

## **Email received on 28 May 2008 from M. Aizawa on behalf of IFC**

### **Overall**

We think that the E&S Statement marks a new chapter for EIB. Having this Statement provides a better platform for your operations, and gives more meaning to the status and applicability of the EU Directives and other relevant legal documents, as well as your E&S Practice Handbook. The reference to your willingness to go along with international public and private financial institutions following the common approach based on the Equator Principles for projects outside the EU is also positive (though we realize that this particular statement appears in the Background section of the paper and is not subject to consultation).

Having said this, we also feel that you could further provide more "structure" within your Statement to enhance communication. For example, it would be easier for the reader to have two sections, one on projects within the EU/enlargement countries vs. those outside (this will address the potential internal inconsistencies described under the heading below). The Standards section could also be separated from the earlier parts of the statement, as they are different things from your overall business approach and principles. This is more in line with the approach taken by other IFIs.

### **Social Issues**

In para 14 of the Background, you mention that "in the rest of the World, local circumstances, e.g., the state of the environment and economic considerations - may justify lower standards than would be applied in the EU". In para 15, you mention that the EIB social requirements are applied outside the EU only, and that within EU you apply a presumption of compliance with relevant social laws.

This seems to indicate two things. First that the EIB social standards are always subject to the local circumstances exception in para 14, and it is not clear to us at all how you will decide whether your social standards are applicable to a particular project outside EU. Second, with the presumption of compliance in the EU, there is no level of due diligence that would be necessitated within EU on social issues. The effect of these things might mean that you simply would not apply social standards in a majority of your projects outside EU, potentially because you do not ordinarily require the discipline of due diligence on social issues within EU, and hence your internal capacity simply dictates what is possible or not in the emerging markets (but mostly not possible).

There are initiatives in emerging markets that challenge commercial banks and require them to move away from the presumption of compliance to take a more active role in project due diligence to ascertain compliance with environmental laws. Such initiatives exist in Brazil, China, and Peru, to name a few. We would encourage EIB to apply best practice in this area, and take another look at how you may wish to handle social issues generally, and in particular in the emerging markets context.

### **Potential Internal Inconsistencies**

We feel that the dual approach you use in EU/enlargement countries vs. those outside is not necessarily expressed consistently within the document. We urge you to revisit your statements in paragraphs 14 and 15 in the Background, and paragraphs 23 and 28 in the Statement. In particular, we are confused by your statement in para 28 that requires the more stringent of the EU standards and national law to apply in non-EU country projects, but in any event lower standards than EU standards could be justified per para 14 of the Background. Para 31 requires EAs for projects but it is not clear how this is done in reference to EU/enlargement countries vs. those outside.

### **Miscellaneous**

- Recognizing your need for flexibility in countries outside EU/enlargement countries, it would help if you could spell out in greater detail how you will exercise your discretion to apply EU standards or social standards, or not. The term "local conditions" does not give us much guidance.

- We think that the section on consultation, participation and public disclosure is very vague. It would help the reader to be given more information (maybe the information is available in your Handbook). References to Aarhus is useful but is by no means easily understood by private sector project operators. Similarly, a simple reference to the core labor standards alone is likely to invite confusion than compliance.
- There are a number of terms that are undefined (e.g., EA, EIA, SEA, and how are these different from EIS, which is the only one defined, etc.; free, prior, and informed consultation). It would help us to understand what is meant by these.