS) – Part of a Project's overall management system that includes the organizational structure, responsibilities, practices and resources necessary for implementing the project-specific management program developed through the environmental and social assessment of the project.

Environmental, Health and Safety (EHS) Guidelines - Technical reference documents with general and industry-specific examples of Good International Industry Practice (GIIP) with regards to environment and occupational health and safety and are referred to in the Performance Standards. The EHS Guidelines contain the performance levels and measures that are normally acceptable to the World Bank Group, and that are generally considered to be achievable in new facilities at reasonable costs by existing technology.

Environmental and Social Requirements - The Applicable Standards and the applicable provisions of this Environmental and Social Policy and Procedures (ESPP).

Executive Order – An order issued by the President, the head of the executive branch of the federal government.

Extractive Industry – An enterprise engaged in the exploration, development, or extraction of oil and gas reserves, metal ores, gemstones, industrial minerals (except rock used for construction purposes), or coal.

Federal Register – The official daily publication for rules, proposed rules, and notices of Federal agencies and organizations, as well as Executive Orders and other presidential documents.

Financial Intermediary – Vehicles or entities that provide debt to, make equity investments in, or provide financial services to eligible companies.

Financial Intermediary Transactions – Loans (corporate lending, microfinance, small and medium enterprise finance, loans from debt funds, including distressed debt, credit and mezzanine debt funds and retail

banking); equity investments (active and passive investments from private equity funds into Subprojects, and limited partner equity investments by fund-of-funds and secondary funds); and other financial services (leasing, factoring and insurance).

Forest - An area of land not less than 1.0 hectare with a tree crown cover (or equivalent stocking level) of more than 10 percent that has trees with the potential to reach a minimum height of 2 meters at maturity *in situ*. A Forest may consist of either closed forest formations, where trees of various stories and undergrowth cover a high proportion of the ground, or open Forest. Young natural stands and all plantations that have yet to reach a crown density of 10 percent or tree height of 2 meters are included under Forest, as are areas normally forming part of the forest area that are temporarily unstocked as a result of human intervention such as harvesting or natural causes but that are expected to revert to Forest. The definition includes Forests dedicated to forest production, protection, multiple uses, or conservation, whether formally recognized or not. The definition excludes areas where other land uses not dependent on tree cover predominate, such as agriculture, grazing or settlements. In countries with low forest cover, the definition may be expanded to include areas covered by trees that fall below the 10 percent threshold for canopy density but are considered Forest under local conditions.

Free flowing rivers - Rivers that flow undisturbed from their source to mouth, at either the coast, an inland sea or at the confluence with a larger river, without encountering any dams, weirs or barrages and without being hemmed in by dikes or levees.

Gender-Based Violence and Harassment (GBVH) - Refers to harmful acts directed at an individual or a group of individuals based on their gender. It is rooted in gender inequality, the abuse of power and harmful norms. The term is primarily used to underscore the fact that structural, gender-based power differentials place women and girls at risk for multiple forms of violence. While women and girls suffer disproportionately from GBV, men and boys can also be targeted.⁴³ Violence and harassment directed at persons because of their sex or gender, or affecting persons of a particular sex or gender disproportionately, and includes sexual harassment.

Generalized System of Preferences (GSP) - A trade preferences program, overseen by the Office of the United States Trade Representative that provides preferential duty-free entry for products from designated beneficiary countries and territories with the purpose of promoting economic growth in the developing world.

Greenhouse Gases - The following six gases or class of gases: carbon dioxide (CO₂), nitrous oxide (N₂O), methane (CH₄), hydrofluorocarbons (HFCs), perfluorocarbons (PFCs), and sulfur hexafluoride (SF₆).

Habitats with Threatened and Endemic Species, and Key Biodiversity Areas - Areas with Near Threatened, Vulnerable, Endangered, Critically Endangered, or endemic species, in addition to Key Biodiversity Areas.

Host Country Notification - A notification to government officials in the country where a Category A Project is located that identifies international guidelines and standards and restrictions under U.S. law that would be applicable to the Project.

Human Rights - Those rights expressed in international and regional human rights instruments, including the International Bill of Human Rights and the principles concerning fundamental rights set out in the International Labor Organization's Declaration on Fundamental Principles and Rights at Work.

⁴³[https://www.unwomen.org/en/what-we-do/ending-violence-against-women/faqs/types-of-violence#:~:text=Gender%2Dbased%20violence%20\(GBV\),of%20power%20and%20harmful%20norms](https://www.unwomen.org/en/what-we-do/ending-violence-against-women/faqs/types-of-violence#:~:text=Gender%2Dbased%20violence%20(GBV),of%20power%20and%20harmful%20norms)

Indirect Emissions – Emissions that are a consequence of project activities but occur at Project sources owned or controlled by another entity. Indirect Greenhouse Gas emissions result from the generation of purchased or acquired electricity, steam, heating, or cooling consumed by the project. Indirect emissions include Scope 2 and Scope 3 emissions.⁴⁴

International Finance Corporation (IFC) – An affiliate of the World Bank Group that makes loans to and investments in private sector projects in developing countries and emerging markets.

International Labor Organization (ILO) – The tripartite United Nations agency that brings together governments, employers and workers of its member states in common action to promote decent work throughout the world.

Internationally Recognized Worker Rights – The term, as specified in the Trade Act of 1974 (as amended), includes: (1) the right of association; (2) the right to organize and collective bargaining; (3) prohibition on forced labor and the worst forms of child labor; (4) a minimum age for the employment of children; and (5) acceptable conditions of work with respect to minimum wages, hours of work, and occupational health and safety.

Labor Rights – Rights of **Workers**, which includes **Internationally Recognized Worker Rights**, and protection from discrimination with respect to employment and occupation on the basis of personal characteristics that are unrelated to inherent job requirements such as: race; color; social, indigenous, ethnic, or national origin; migrant status; health status (including HIV status or genetic background); marital, family, or social status; sex or gender (including gender identity or expression and sexual orientation); political opinion; affiliation or non-affiliation to a workers' organization; disability (including physical or mental disability); religion or belief; age; or other disadvantaged or vulnerable status. Special measures of protection or assistance taken in order to remedy past discrimination will not be deemed discrimination for purposes of this definition.

Meaningful Consultation – A process that (1) begins early in the project preparation stage and is carried out on an on-going basis throughout the project life cycle; (2) provides timely disclosure of relevant and adequate information that is understandable and readily accessible to Project Affected People; (3) is undertaken in an atmosphere free of intimidation or coercion; (4) is gender inclusive and responsive, and tailored to the needs of disadvantaged and Vulnerable Groups; and (5) enables the incorporation of all relevant views of Project Affected People and other Stakeholders into decision making, such as project design, mitigation measures, the sharing of project benefits and opportunities, and implementation issues. Gender-inclusive consultation should include identification of any gender-based barriers to participation in consultation and decision-making (such as disproportionate burdens of household care, or cultural norms) and the implementation of mitigation strategies.

Natural Forests - A primary forest is a natural forest that is the result of biological and evolutionary processes and that has not been degraded by significant industrial, human driven activities. A key characteristic of primary, natural forests is that mature trees dominate the canopy and contains most or all of its native plant and animal species. Primary, natural forests include all successional age classes (young to old-growth) having no industrial human activities, including primary forests regenerating after wildfire. Primary, natural forests covers a range of related terms including “old growth forest”, “ancient forest”, “primeval forest”, “mature forests”, and “intact forest landscapes.” Even if a forest has been previously disturbed or logged, if the forest still predominantly functions and retains the key characteristics of a

⁴⁴ [Greenhouse Gas Protocol, GHG Protocol Scope 2 Guidance, https://ghgprotocol.org/sites/default/files/standards/Scope%20%20Guidance.pdf](https://ghgprotocol.org/sites/default/files/standards/Scope%20%20Guidance.pdf); [Greenhouse Gas Protocol, Technical Guidance for Calculating Scope 3 Emissions \(2013\), https://ghgprotocol.org/sites/default/files/standards/Scope3_Calculation_Guidance_0.pdf](https://ghgprotocol.org/sites/default/files/standards/Scope3_Calculation_Guidance_0.pdf).

primary forest at its climax, it should still be considered a primary, intact, natural forest and be protected.

Vulnerable, secondary forests, which are sometimes termed as “degraded”, “regrowth,” “young,” “regenerating,” or “recovering” forests, are forests which are regenerating largely through natural processes after significant human and/or natural disturbance of the original forest vegetation at a single point in time or over an extended period. In protecting the ability of secondary forests to recover and regrow, secondary forests should be considered as vulnerable when at risk of further degradation or destruction by planned or future harmful activities.⁴⁵ Forest lands and associated waterways where the ecosystem’s biological communities are formed largely by native plant and animal species and where human activity has not essentially modified the area’s primary ecological functions.

Natural Habitat - a complex of natural, primarily native or indigenous vegetation, not currently subject to cultivation or artificial landscaping, a primary purpose of which is to provide habitat for wildlife, either terrestrial or aquatic.

Office of the U.S. Trade Representative (USTR) – An agency of the U.S. Government that is responsible for developing and coordinating U.S. international trade, commodity, and direct investment policy, and overseeing negotiations with other countries.

Performance Standards – Technical reference documents issued by the **International Finance Corporation** with environmental and social impact management performance criteria.

Physical Displacement – Relocation or loss of shelter.

Presidential Proclamation – An instrument that states a condition, declares a law and requires obedience, recognizes an event or triggers the implementation of a law (by recognizing that the circumstances in law have been realized).

Project – A defined set of business activities, including those where specific physical elements, aspects and facilities likely to generate risks and impacts, have yet to be identified.

Project Affected People – Individuals, local communities, Indigenous peoples and Workers, including those within the Supply Chain, as well as community-based or worker groups, which are or could be affected by the Project’s Area of Influence, directly or indirectly, including as a result of cumulative impacts. Emphasis should be placed on those who are directly and adversely affected, disadvantaged or vulnerable.

Renewable Biomass – ~~Wood and wood processing wastes;~~ agricultural crops and waste materials; biogenic materials in municipal solid waste; and animal manure.

Sexual Exploitation, Abuse, and Harassment (SEA/H) - Comprises three types of sexual violence:

Sexual exploitation: any actual or attempted abuse of a position of vulnerability, differential power or trust, for sexual purposes, including, but not limited to, profiting monetarily, socially or politically from the sexual exploitation of another.⁴⁶

Sexual abuse: actual or threatened physical intrusion of a sexual nature, whether by force or under unequal or coercive conditions. Sexual abuse is a broad term, which includes a number of acts

⁴⁵ <https://foe.org/resources/no-go-paper-04/>

⁴⁶ <https://hr.un.org/materials/un-glossary-sexual-exploitation-and-abuse-english>

including rape and sexual assault, among others.⁴⁷

Sexual harassment: any form of unwanted verbal, non-verbal, or physical conduct of a sexual nature with the purpose or effect of violating the dignity of a person, in particular when creating an intimidating, hostile, degrading, humiliating, or offensive environment. This may include unwelcome sexual advances, or requests for sexual favors, and may take place through online activity or mobile communications as well as in person.

Stakeholder – Persons or groups who are directly or indirectly affected by a Project, as well as those who may have interests in a Project and/or the ability to influence its outcome, either positively or negatively. Stakeholders may include Project Affected People and their formal and informal representatives, workers' organizations, national or local government authorities, politicians, religious leaders, civil society organizations and groups with special interests, the academic community, or other businesses.

Subproject – A project or enterprise that receives financing or investment from a DFC-supported Financial Intermediary.

Supply Chain – A tiered network of suppliers, facilities, or distribution channels essential for the core business processes of the Project and utilized by the Client during the Project life cycle to procure raw material inputs; assemble, install, or manufacture an intermediate or final product; and deliver a final good or service to an end user.

Sustainable Landscapes - Sustainable Landscapes activities seek to reduce Greenhouse Gas emissions from land by promoting sustainable land use practices that reduce emissions or increase carbon sequestration. These projects support the implementation of natural climate solutions, which reduce net greenhouse gas emissions through the conservation, management, and restoration of Forests, peatlands, mangroves, and other ecosystems, as well as low emissions practices in agriculture and other production systems, while supporting economic growth, resilience, and other co-benefits.

U.S. Department of Labor – An agency of the U.S. Government that is responsible for administering labor laws on working conditions, unemployment insurance benefits and re-employment services, and tracks national economic measurements.

U.S. Department of State – An agency of the U.S. Government that is responsible for the international relations of the United States.

Vulnerable Groups – Individuals or groups who, by virtue of, for example, their age, gender, race, ethnicity, religion, disability, social, civic or health status, sexual orientation, gender identity, gender expression, sex characteristics, economic disadvantages or indigenous status, human rights defender or environmental defender status, refugee status, head of household status, and/or dependence on unique natural resources, may be more likely to be adversely affected by the project impacts and/or more limited than others in their ability to take advantage of a project's benefits. Such an individual/group is also more likely to be excluded from or unable to participate fully in the mainstream consultation process and as such may require specific measures and/or assistance to do so. Vulnerability is not an inherent characteristic of people. Vulnerability is context-specific and should be understood through the interplay of three factors: (i) exposure to contextual risks and adverse impacts; (ii) sensitivity to those risks and impacts; and (iii) adaptive capacity.

Workers – Individuals who are employed directly by the project or under a project contract, and who

⁴⁷ <https://hr.un.org/materials/un-glossary-sexual-exploitation-and-abuse-english>

perform on-site work for a substantial duration of time on a project or are material to the core business processes of a project. Workers can be temporary or permanent.

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