Inter-American
Development Bank

Environmental
Safeguards Unit

TECHNICAL NOTE

No. IDB - TN - 327

Use of Country Systems

Equivalence Analysis

Author:
Harvey Himberg

Contributors:
Elizabeth Brito
Leila Chennoufi
Maria da Cunha
Serge Troch

November 2011

Use of Country Systems

Equivalence Analysis

Author:
Harvey Himberg

Contributors:
Elizabeth Brito
Leila Chennoufi
Maria da Cunha
Serge Troch

Inter-American Development Bank
2011

Cataloging-in-Publication data provided by the
Inter-American Development Bank
Felipe Herrera Library

Himberg, Harvey.
Use of country systems: Equivalence analysis / Harvey Himberg.
p. cm. — (IDB Technical Note ; 327)
Includes bibliographic references.
1. Environmental policy. I. Inter-American Development Bank. Environmental Safeguards Unit. II. Title. III. Series.
IDB-TN-327

JEL CODES N5, N50

http://www.iadb.org

Contents

Acronyms

ADB	Asian Development Bank
BMCSS	Borrowing Member Country Safeguard Systems
CSR	Country Safeguard Review
CSS	Country Safeguard Systems
EA	Environmental Assessment
IDB	Inter-American Development Bank
LAC	Latin America and the Caribbean
LEGEN	Environmental and International Law Unit of the Legal Department
MDB	Multi-lateral Development Bank
OGC	Office of legal Counsel
OP	Operational Principles
PPAH	Pollution Prevention and Abatement Handbook
RSDD	Regional and Sustainable Development Department
RSES	safeguards unit
SDR	Safeguard Diagnostic Review
SPS	Safeguard Policy Statement
TA	Technical Assistance
ToR	Terms of Reference
UCS	Strategy For Use Of Country Systems
WB	World Bank

Background and Objectives

The following narrative is to fulfill Task (c) of the Terms of Reference (ToR) dated June 1, 2011 for the preparation of a **"**Technical Note for Piloting the Use of Country Environmental and Social Safeguards Systems in IDB Lending Operations - Analysis of Equivalence**"** in support of the Inter-American Development Bank's (IDB's) "Strategy For Use Of Country Systems [UCS] for Environmental and Social Safeguards." The overall the objectives of this consultancy are as follows: (a) develop and provide specific, detailed UCS guidance for "Equivalence Analysis" for the borrowing country's environmental and social safeguards systems (the set of laws and regulations, including its procedural requirements for their implementation); (b) identify gaps; (c) identify and propose a staged approach to fill the gaps; and (d) prepare an action plan to fill the identified gaps, with a focus on those elements identified as least deficient areas. This is part of a more general effort to build the necessary tools and guidance for implementation of UCS at the IDB.

Task (a) of this ToR consisted of a "matrix" that contains the objectives and operational principles of each of the three IDB safeguards that will be considered for UCS; task (b) consisted of a "template" for the analysis of equivalence, using the approved matrix from Task (a). Accordingly, to meet the requirements of Tasks (a) and (b) a "matrix" and a "template" were delivered in the form of three matrices- for Environmental and Social Safeguards, Involuntary Resettlement and Indigenous Peoples, using a common format that the incorporated both the "matrix" and the "template."[1]

Task (c) of the ToR involves the preparation of a Technical Note for equivalence analysis of IDB Borrowing Member Country Safeguard Systems (BMCSS). In so doing, the consultant is expected to draw on the experience of the World Bank (WB) which, among the international finance institutions, has the longest history in UCS for environmental and social safeguards. The World Bank UCS policy documents, two reviews of experience with UCS pilot operations, and the safeguards diagnostic review reports for each pilot project are available at the WB's UCS website: http://go.worldbank.org/RHRJVXDW60. This is to be supplemented by the more recent experience of the Asian Development Bank (ADB), and particularly the importance of

[1] The terms "matrix" and "template" are sometimes used inter-changeably and could be a source of confusion if intended to have separate meanings. It may be more useful to refer to the output of Task A as a "table," consisting of a single column stating in concise terms the Objectives and Operational Principles of IDB's three safeguard policies and the output of Task B as a "matrix" that incorporates the approved "table" as a benchmark for analyzing the "equivalence" of borrower member country safeguard systems. These two outputs contribute to the objective of this ToR, which is to develop a common "template" for IDB to use in the analysis of equivalence of borrower country safeguard systems.

providing for the country-level analysis (a process referred to at ADB as "Country Safeguard Review," or CSR).

This Technical Note is intended to provide IDB with a proposed approach to conducting Equivalence Analysis[2] of Borrowing Member Country Safeguard Systems ("BMCSS"), which is of the key components, along with Acceptability Assessment, in the implementation of IDB's Policy Directive B. 16 of *Its Environment and Safeguards Compliance Policy of 2006* (PD B.16).

Consistent with the Paris and Accra declarations, the IDB has decided to embark on piloting the use of country systems (UCS) for environmental and social safeguards, as authorized in IDB policy since 2006.. According to IDB's Policy Directive B.16 of OP-703, *Environment and Safeguards Compliance Policy (PD B.16)*

> *"In the context of individual operations, the Bank will consider the use of the borrowing member countries' existing systems of safeguards for identifying and managing environmental and social impacts. This will apply when the Bank has determined that the borrowing member country's system is equivalent to or superior to the Bank's. Equivalency will be analyzed on the basis of each relevant safeguard for the selected operation. The Bank will be responsible for determining equivalence and acceptability and for overseeing compliance with this policy."*

As per IDBs PD B.16, IDB may use a (BMCSS) only after it has "determined that the [BMCSS] is equivalent to or superior to the Bank's. Consistent with the approach taken by the WB and ADB, at IDB [e]quivalenc[e] will be analyzed on the basis of each relevant safeguard for the selected operation." Accordingly, the collective experience of the WB and ADB is highly relevant to proposing an approach for IDB to assess and determine the equivalency of the safeguard systems of its BMCs.[3]

---

[2] IDB has apparently chosen to use the term "Equivalence Analysis" as this term is used at the WB rather than "Equivalence Assessment" which is the preferred term at the ADB, although the intended meanings of the terms are identical. (WB normally uses the term "assessment" to describe the evaluation of the "acceptability" of a borrower safeguard system.) ADB normally uses the term "assessment " in connection with both equivalence and acceptability, and reserves the use of the term "analysis" to the review of the country's legal framework for safeguards when the objective of the review is to assist the country to strengthen the coherence of its legal framework rather than determine the extent of "equivalence" with ADB safeguards. Accordingly, this Technical Note will use the term "analysis" when referring to the evaluation of country safeguard equivalence at IDB and WB and "assessment" when referring to the same activity at ADB. The word "equivalency" is sometimes used as a synonym for "equivalence," however, this Technical Note will seek to avoid the further proliferation of terminology by using the term "equivalence" exclusively.

[3] This consultant has participated in a substantial number of SDRs on the project, sector and country levels prepared by the WB under OP 4.00 in various capacities: co-author, peer reviewer of and coordinator for the Bank-wide pilot program on UCS and is therefore, familiar with both the policy and diverse range of applications to countries in various regions. This consultant has also served as the principal resource consultant to ADB in the implementation of its CSS program in the Asia-Pacific Region since 2009 and in that capacity has conducted and reviewed several comprehensive CSRs.

The Technical Note consists of two parts; Part I. "Lessons Learned From the Experiences of the WB and ADB" in conducting Equivalence Analysis or Assessment under their respective UCS policies and program and Part II. "A Proposed Approach to Equivalence Analysis for IDB," building on the experiences of the WB and ADB as summarized Part I.

This Technical Note is intended to serve as the sole companion to the three matrices on equivalence analysis.

1. Part I: Lessons from WB and ADB Experience

"Equivalence" and "Acceptability" are defined terms as used by the WB) and ADB in their respective policies on UCS. The WB has had considerable experience in operationalizing its UCS approach, and in particular, the concepts of "equivalence" and "acceptability" in the course of implementing its Pilot Program for Use of Country Systems under Operational Policy 4.00, Use of Borrower Systems in Addressing Environmental and Social Issues in Bank-Supported Projects (OP 4.00). From 2005-2008 WB implemented OP 4.00 exclusively at the investment project and sector levels in the form of a Safeguard Diagnostic Review (SDR); since 2009 WB has begun to undertake SDR at the country level.

Likewise, the ADB has tested various approaches to the implementation of its program on Country Safeguard Systems (CSS) for which analytical work is undertaken at the country level in the form of CSR, through a Technical Assistance (TA) instrument that uses a definition and methodology similar to that of the WB SDR to determine the "equivalence" and "acceptability" of a CSS.[4] Collectively, WB and ADB have prepared more than 30 analytical reviews of country safeguard systems in connection with their respective analytical, investment and technical assistance programs. A list of completed and ongoing SDR and CSR work products is listed in Annex A of this Technical Note.

[4] Some of the differences in the analytical tools and the terminology applied by WB and ADB reflects a difference in focus with respect to implementation respective approaches to country safeguard systems. OP 4.00 is designed exclusively for the purpose of determining the conditions under which the WB may be justified in using a borrower system in *lieu* of a corresponding Bank safeguard policy for an investment or sector level "pilot" project. Within the framework of OP 4.00, recommended and agreed "gap-filling measures" are incorporated in the loan agreement either directly or by reference to operational manuals and other gap filling outputs and are required to be implemented by the borrower as a pre-condition, or on occasion, as integral components of project implementation . Country demand or a perceived need on the part of the WB to "scale up" such gap-filling measures beyond the project level may lead to future project components or stand-alone TA as a indirect outcome of a Pilot Project under OP 4.00. Although ADB's SPS provides for ADB's use of a CSS in lieu of ADB's safeguard system, the SPS puts equal emphasis on the objective of "strengthening" CSS, independent of any potential ADB use of CSS in *lieu* of ADB safeguards. In practice, ADB's focus has evolved from its initial approach in TA 6285 which focused primarily on CSR for purposes of "use" of CSS to TA 7566, which, to date has focused almost exclusively on using CSR to identify opportunities for CSS strengthening with ADB "use of CSS" as an ultimate, longer-range objective and potential outcome of TA subprojects for countries seeking alignment with ADB safeguards.

Accordingly, WB and ADB define "equivalence" and "acceptability" in similar terms. Per OP 4.00 of March 2005, WB defines equivalence as a finding that a country or borrower's system "is designed to achieve the objectives and adhere to the applicable operational principles set out in Table A1 [of OP. 4.00]…as determined on a [safeguard] policy-by-policy basis." Likewise, ADB, in its Safeguard Policy Statement of 2009 (SPS), defines "equivalence" as a finding that "the CSS is designed to achieve the objectives and adhere to the policy scope, triggers, and applicable principles set out in this SPS," as per Tables 1-3 of the SPS. Both the WB and ADB also assesses the "acceptability" of the borrower's implementation practices, track record and capacity," per WB OP 4.00, and in the case of ADB's SPS, the country's "implementation practice, track record….capacity and commitment to implement the applicable laws, regulations, rules, and procedures in the country, specific sector, or agency concerned."

This Technical Note and associated matrices seek to provide guidance to IDB for purposes of operationalizing the analysis of the "equivalence" of BMCSS. As per IDBs PD B.16, IDB may use a BMCSS only after it has "determined that the borrowing member country's system is equivalent to or superior to the Bank's. Consistent with the approach taken by the WB and ADB, at IDB [e]quivalenc[e] will be analyzed on the basis of each relevant safeguard for the selected operation."

This review of lessons learned from WB and ADB experiences in use of country or borrower systems is organized under the following headings: 1) Human Resources: 2) Benchmarks for Equivalence; 3) Inputs; and 4) Presentation.

1.1 Human Resource Requirements for Equivalence Analysis

The equivalence analyses and assessments conducted at WB and ADB have been undertaken by both staff and consultants having a diversity of education and training in legal analysis and safeguard policy implementation. At the WB, equivalence analysis is conducted in the first instance by safeguard trained attorneys in the Environmental and International Law Unit of the Legal Department (LEGEN), typically in the form of an equivalence matrix for each safeguard policy triggered by a project or anticipated to be triggered under country portfolio.. The analysis is conducted using the template provided in Table A1 of OP 4.00, accompanied by a narrative summary and annex consisting of an inventory of the borrower or country legal framework for safeguards. The equivalence analysis is subsequently incorporated into the SDR, which is a

collective undertaking of the project team including inputs from WB environmental and social safeguard staff specialists and consultants assigned to the preparation of the SDR, who, based on the findings of the equivalence analysis, proceed to conduct the acceptability assessment, and under the direction of the project team, propose necessary gap-filling measures, engage in consultations with the borrower or other country counterparts as well as local public stakeholders in preparing the final SDR document for disclosure and subsequent Board consideration in connection with a proposed project.

At ADB, which does not have a designated safeguards unit as part of its Office of legal Counsel (OGC), equivalence assessment is usually prepared by consultants working under the direction of the safeguards unit (RSES) of the Regional and Sustainable Development Department (RSDD) and OGC. Such consultants may include lawyers trained in comparative environmental legal analysis, with expertise in the Asia-Pacific region and or environmental and social specialists with detailed knowledge of ADB safeguards and CSS. The equivalence assessment is reviewed by RSES and OGC for consistency with the methodology set forth in ADB's SPS. Both WB and ADB make extensive use of the experience of local legal expertise in the project country, including governmental legal departments, attorneys in private practice and CSOs in all aspects of the equivalence assessment process including preparing a legal inventory, accessing, translating (as necessary) local law into English or other official languages and interpreting correctly the meaning of local legal terminology, where not otherwise defined..

It is not surprising to find that the diversity of these human resource skills applied by WB and ADB to equivalence analyses as resulted in some variation in methodology, level of detail, rigor, presentation, and overall quality in the equivalence analyses and assessments that have been completed to date. Given the decentralized structure of multilateral development banks, the objective of optimizing the country ownership in safeguards analytical work by increasingly reliance on local resources, the collective experience of WB and ADB suggests the need for guidance from HQ safeguard units to ensure a consistent understanding, approach, methodology and wherever feasible presentation of equivalence findings and recommendations.[5]

[5] In June 2005, shortly after Board approval of OP 4.00t he WB/QACU issued an "Interim Guidance Note on Piloting the Use of Borrower Systems to Address Environmental and Social Safeguard Issues in Bank-Supported Projects." To date the Interim Guidance Note has not been updated to reflect implementation experience; however LEGEN has conducted an informal internal qualitative review of equivalence analyses undertaken in the representative sample of SDRs. In 2009 ADB began preparation of an iterative Guidance Note on CSR. The Draft Guidance Note is provided to all staff and consultants engaged in CSR under the sub-projects supported by TA 7566.

1.2 Benchmarks for Equivalence

Both WB OP 4.00 and ADB's SPS included pre-determined and explicit benchmarks, in table format, for the assessment of equivalence to be used in UCS/CSS operations respectively. In the case of WB, OP 4.00 Table A1 consists of a checklist of the Objectives and Operational Principles of each of eight WB safeguard policies that are eligible to be considered for UCS under OP 4.00. The Objectives and Operational Principles are concise distilled statements of what the Bank and its stakeholders determined to be the key requirements of each of the eight corresponding WB Operational Policies.[6] For ADB, Tables 1, 2 and 3 of the SPS state the Objectives, Scope and Triggers, and Policy Principles for each of the three ADB safeguards, as determined by ADB to be consistent with the requirements of the corresponding safeguard policies.[7] It is important to note here that for both the WB and ADB, agreement on these benchmarks and their ultimate approval by their respective Boards of Executive Directors as part of OP 4.00 (in the case of the WB) and the SPS itself for ADB, followed extensive internal and external consultations among diverse international stakeholders, including civil society. They are, in other words, "publically negotiated documents."

In contrast, IDB's policy on the use of country systems does not include any pre-determined or explicit benchmarks for determining the equivalence of the BMCS. This creates both a challenge and an opportunity for IDB. It is a challenge in the sense that it now remains for IDB to prepare a set of benchmarks that will satisfy its objectives in proposing to use country systems in lieu of IDB safeguards in appropriate circumstances. It is an opportunity in the sense that it provides IDB to critically examine the approaches taken by WB and ADB in developing such benchmarks and to make use of the lessons learned from the application of these benchmarks to actual cases.

In both cases, WB and ADB have sought to achieve the following objectives in developing their respective equivalence benchmarks:

(a) Consistency with the corresponding WB or ADB safeguard policy from which they are derived, so as to (i) avoid the risk of "dilution" of donor safeguard requirements; (ii) prevent the application of a "double standard" for use of country systems relative to

[6] Environmental Assessment (OP 4.01); Natural Habitats (OP 4.04); Forests (OP 4.36) ; Pest Management (OP 4.09 ; Safety of Dams (OP 4.37) ; Physical Cultural Resources (OP 4.11); Involuntary Resettlement (OP4.12); and Indigenous Peoples (OP4.10).

[7] Environmental Safeguards, Involuntary Resettlement Safeguards and Indigenous Peoples Safeguards.

standard operations; and (iii) ensure that the safeguard outcomes ensuing from the use of a country or borrower system are consistent with the outcomes normally expected from standard Bank supported projects;

(b) Principle-based, rather than focused on specific prescribed procedures, so as to permit the same outcome to be achieved through alternative procedures that may reasonably vary from country to country or among borrowers within a country;.

(c) Conciseness relative to the lengthy narrative format of their corresponding safeguard policies so as to facilitate their use for comparative analytical purposes in equivalence analysis or assessment;

(d) Clear distinction between donor safeguard provisions that may be aspirational and those donor safeguard provisions that are mandatory for application to projects. This approach seeks to ensure that aspirational provisions of country or borrower safeguard provisions are with the corresponding aspirational provisions of donor safeguard systems while mandatory country or borrower safeguard provisions are compared with corresponding mandatory provisions in donor safeguards..

(e) Clarity with respect to those safeguard provisions that are normally the exclusive responsibility of the borrower as distinguished from those that are normally the exclusive responsibility of the Bank. Safeguard provisions that are normally the exclusive responsibility of the Bank, as part of its independent due diligence of project are not appropriate benchmarks for borrower systems and should not be included in the equivalence matrix as Objectives, Operational or Policy Principles.

These objectives have been achieved with varying degrees of success as follows:

(a) Consistency has been largely achieved by using the same terminology for key concepts as those embedded in the WB and ADB original safeguard. By using the terms such as "environmental assessment," "involuntary resettlement, "indigenous peoples" along with the instruments used to assess and manage project impact and risk, such as "Environmental Management Plan,:" Resettlement Action Plan and "Indigenous Peoples Plan," the benchmarks avoid the issue of definition by implicitly referring back to the explicit definitions provided in the corresponding safeguard policies of the institutions.[8]

[8] ADB's benchmarks appear to have achieved a greater deal of internal consistency by including "Scope and Triggers" as a third category of benchmarks along with Objectives of Policy Principles, whereas the WB does not refer to "scope of triggers" in Table A1 of OP 4.00. However, the WB makes it clear elsewhere in OP 4.00 that unless stated otherwise, "[p]ilot projects [supported under OP 4.00] will be subject to all other

They have the further advantage of being fully recognizable by client countries and borrowers as well as external stakeholders as having the same meaning as those ascribed to them in the original safeguards, thereby avoiding confusion, controversy and requiring little or no explanation.[9]

(b) The objective of focusing on principles rather than procedures has been largely achieved by reducing the prescriptive nature of some of the procedures required in the original safeguard policies in favor of more generic references to sequencing of activities rather than prescribing the timing of various outputs and other deliverables in quantitative terms.

(c) Conciseness has been achieved in varying degrees reflecting in part the range of activities to which the benchmarks are to be applied, .the length and complexity of the corresponding safeguard policies, and the extent to which their prescriptive nature is the result of negotiated agreements with key stakeholders, as noted above. In the case of the WB. Table 1 of OP 4.00 was developed exclusively for application of OP 4.00; in the case of ADB, Tables 1-3 are included within the main body of the SPS as a concise statement of ADB's safeguard policies and may be used for unspecific purposes in addition to application of CSS. Accordingly for the WB, the benchmark for Environmental Assessment in Table A1 of OP 4.00 has been made substantially more concise relative to OP 4.01, reflecting the fact that there is relatively broad consensus internationally in what constitutes best practice in environmental assessment.

For its part, ADB has taken a significant step in consolidating all of its environmental safeguard requirements as set forth in substantial detail in the SPS into a single set of "Environmental Safeguards" as set forth in Table 1. Of the eleven Policy Principles (PPs) set forth as benchmarks in Table 1, PPs 1 through 7 address various elements of Environmental Assessment whereas PPs 8-11 address natural habitats; pollution prevention and control (including pest management); worker health and safety and physical cultural resources respectively. In contrast, with respect to social safeguards, Involuntary Resettlement and Indigenous Peoples, the WB has presenting tits Operational

applicable policies and procedures," including the preparation of the Integrated Safeguards Data Sheet in which the justification for triggering or not triggering each of the Bank safeguard policies is set forth.

[9] However, despite this high degree of consistency, in the case of the WB, the literal conciseness of the benchmarks relative to the corresponding safeguard policies has led some civil society organization to charge that OP 4.00 Table A1 amounts to a "dilution" of the Bank's safeguard policies.

Principles in a more concise manner than has ADB, but this may reflect that ADB's Tables 1-3 are intended to serve purposes beyond use of CSS.

d) Both the WB and ADB benchmarks succeed in leaving little or no ambiguity in term of which of the benchmarks are aspirational and which are mandatory This is achieved in two ways: (i) by referring to "Objectives" that are clearly aspiration although normally expected outcomes of the diligence application of the safeguard requirements that are subsequently set for in the "Operational Principles" (for WB) and "Policy Principles" (in the case of ADB) for each of the safeguard policies; and (ii) by use of imperative terminology[10] while avoiding the use of terms such as "should," "encourage," etc. This principle has required some vigilance in the conduct of SDRs and CSRs, particularly when initial are prepared by consultants.

e) Both WB and ADB have been largely successful in transposing into their respective equivalence benchmarks those safeguard principles that can be considered appropriate for the legal framework of a country system and omitting those principles that may apply exclusively to a donor institution as a necessary component of the donor's due diligence. A few exceptions are evident and have proven awkward in carry out equivalence analysis for both MDBs. For example:

(i) The requirement per WB Table A1,A. Environmental Assessment that EA "assess the *adequacy* of the applicable legal and institutional framework including international environmental agreements " applicable to a project," (emphasis added) would not appear to be consistent with international best practice as EA is conducted within a particular legal jurisdiction. Although it might be appropriate for the WB, ADB or another donor or lender to consider the extent to which the legal framework governing a project addresses the environmental or social impacts and risks associated with the proposed activity as part of its due diligence, it is not normally the case that EA practitioner *within* a given jurisdiction is required by EA law, to assess the "adequacy" of the legal framework under which the activity is authorized. It would have been more appropriate had this benchmark referenced the

[10] Examples include terms such as "use," "assess," provide," "prevent," "involve," "disclose," "avoid," "consult," "promote," "follow," "support," "procure," "identify," "inform," "give preference," "design," "document," "implement," "undertake" "ensure" "do not undertake" "monitor" "support", "conduct", "develop" "carry out" "examine," "apply," "improve," "prepare," "conceive and execute," "pay, " "monitor," and "ascertain."

need for EA to reference the applicable legal framework (including applicable international environmental agreements) in order to demonstrate the extent that the proposed activity will be conducted in accordance with the its requirements.[11]

(ii) The requirement per WB Table A1.A. Environmental Assessment that "[w]here applicable to the type of project being supported, normally apply the Pollution Prevention and Abatement Handbook (PPAH)…and justify deviations when alternatives to measures set forth in the PPAH are selected" may not be an appropriate benchmark for analyzing the equivalence of a country or borrower EA system. The PPAH is a guidance document that is often used by EA practitioners within the MDB community and among EA practitioner, as a useful reference for international good practices but is rarely, if ever, referenced as a requirement within a borrower a country's legal system. ADB's reference to the PPAH among its Policy Principles for Environmental Safeguards (ADB SPS, Table 1, Policy Principles 9) is more realistic and less "donor-centric" in that it requires the application of "pollution prevention and control technologies and practices consistent with international good practices as reflected in internationally recognized standards such as the World Bank Group's Environmental Health and Safety Guidelines."[12]

(iii) The use of the word "appraisal" as a milestone for disclosure of draft EA, management plans relating to resettlement, Indigenous Peoples, forests, pest control and physical cultural resources as per in TableA1 of OP 4.00 and in Tables 1-3 of the ADB SPS, is inappropriate in the context of a country system, where the term is rarely if ever used to denote a particular stage in the project preparation and approval process. The word "appraisal" is more commonly used by donor

[11] In practice the impractical requirement for a country or borrower's EA system to require an assessment of the "adequacy" of a borrower's legal framework has not been applied by either WB or ADB.

[12] In 2006-07 the IFC led a Bank-wide process to update and revise the Part III of the 1998 PPAH which contained the Industry Sector guidelines that were intended to be used as the benchmark for "good international practice" in EA for pollution prevention and abatement per WB OP 4.01. The revised industry guidelines were reissued by IFC in electronic form only as the "Environmental, Health and Safety Guidelines." However, WB OP 4.01 continues to make reference to the Pollution Prevention and Abatement Handbook pending the completion of an ongoing revision, led by the Bank's Sustainable Development Network, of Parts I and II of the PPAH, which will be renamed and to which the EHSGs will presumably be appended. ADB's SPS, issued in 2009 makes direct reference to the EHSGs rather than the PPAH.

institutions to refer to a stage in their internal procedures of project preparation and may have different meanings from one institution to another.[13]

This combined experience of the WB and ADB in developing benchmarks for the analysis of country and borrower safeguard systems suggests the following two key lessons for IDB:

- A set of benchmarks that are clearly anchored in the donor's Board-approved safeguard policies have more credibility and utility for stakeholders, including borrower countries, civil society and potentially, internal and independent safeguard evaluation and accountability mechanisms than a set of benchmarks that may be developed as a more "creative" effort to improve upon the clarity of the donor's existing safeguard system.
- At the same time it is important that the benchmarks be selective to as to ensure that they do set standards that are fully relevant to a BMCSS rather than standards and requirements that serve primarily the needs of the donor entity to ensure adequate due diligence of proposed projects and protection the donor from reputational risk.

1.3 Inputs: Legal Inventory and Hierarchy

The legal inventory of the country system needs to be sufficiently *thorough* to capture all of the legal instruments that correspond to the Objectives and Operational Principles of OP 4.00. For example, in focusing on Environmental Assessment (EA) it is not sufficient to limit the analysis to the instrument designated as the "EIA regulation" in a given jurisdiction. The EIA regulation may not capture the full scope of the EA process that may be subject to diverse legal instruments relating to public participation in decision-making, information disclosure requirements, principles of pollution prevention and abatement, environmental management, monitoring and compliance, and of EA requirements to financial intermediaries. Accordingly, a systematic and robust survey of the legal framework should be conducted prior to commencing analysis, including in addition to legal instruments relating directly to EA requirements, those sector specific legal requirements relating to project permitting that may affect the application of any general EA requirement. Likewise, high court decisions may become part of a country's legal framework, depending of the type of legal framework in the country. In addition to standard legal instruments such as constitutions, laws, regulations and administrative orders, multilateral

[13] For example, within the WB Group itself, the word "appraisal" is used to different stage in the project preparation cycle for IBRD/IDA than for the International Finance Corporation.

environmental agreements, once ratified, are effectively part of a country's legal system (although their role is subject to the extent of further transposition and implementation into the country's legal framework).[14]

In addition, the hierarchy of legal instruments may vary from one country's legal framework to another. In some countries the presence of a mandate in one legal instrument may be sufficient to render that mandate fully actionable, despite its absence at higher or lower levels of the hierarchy. In other countries, a mandate contained in a higher level legal instrument such as a law may not be actionable if it is not also incorporated in an implementing regulation that provides a specific entity to implement the provision.

1.4 Presentation of Findings

The presentation of the findings or outputs of an Equivalence Analysis is as critical as the quality of inputs in ensuring the credibility and validity of the analysis. This Technical Note recommends using a consistent approach form one country or sub-national system to another so as to ensure not only a consistent methodology but also to support comparative analysis between and among country systems.

To optimize the credibility of the Equivalence Analysis, the following issues need to be considered in the presentation of the results: (a) format; (b) rigor; (c) objectivity (d) transparency and (e) acknowledgement of the limitations that might be imposed by access to data and the quality of inputs used:

(a) *Format.* Both matrix and narrative formats have essential and complementary roles t in presenting the results of the Equivalence Analysis. The matrix is the most appropriate medium for presenting the benchmarks (i.e., objectives and principles of donor safeguards, disaggregated as necessary into their analytical components); primary data (i.e.. corresponding policy and legal provisions of the country or borrower system); articulating the findings of relative equivalence between the donor and country/borrower safeguard systems; and recommending potential gap-filling measures that, if implemented by the country/borrower, would result in a finding of full equivalence where necessary. Once the matrix (or matrices for more than one safeguard policy) is prepared, the narrative can be used to "tell the story" with appropriate references to the broader

[14] Accordingly a finding of "equivalence" between country's legal framework and a corresponding Bank safeguard requirement cannot rely solely on the language of MEAs but must be supported by a similar finding at the subsidiary level.

historical and political context of the legal framework and its evolution and potential future directions. The narrative format can also be used as a more concise statement of the equivalence findings recorded in the matrix(ces) with a bulleted presentation summarizing the Objectives and Principles of the donor safeguard system for which "full," "partial" "no" equivalence have been found in the country/borrower legal framework, along with the list of recommended gap-filling measures. The narrative can also be used to enhance and explain the findings and recommendation of the Equivalence Analysis in cases where a purely literal interpretation as presented the matrix format is not sufficient to satisfactorily explain the results. This may occur where there are ambiguities in the legal texts, alternative translations of key terms, where the extent of equivalence may depend on how various legal instruments are related to each other, or with respect to other complex issues that are not conducive the schematic matrix format..

(b) *Rigor.* The analysis of the country's legal instruments needs to rigorously respect the distinction between the Objectives as distinguished from the Operational Principles of OP 4.00 Table A1 in the case of the WB or ADB Policy Principles per Table 1 of the SPS. As noted above, objectives are aspirational outcomes of the safeguard policies and best correspond to "policies" that are often not in themselves legally "actionable" as set forth in non-binding policy statements as well as in the preambles to various binding legal instruments. In contrast, Operational Principles are mandatory requirements of Bank safeguards and although stated in terms of the underlying "principles" behind Bank safeguard policies as these apply to borrowers, many of them are relatively prescriptive in nature, and, accordingly should correspond more closely to those country legal instruments (laws, decrees, regulation and administrative orders) that are mandatory for those to whom they apply.

(c) *Objectification*. The findings of the Equivalence Analysis need to be "*objectified"* in so far is as is possible with respect to the extent of equivalence between each element of the country legal framework and OP 4.00. For this purpose, it is recommended that the findings for each Objective and Operational Principle be characterized in terms of "full", "partial" or "no equivalence." By doing so, it will be possible to make use of the findings to determine for which safeguard elements the donor agency will be justified in using the country legal framework in support of investment projects at a national, sub-national or

sectoral level in a particular country, in lieu of relying solely or primarily on the requirements of the donor's safeguard policies, assuming of course that other "tests" required by the donor's policy (e.g. "acceptable implementation" of the borrower's legal requirements) are also met. Alternatively, a finding of "partial equivalence" may indicate that, absent identified "gap-filling" measures undertaken by the country, the donor may rely on the country legal framework only in selective instances that do not jeopardize projects outcomes, based. In instances where "no equivalence" is found, the donor will not able to use the country's legal framework for the particular safeguard policy or element absent substantial "gap-filling" of the country's legal framework

(d) *Transparency*. The data used in the Equivalence Analysis need to be presented in a *transparent* manner such that any reader (such as a peer reviewer of other third party) can easily determine how the analysis reached its conclusions regarding equivalence. To this send, the analysis presented in the equivalence matrix should ideally be based exclusively if possible on a verbatim textual analysis of primary sources rather than paraphrases, summaries or interpretations conducted by secondary sources. Such secondary sources, including non-binding but highly authoritative "guidance" from official sources may bear cited (and fully referenced), where appropriate and necessary, in the narrative summary of the equivalence findings. Such secondary sources and may be used to arrive at alternative interpretations of the legal instruments, particularly where their intent and significance may be better understood in their inter-relationships. This supplemental analysis may lead to findings of greater or lesser "equivalence" with Bank safeguards depending on the interpretation given.

There are several clear benefits from utilizing such a thoroughly documented and literal approach to equivalence analysis. These include enhancing transparency, credibility with third-parties and dialogue with stakeholders. However, it should be acknowledged that this approach does sacrifice brevity, and accordingly requires a deliberative and selective process of excerpting key sentences and phrases from the text, along with the information necessary to ensure that the data is presented within its rightful context (by citing the legal instrument, section and article) while at the same time making every effort to avoid needless redundancy and verbosity that too often results from a mechanistic "cut and paste" approach.

(e) *Acknowledgement of Limitations.* It should be noted the level of level of confidence in such equivalence findings may be subject to the level of detail and internal coherence of a country/borrower's legal framework as these correspond to various Bank safeguards. Other limitations may result for lack of assurance that the legal inventory is complete or up to date, or involve linguistic considerations in the interpretation of legal terminology or translations into other languages used for analytical purposes. These limitations bear on the credibility of the analysis and need to be acknowledged in the narrative section of the Equivalence Analysis.

2. Part II. Proposed Approach to Equivalence Analysis at IDB

2.1 IDB's Approach to UCS per OP 703.

PD B.16 of OP 703 of provides that "[i]n the context of individual operations, the Bank will consider the use of the borrowing member countries' existing systems of safeguards for identifying and managing environmental and social impacts. This will apply when the Bank has determined that the borrowing member country's system is equivalent or superior to the Bank's. Equivalency will be analyzed on the basis of each relevant safeguard for the selected operation. The Bank will be responsible for determining equivalence and acceptability and for overseeing compliance with this Policy.

PD B.16 further specifies that "In cases where the Bank is considering the use of a borrowing member country's systems, the verification of equivalence will be included as part of the project report submitted for approval. If the verification reveals gaps for specific safeguard requirements, the Bank and the borrower may agree on an action plan with sufficient resources allocated to it. The action plan, to be approved by the Board, shall demonstrate the necessary measures to achieve and maintain equivalence with IDB standards, consistent with the Policy directives. The Bank shall support the borrowing member country's capacity development needs to ensure acceptable safeguard implementation consistent with the agreed action plan. If, during the course of project implementation the Bank verifies equivalence in additional elements of a borrowing member country's systems, in accordance with Management guidelines, a change may be authorized in the contractual conditions. The Bank will use its own systems in areas where the borrowing member's systems are not deemed equivalent, and the delineation between

safeguards under Bank or country systems will be reflected in the borrower's contractual obligations to the Bank."

Also per PD. B.16 Environment and Safeguards Compliance Policy, "in country safeguards systems consist of the set of laws, regulations, institutions, and procedures that countries currently apply as part of their environmental management, and which correspond to the safeguard requirements established under Directives B3 to B11 of the Bank's Environment Policy."

"Specifically, these safeguards refer to the following:

- B.3. Environmental impact screening and classification of operations.
- B.4. Management of risk factors other than environmental impacts.
- B.5. Environmental assessment requirements.
- B.6. Consultation and disclosure requirements.
- B.7. Supervision and compliance.
- B.8. Transboundary impacts.
- B.9. Natural habitats and cultural sites.
- B.10.Hazardous materials.
- B.11. Pollution prevention and abatement."

According to OP 703, "Directives B.3 and B.4 are *internal* Bank obligations associated with the screening and classification of operations, and as a result the analysis of equivalence and acceptability will mostly apply to Directives B.5 to B.11." (emphasis added). However, the proposed equivalence matrix for Environmental and Social Safeguards prepared for purposes of this ToR provides for comprehensive analysis the equivalence of country legal systems to the extent that the underlying principles of IDB's policies on screening and classification of operations are relevant to environmental assessment under country systems and can be usefully transposed into equivalence analysis criteria. It therefore includes as among the "critical elements" selected provisions from IDB's OP 703 dealing with screening and classification and risk factors other than environmental impacts (such as social impacts) as per B.3 and B.4 as appropriate benchmarks for analyzing the equivalence of a BMCSS.

Apart from IDB's Environment and Safeguards Compliance Policy the Bank's Operational Policies and related guidance documents for social safeguards, in particular,

Operational Policies for Indigenous People (OP-765) and Involuntary Resettlement (OP -710) do not make explicit provision for the use of country systems.

However, the Environment and Safeguards Compliance Policy, as noted above, does make reference to the "use of the borrowing member countries' existing systems of safeguards for identifying and managing environmental and social impacts." According to IDB's Strategy for Use of Country Systems for Environmental and Social Safeguards, in addition to the Environment and Safeguards Compliance Policy, "[o]ther IDB safeguards policies that may be covered in the UCS pilots include OP 710, *Involuntary Resettlement* and OP- 765-10, *Indigenous People."* In addition, the Terms of Reference (ToR) for this assignment (as issued on June 1, 2011) specify that "the IDB safeguards policies that may be covered in UCS pilots are OP-703, *Environment and Safeguards Compliance Policy*, OP-710 *Involuntary Resettlement*, and OP-765 *Indigenous People.*

2.2 Proposed Structure and Format of Equivalence Matrix

Per the ToR for this Technical Note, "[t]he appropriate starting point for the analysis of equivalence that is described in IDB OP-703 Policy Directive B.16 is a matrix that contains the objectives and operational principles of each of the three IDB safeguards policies that will be considered for UCS. The ToR cites Table A1 in World Bank OP 4.00 and Tables 1-3 of the ADB's Safeguard Policy Statement (SPS) as "useful example[s] of such a matrix."

It should be noted here that the construction of these equivalence matrices at IDB is following a slightly different process in comparison to the WB and ADB, where the benchmarks were pre-determined through a public consultation and Bank-wide deliberative process leading to Board approval of the UCS policy. Following Board approval, the benchmarks were transposed into a matrix format which has been used as a template for equivalence analysis and assessment, at WB and ADB respectively.

Based on the lessons learned from the review of WB and ADB experience in developing and implementing an equivalence framework for country safeguard systems as summarized in Part I of this Technical Note and given the background provided above with respect to IDB's overall proposed strategy for implementation of PD B. 16, as summarized above, three Equivalence Matrices have been prepared. The three matrices have both common and distinct features reflecting the similarities and differences between the narrative structure of the IDB

Operational Policies, which were adopted at different times and largely through separate (although similar) procedures for stakeholder consultation and IDB Management and Board decisions

All three matrices seek to follow the same structure. Each matrix consists of four columns designed to generate in a transparent manner, the benchmarks that can be used to assess the equivalence between a given country system's legal requirements and the corresponding safeguard require of IDB, for each of the three operational policies:

(1) The first column consists of a list of "critical elements"[15]and are intended to provide an organizing framework for the specific safeguard provisions that are reference in each of the three safeguard policies.

(2) The second column consists of verbatim excerpts (with source citations) from the respective IDB safeguard policies that are considered to most clearly articulate the key corresponding provision of IDB's safeguard policies. These excerpts have been selected from among others that that are contained within the safeguard policies with the intention of providing citations that are sufficiently thorough to capture the key objectives of IDB's safeguards, yet sufficiently concise to avoid redundancy wherever feasible.[16]

(3) The third column consists of restatements of the verbatim excerpts of the IDB safeguard provisions referenced in column (2) transposed into language that is intended to capture the essence of how each provision can be expected to be articulated within the context of *a country legal framework* as distinguished from the safeguard policy of a multilateral lending institution. This transposition is critical for the purpose of avoiding the tendency of large development institutions to impose "Bank-centric" requirements on borrowers (which is one of the perceived weaknesses of some of the Operational Principles of World Bank OP 4.00 and the ADB SPS as noted above). For example, IDB's safeguard policies sometimes make reference to an "obligation of the Bank." Some of these Bank-specific obligations are functions that can be expected to be included in a country legal framework, as a legal obligation of the government as authorizing entity or of a project

[15] "Critical Elements" is a term adopted by the Forest Carbon Partnership Facility (FCPF) to be used as a benchmark for assessing the equivalence of the safeguard systems of prospective donor partners relative to WB safeguards. For this purpose the FCPF used the Objectives of selected Operational Principles of WB OP 4.00 Table A1 as deemed relevant to the activities of the FCPF.

[16] There may be some circumstances where such redundancy serves the important purpose of ensuring that certain safeguard issues are identified and addressed.

proponent or operator or other stakeholder. If these instances, the corresponding safeguard provision is transposed into language that could be expected to be encountered in a country legal system with references the government as "authorizing entity," and/or in other cases, as appropriate, the "project proponent" In other instances, the obligation cited in the IDB's safeguard policy is specific to the IDB's due diligence as lender or provider of other support to a project and is not relevant to the legal framework of a country system. Where this distinction is self-evident in the language of the IDB's Operational Policy, the provision is generally omitted from the matrix altogether. In cases where the relevance of an IDB commitment is ambiguous, the justification for omitting it is discussed in the column (4) of the matrix, as explained below.

(4) The fourth column of the matrix is a commentary explaining the reasoning behind some of the recommended formulations in column (3) where some formulation may appear to differ in substance from the IDB safeguard provisions cited in column (2), based on WB and ADB with the country safeguard systems subject to SDR or CSR in the respective institutions. It should be noted here that WB experience has been limited to date to only two IDB BMCs: Brazil and Jamaica.[17] Accordingly, this analysis would benefit from the input of IDB legal experts who are familiar with the key elements of country safeguard systems with the Latin America and Caribbean area.

(5) It is anticipated that when the three matrices are adopted in final form, columns (1) and (3) will remain, with column (3) re-designated as column (2). The new column (3) will cite the corresponding provisions of the country legal framework for the country subject to equivalence analysis, using a methodology and presentation that will be further described in a subsequent task "b" of this contract. The new column (4) will characterize the equivalence finding in relative terms (e.g. "full," "partial," or "no equivalence." Column (5) of the final matrix will identify gap-filling measures recommended by IDB that would enable the country system to reach partial or full equivalence, however the case may be. The recommended methodology for developing and presenting Gap-Filling Recommendations will be undertaken as part of a subsequent ToR.

[17] By definition, of course, ADB's experience does not include any of IDB's BMCs.

2.3 Content of the Matrices.

The differences in the content of the three matrices relative to the corresponding IDB safeguard policies reflect distinctions both in the format the three IDB Operational Policies as well as differences in the extent to which the Operational Policies of IDB (and other MDBs) reflect current reality among country legal systems with respect to these safeguards. Two of the IDB Operational Policies – Environmental and Social Safeguards (OP-703) and Indigenous People (OP-765) were adopted in 2006 and follow a similar narrative and bulleted format that is relatively conducive to transposition into a matrix format. With respect to these two Operational Policies, the attached matrices seek to follow the format of the OP as closely as possible, while at the same time seek to strike a balance between the objectives of thoroughness and conciseness cited above. By contrast the Operational Policy on Involuntary Resettlement (OP-710), which was adopted in 1999, follows a less formal structure than the more recent Operational Policies is, consequently more difficult to transpose into a matrix format. In this instance, the attached matrix makes use of the format prepared by the IDB, the Task Force on Common Approaches to Environmental and Social Safeguards of the Forest Carbon Partnership Facility, with editorial changes as necessary to maximize consistency among the three matrices.[18]

a) *Environmental and Social Safeguards.* With respect to it should be evident from this commentary in column (4) of each of the three matrices that there is a greater expectation for a finding of full or partial equivalence between IDB's Operational Policy for Environmental and Social Safeguards and, to a lesser extent its Operational Policy on Indigenous People than for IDB's Operational Policy on Involuntary Resettlement. This observation reflects the fact that coherent environmental assessment and management legal framework systems have been widely adopted in developing countries over the past twenty years.

   This has resulted in common understandings of what is meant by "environmental assessment," screening," "scoping" "impact assessment," "environmental (and social) management plans," "monitoring plans," as well as to some extent the "enabling environment" that is associated with good international practice in environmental

[18] http://www.forestcarbonpartnership.org/fcp/node/300

assessment for technical standards for what is considered international good practice for environmental assessment and management including stakeholder consultation and public disclosure of environmental information. This is also the case with respect to technical matters involving natural habitat protection, including the designation of protected areas, pollution prevention and abatement and management of hazardous substances in including pesticides.

To a large extent these similarities in country legal systems for environmental assessment and management owe their origins to the vast framework of multilateral environmental agreements that have emerged since the Stockholm Conference in 1972, such as the Rio Declaration, the Convention on Biological Diversity, the Framework Convention on Climate Change, the Millennium Development Goals, etc. which most developing countries have ratified and transposed to some extent into their domestic legal frameworks.

b) *Indigenous Peoples Safeguards.* The same observation is true, but to a lesser and more recent extent, with respect to IDB's Operational Policy on Indigenous Peoples. In recent years international development and human rights policy law have made significant advances in identifying the distinguishing characteristics, assets, vulnerabilities and corresponding rights of Indigenous Peoples in the development process., the most recent evidence of this being the widespread adoption of the United Nations General Assembly Resolution on the Rights of Indigenous Peoples. Some countries in the Latin American/Caribbean region have been in the forefront of the developments and the critical elements of the emerging development and rights regimes applicable to Indigenous Peoples is well articulated in many developing country system legal frameworks and reflected in IDB's Operational Policy on Indigenous People which was adopted during this period. Accordingly, there is significant congruence between the concepts and accepted definitions of such terms as "Indigenous People," "ethnic minorities," "social assessment," "traditional knowledge and culture," "customary land tenure," "meaningful consultation," "prior informed consent," etc. as referenced to varying degrees in country legal frameworks and IDB's OP-765.

c) *Involuntary Resettlement Safeguards*. In contrast, to the Environmental and Social and Indigenous Peoples Safeguards in either the structure nor many of the substantive provisions common to MDB safeguard policies with respect to Involuntary Resettlement, including IDB's OP -710, have corresponding provisions in country legal frameworks. To begin the notion of "involuntary resettlement," remains something an invention of the MDBs in response to widespread unanticipated dislocation and impoverishment of vulnerable populations resulting from un planned or poorly planned development projects of the 1970's and 1980's. MDBs safeguard policies designed to avoid and mitigate these impacts that have been developed and evolved during the past two decades have been superimposed on country legal frameworks that have existing and in some cases, longstanding (e.g. colonial era) provisions regarding land and housing tenure and acquisition that not structurally conducive to reform in manner that is consistent with the structure of MDB resettlement safeguards.

In addition, notwithstanding widespread international acceptance of the notion of "eminent domain" and the right of government to expropriate property in the national interest subject to fair compensation, many of these systems have proven to be resistant to substantive reforms with respect to the rights of informal settlers, lacking title to assets (who tend to constitute the majority of people affected by involuntary resettlement) and to MDB notions of what constitutes "fair and equitable" compensation for loss of assets and declines in living standards. In this context, but also it should be noted in the absence of empirical knowledge of the part of this author of the legal frameworks of the LAC region, it is noted that many of the critical safeguard elements of IDB's OP- 710 may not have consistent counterparts in IDB's BMC legal safeguard systems.

ANNEX I. PROPOSED CRITERIA FOR INTER-AMERICAN DEVELOPMENT EQUIVALENCE MATRIX FOR COUNTRY SAFEGUARD SYSTEMS: ENVIRONMENTAL AND SAFEGUARDS COMPLIANCE POLICY

Policy Directive B. Safeguarding The Environment: Managing Environmental Impacts And Risks			
B.3 Screening and Classification			
A. Critical Element	**B. IDB Policy per OP-703 Environmental and Safeguards Compliance Policy and Implementation Guidelines for the Environment and Safeguards Compliance Policy**	**C. Proposed Criteria for Finding of "Full Equivalence" of the Country Legal Framework with IDB Policy**	**D. Additional Equivalence Indicators/Comments**
[Application]	All Bank-financed operations will be screened and classified according to their potential environmental impact Project classification may change if during the preparation new information warrants changing the project's category, or if the design of an operation is substantially modified. .	The legal framework requires all projects to be screened and classified according to their potential environmental impacts. The legal framework includes provisions for reclassification of projects based on new information and/or substantial modification in the design of an operation.	To be considered equivalent it is important that the legal framework make it clear that all projects are to be screened and based on "potential" (i.e. pre-mitigation) impacts, as distinguished from residual impacts, that assume effective mitigation.
[Timing of Screening]	Screening will be carried out early in the preparation process	The legal framework requires that projects be screened for environmental impacts early in the project preparation process	The precise timing and sequence of screening in the project preparation process can vary depending on the type of environmental assessment that is conducted (e.g. full EIA, environmental analysis, audit, etc.).
[Potential Negative Impacts]	The screening process will consider potential negative environmental impacts	The legal framework requires that screening process will consider potential negative environmental impacts	It is important that the legal framework make it clear that all projects are to be screened and based on "potential" (i.e., pre-mitigation impacts.)
[Direct and Indirect Impacts]	The screening process will consider potential negative environmental impacts whether direct, indirect…. in nature…	The legal framework requires that both direct and indirect impacts are considered.	
[Regional and Cumulative Impacts]	The screening process will consider potential negative environmental impacts whether …regional or cumulative in nature…	The legal framework requires that regional or cumulative impacts are considered.	

A. Critical Element	B. IDB Policy per OP-703 Environmental and Safeguards Compliance Policy and Implementation Guidelines for the Environment and Safeguards Compliance Policy	C. Proposed Criteria for Finding of "Full Equivalence" of the Country Legal Framework with IDB Policy	D. Additional Equivalence Indicators/Comments
[Environmentally related social and cultural impacts]	The screening process will consider… environmentally related social and cultural impacts, of the operation …	The legal framework requires that environmentally related social and cultural impacts, impacts are considered	
[Associated Facilities]	The screening process will consider environmentally related social and cultural impacts ….of ….associated facilities, if relevant	The legal framework requires that environmentally related social and cultural impacts of ….associated facilities if relevant	As defined by IDB,"[a]ssociated facilities refer to new or additional works and/or infrastructure, irrespective of the source of financing, essential for a project to function, such as: new/additional access roads, railways, power lines, pipelines required to be built for the project; new/additional construction camps or permanent housing for project workers; new/additional power plants required for the project; new/additional project effluent treatment facilities, new/additional warehouses and marine terminals built to handle project goods"
[Requirement Environmental Impact Assessment]	Any operation that is likely to cause significant negative environmental and associated social impacts, or have profound implications affecting natural resources, will be classified as **Category "A."** These operations will require an environmental assessment (EA), normally an Environmental Impact Assessment (EIA) for investment operations.	The legal framework requires that any operation that is likely to cause significant negative environmental and associated social impacts, or have profound implications affecting natural resources, will be classified as so as to require an environmental assessment (EA), normally in the form a full-scale Environmental Impact Assessment (EIA), or equivalent procedures as defined by the country system for investment operations.	Country systems may use diverse terminology to designate EA instruments that are equivalent how the IDB defines EIA. Such designations for may include "Environmental Impact Statement" "Environmental Impact Report," etc. The most important considerations in establishing equivalence with this principle is the principle of proportionality, i.e. that projects with the greatest potential for adverse environmental (and related social and cultural) impacts are required to conduct the most comprehensive level of EA compared to projects with less significant potential impacts.

A. Critical Element	B. IDB Policy per OP-703 Environmental and Safeguards Compliance Policy and Implementation Guidelines for the Environment and Safeguards Compliance Policy	C. Proposed Criteria for Finding of "Full Equivalence" of the Country Legal Framework with IDB Policy	D. Additional Equivalence Indicators/Comments
[Strategic Environmental Assessment]	These operations will require … other environmental assessments such as a Strategic Environmental Assessment (SEA) for programs and other financial operations that involve plans and policies. The SEA is often the appropriate tool for the following types of operations: (i) policy-based lending operations (e.g., structural or sectoral adjustment); (ii) sector-wide loans, such as the tourism sector programs; and (iii) regional plans and programs, such as infrastructure development.	The legal framework requires that programmatic operations involving plans and policies conduct SEA as an alternative or supplement to EA. The legal framework identifies those operations for which SEA is required or permitted as a supplement or alternative to EIA or Environmental Analysis.	SEA is less subject to a common international definition and procedures than EIA which is a much more mature and widely established practice. Accordingly, SEA may be understood and applied quite differently in diverse country systems. The key principle is the SEA be applied to policy-and programmatic activities having environmental and related social and cultural impacts l impacts that cannot be effectively addressed at the project-specific level and that the SEA process be integrated into the decision-making process for these policy and programmatic activities.
[High Safeguard Risk Operations]	For some high safeguard risk operations that, in the Bank's opinion raise complex and sensitive environmental, social, or health and safety concerns, the borrower should normally establish an advisory panel of experts to provide guidance for the design and/or execution of the operation on issues relevant to the EA process, including health and safety	The legal framework includes explicit authority and encouragement for the project proponent to establish an advisory panel of experts to provide guidance for the design and/or execution of the operation on issues relevant to the EA process, including health and safety for some high safeguard risk operations that raise complex and sensitive environmental, social, or health and safety concerns	As Bank policy states that the borrower "should normally establish an advisory panel of experts" for this category of projects, the corresponding provision in a country system would be authorization for the project proponent to establish such an advisory panel rather than a requirement to do so. To be equivalent with the expectation that the establishment of such an advisory panel be considered normal practice for this category of projects, the authorization could be reinforced by a requirement that the proponent justify any decision to not establish such a panel for such projects and/or some incentive for doing so, such as fast-tracking the EA approval process.
[Environmental or Social Analysis and ESMP]	Operations that are likely to cause mostly local and short-term negative environmental and associated social impacts for which effective mitigation measures are readily available will be classified as ***Category "B."*** These operations will normally require an environmental and/or social analysis, according to, and focusing on, the specific issues identified in the screening process, and an	The legal framework requires that operations that are likely to cause mostly local and short-term negative environmental and associated social impacts for which effective mitigation measures are readily available will normally require an environmental	

A. Critical Element	B. IDB Policy per OP-703 Environmental and Safeguards Compliance Policy and Implementation Guidelines for the Environment and Safeguards Compliance Policy	C. Proposed Criteria for Finding of "Full Equivalence" of the Country Legal Framework with IDB Policy	D. Additional Equivalence Indicators/Comments
	environmental and social management plan (ESMP).	and/or social analysis, according to, and focusing on, the specific issues identified in the screening process, and an environmental and social management plan (ESMP).	
[Minimal to No Risk Operations]	Operations that are likely to cause minimal or no negative environmental and associated social impacts will be classified as ***Category "C."*** These operations do not require an environmental or social analysis beyond the screening and scoping analysis for determining the classification. However, where relevant, these operations will establish safeguard, or monitoring requirements, (such as such as compliance with environmental, health and safety standards or codes, or exclusion lists). .	The legal framework provides that operations that are likely to cause minimal or no negative environmental do not require an environmental or social analysis beyond the screening and scoping analysis for determining the classification. However, where relevant, these operations will establish safeguard, or monitoring requirements.	
[Projects Designed to Produce Positive Environmental Outcomes]	Operations that are clearly designed to produce positive environmental outcomes, unless they include physical works, are considered to be Category C operations	For projects that are clearly designed to produce positive environmental outcomes, the country legal framework should apply the level of environmental assessment as those applicable to projects that are likely to cause minimal or no negative environmental and associated social impacts.	
POLICY DIRECTIVE B.4 Other Risk Factors			
	In addition to risks posed by environmental impacts, the Bank will identify and manage other risk factors that may affect the environmental sustainability of its operations. These risk factors may include elements such as the governance capacity of executing agencies/borrower and of third parties sector-related risks, risks associated with highly sensitive environmental and social concerns, and vulnerability to disasters. Depending on the nature and the severity of the risks, the Bank will engage with the executing agency/borrower and relevant third parties to develop appropriate measures for managing such risks.	The legal framework requires decision-makers to take into account "third party" factors other than environmental impacts that may affect environmental sustainability of operations, including the capacity of project proponents and executing agencies, as well as the project's vulnerability to disasters and to develop management procedures for such risk factors.	This provision is less likely to be found in a borrower's EA legal framework but may be included in other legal provisions relating to liability for adverse environmental impacts or civil damages.

A. Critical Element	B. IDB Policy per OP-703 Environmental and Safeguards Compliance Policy and Implementation Guidelines for the Environment and Safeguards Compliance Policy	C. Proposed Criteria for Finding of "Full Equivalence" of the Country Legal Framework with IDB Policy	D. Additional Equivalence Indicators/Comments
POLICY DIRECTIVE B.5 Environmental Assessment Requirements			
[Responsible Party for EA Preparation]	Preparation of Environmental Assessments (EA) and associated management plans and their implementation are the responsibility of the borrower.	The legal framework identifies the party with primary responsibility for preparation of EA.	In some jurisdictions, such as the US, the permitting agency, rather than the project proponent, has primary responsibility for EA preparation. Other country systems may have similar requirements. In other cases, the operator of a project rather than the owner may be responsible for EA preparation.
[Compliance with Specified Standards for EIA, SEA and ESMP and Environmental Analysis]	The Bank will require compliance with specified standards for Environmental Impact Assessments (EIAs), Strategic Environmental Assessments (SEAs), Environmental and Social Management Plan (ESMP), and environmental analyses, as defined in this Policy and detailed in the Guidelines.	The legal framework specifies the standards for EIAs, SEA and ESMPs, and Environmental Analysis or their equivalents.	This may include specifications regarding the process content, format, consultation and disclosure requirements for various types of EA.
[Review and Approval of EA Products]	The operation's executing agency or borrower is required to submit all EA products to the Bank for review. The operation's approval by the Bank will consider the quality of the EA process and documentation, among other factors	The legal framework requires that all EA products be submitted to a public authority, independent of the project proponent, for review and approval based on compliance with required EA procedures and standards as well as the quality of the process.	In addition to the IDB requirements, under a country system it is of critical importance that EA products follow legally required procedures and comply with EA standards.
[EA Process]	The EIA process includes, as a minimum: screening and scoping for impacts; timely and adequate consultation and information dissemination process; examination of alternatives including a no project scenario. The EIA should be supported by economic analysis of project alternatives and, as applicable, by economic cost-benefit assessments of the project's environmental impacts and/or the associated protection measures. Also, due consideration will be given to analyzing compliance with relevant legal requirements; direct, indirect, regional or cumulative impacts, using adequate baseline data as necessary; impact mitigation and management plans presented in an ESMP; the incorporation of EA findings into project design; measures for adequate follow-up of the ESMP's implementation. An EIA report must be prepared with its ESMP and disclosed to the public prior to the analysis mission, consistent with the Disclosure of Information Policy (OP-102).	The legal framework specifies the requirements for the EA process and is normally expected to include the following components: - screening and scoping for impacts; - timely and adequate consultation and information dissemination process; - examination of alternatives including a no project scenario; - economic analysis of project alternatives and, as applicable, by economic cost-benefit assessments of the project's environmental impacts and/or the associated protection measures; - compliance with relevant legal requirements; -direct, indirect, regional or cumulative impacts, using adequate baseline data as necessary; -impact mitigation and management plans presented in an ESMP; -the incorporation of EA findings into project design; -measures for adequate follow-up of the ESMP's implementation. -An EIA report must be prepared with its	The specific components and sequence of the EA process can vary among country systems. The critical principle is that the key components of the process are undertaken prior to project approval and that the sequence of EA-related activities facilitates does not preclude full consideration of impacts and alternatives throughout the EA process. The stage of project preparation corresponding to IDB's analysis mission would be the final stage of project approval by the country's permitting authorit(ies).

A. Critical Element	B. IDB Policy per OP-703 Environmental and Safeguards Compliance Policy and Implementation Guidelines for the Environment and Safeguards Compliance Policy	C. Proposed Criteria for Finding of "Full Equivalence" of the Country Legal Framework with IDB Policy	D. Additional Equivalence Indicators/Comments
		ESMP and disclosed to the public prior to the beginning of the project approval process.	
[SEA Objectives and Process]	The SEA has the following objectives: (i) assure that the main environmental risks and opportunities of policies, plans or programs have been properly identified; (ii) engage early on governments and potentially affected parties in the identification and analysis of strategic issues, actions, and development alternatives; (iii) define and agree on a sequence of actions to address systematically and strategically environmental issues and priority actions, summarized in an SEA action plan for adequate monitoring and follow up; and (iv) assure that adequate environmental information is available and collected for the decision-making process.	The legal framework should provide for SEA that supports the following objectives and processes: - assure that the main environmental risks and opportunities of policies, plans or programs have been properly identified; - engage early on governments and potentially affected parties in the identification and analysis of strategic issues, actions, and development alternatives; - define and agree on a sequence of actions to address systematically and strategically environmental issues and priority actions, summarized in an SEA action plan for adequate monitoring and follow up; - assure that adequate environmental information is available and collected for the decision-making process;	SEA is less subject to a common international definition and procedures than EIA which is a much more mature and widely established practice. Accordingly, SEA may be understood and applied quite differently in diverse country systems. The key principle is the SEA be applied to policy-and programmatic activities having environmental and related social and cultural impacts l impacts that cannot be effectively addressed at the project-specific level and that the SEA process be integrated into the decision-making process for these policy and programmatic activities.
[SEA Process]	The SEA process should be triggered early in the decision-making process and prior to the implementation of the policies, plans or programs. SEAs are typically performed by governmental entities responsible for developing policies, plans, and programs Recommendations from the SEA process should be incorporated into an operation's activities.	The legal framework should require that: -The SEA process is triggered early in the decision-making process and prior to the implementation of the policies, plans or programs; - SEA is conducted by governmental entities responsible for developing policies, plans and programs; and - Recommendations from the SEA process are be incorporated into an operation's activities.	See comments on SEA above.
[Environmental Impact Assessment]	The EIA is undertaken to identify potential significant environmental and social impacts, propose solutions to manage such impacts, and the selected measures that will avoid, mitigate or compensate for significant negative impacts and enhance positive ones. The EIA considers the entire project cycle, from the design stage to construction, operation and decommissioning, if applicable. The formal documentation is the EIA report.	The legal framework should require, at a minimum, that the EIA: - identify potential significant environmental and social impacts; - propose solutions to manage such impacts and the selected measures that will avoid, mitigate or compensate for significant negative impacts and enhance positive ones ; - consider the entire project cycle, from the design stage to construction, operation and decommissioning, if applicable; - Produce formal documentation in the form	

A. Critical Element	B. IDB Policy per OP-703 Environmental and Safeguards Compliance Policy and Implementation Guidelines for the Environment and Safeguards Compliance Policy	C. Proposed Criteria for Finding of "Full Equivalence" of the Country Legal Framework with IDB Policy	D. Additional Equivalence Indicators/Comments
		of an EIA Report (or equivalent)	
[Environmental Analysis]	For operations requiring an environmental assessment but not subject to an EIA or an SEA, an environmental analysis should be performed including an evaluation of the potential environmental, social, health and safety impacts and risks associated with the operation, and an indication of the measures foreseen to control these risks and impacts. Environmental analyses may be carried out for both public and private sector operations. An EA could include, as applicable: (i) a description of the proposed investment plan; (ii) an evaluation of the legal and regulatory framework applicable to the investment plan; (iii) an assessment of the potential environmental and social impacts and risk of the proposed operations, works or activities included in the proposed investment plans; and (iv) a proposed management plan, including mitigation and monitoring programs to address significant impacts and risks.	The legal framework should require that for operations requiring an environmental assessment but not subject to an EIA or an SEA, an environmental analysis should be performed including an evaluation of the potential environmental, social, health and safety impacts and risks associated with the operation, and an indication of the measures foreseen to control these risks and impacts. The legal framework should require that the environmental analysis include, at a minimum the following components: - a description of the proposed investment plan; - an evaluation of the legal and regulatory framework applicable to the investment plan; - an assessment of the potential environmental and social impacts and risk of the proposed operations, works or activities included in the proposed investment plans; and - a proposed management plan, including mitigation and monitoring programs to address significant impacts and risks.	
[Socio-Cultural Analysis]	A socio-cultural analysis is required when an operation may cause significant socio-cultural impacts on affected people, which will not be addressed by other EA processes required for the operation. Socio-cultural analysis is used to identify the people that will be significantly affected by a project. The socio-cultural analysis may be part of an environmental analysis.	The legal framework should require that a Socio-Cultural Analysis be prepared for projects that include the potential for significant associated negative social or cultural impacts that are not required to be addressed by other EA processes or instruments. The socio-cultural analysis is used to identify the people that will be significantly affected by a project. The socio-cultural analysis may be a free-standing analysis or part of an environmental analysis	In some country systems, this type of analysis is more typically reserved for projects having potential or anticipated significant adverse impacts on specified categories of vulnerable peoples, such as Indigenous Peoples, ethnic minorities, women, the elderly or the poor and or landless.
[Existing Facilities/Environmental Audits]	The financing of existing facilities will typically require an environmental assessment (EA) to assess the potential environmental and associated social impacts and risks due to the construction and operation of the projects or sub-projects. Environmental audits identify past or present environmental and social impacts and risks associated with existing or past economic activities and prescribes the means to correct them, when	Under a country system, EA or environmental audit for existing facilities should be required by the legal framework in circumstances where new laws or instruments, including permitting requirements are introduced that are explicitly applicable to such facilities or	Changes in ownership or financing of existing facilities, absent other applicable legal or regulatory requirements would not normally trigger EA requirements under a country system as is the case with respect to new Bank financing. However, in some cases, changes in

A. Critical Element	B. IDB Policy per OP-703 Environmental and Safeguards Compliance Policy and Implementation Guidelines for the Environment and Safeguards Compliance Policy	C. Proposed Criteria for Finding of "Full Equivalence" of the Country Legal Framework with IDB Policy	D. Additional Equivalence Indicators/Comments
	necessary. An environmental audit focuses on two elements: (i) compliance of existing facilities, activities and operations with the applicable environmental and associated social, and occupational health and safety in-country laws and regulations, and with Bank requirements; and (ii) the nature and extent of existing environmental impacts, including soil, water and groundwater, air and any facility contamination, as well as any relevant impact to the natural environment and resources and its consequences to affected communities as a result of past or existing activities.	where substantial modifications or expansions are made to existing facilities , or where changes in financial liability are subject to regulatory approval. Such audits should be required to determine: - compliance of existing facilities, activities and operations with the applicable environmental and associated social, and occupational health and safety in-country laws and regulations, and with Bank requirements; and - the nature and extent of existing environmental impacts, including soil, water and groundwater, air and any facility contamination, as well as any relevant impact to the natural environment and resources and its consequences to affected communities as a result of past or existing activities.	ownership and/or financial liability for environmental impacts could invoke legal requirements for environmental audits prior to regulatory approval of such changes.
[ESMP Requirements]	The ESMP must include: a presentation of the key direct and indirect impacts and risks of the proposed operation; the design of the proposed social/environmental measures to avoid, minimize, compensate and/or mitigate the key direct and indirect impacts and risks; the institutional responsibilities to implement these measures, including, where necessary, institutional development, capacity building and training; the schedule and budget allocated for the implementation and management of such measures; the consultation or participation program agreed for the operation; and the framework for the monitoring of social and environmental impacts and risks throughout the execution of the operation, including clearly defined indicators, monitoring schedules, responsibilities and costs. The ESMP, including the design of all mitigation and compensation measures recommended, is an integral part of the EIA report	The legal system should require the ESMP (or its equivalent) to include the following components: - a presentation of the key direct and indirect impacts and risks of the proposed operation; - the design of the proposed social/environmental measures to avoid, minimize, compensate and/or mitigate the key direct and indirect impacts and risks; - the institutional responsibilities to implement these measures, including, where necessary, institutional development, capacity building and training; the schedule and budget allocated for the implementation and management of such measures; -the consultation or participation program agreed for the operation; and - the framework for the monitoring of social and environmental impacts and risks throughout the execution of the operation, including clearly defined indicators, monitoring schedules, responsibilities and costs.	Under some country legal systems the ESMP or equivalent is not "an integral part of the EIA Report" as required by IDB, but is presented as a separate document, subsequent to the submission and, in some cases, approval of, the EIA Report. Depending on the content, timing and sequence of the ESMP process and submission, this practice may be fully consistent with the objective of maintaining the integrity of the EIA process.
[Review (and approval) of ESMP]	The ESMP should be ready for, and reviewed during, the analysis/due diligence mission.	The legal framework should require that the ESMP be reviewed and approved by authorities prior to final project approval.	Use of the word "should" leaves it unclear whether IDB requires the ESMP to be prepared prior to the analysis/due/diligence mission.;

A. Critical Element	B. IDB Policy per OP-703 Environmental and Safeguards Compliance Policy and Implementation Guidelines for the Environment and Safeguards Compliance Policy	C. Proposed Criteria for Finding of "Full Equivalence" of the Country Legal Framework with IDB Policy	D. Additional Equivalence Indicators/Comments
			In some country systems a separate ESMP is required for construction and operational phases with approval required prior to the commencement of each phase of project operations. Such requirements may not apply until after approval of the EIA.
POLICY DIRECTIVE B.6 - Consultations			
[Affected Parties]	As part of the environmental assessment process, Category "A" and "B" operations will require consultations with affected parties and consideration of their views. Affected parties are individuals, group of individuals or communities who may be directly impacted by a Bank-financed operation. Such impacts may be positive or negative. Affected parties may designate representatives as part of the consultation process.	The legal framework should require consultations with affected parties and consideration of their views for all projects subject to EIA, SEA and environmental analysis. Affected parties should be defined to include all those affected by a project, whether the impacts are expected to be positive or negative. Affected parties should be given explicit authority to designate representatives as part of the consultation process.	
[Other Interested Parties]	Other interested parties are individuals or groups who have expressed support or concern regarding a proposed or existing bank-financed operation. Consultations with other interested parties **may** also be undertaken in order to consider a broader range of expertise and perspectives. The Bank also **encourages** meeting with experts and representatives of institutions and civil society organizations specializing in a given field or issue, to receive feedback and advice. (emphasis added) .	The legal framework should provide an opportunity for project proponents or authorizing officials to consult with other interested parties, including civil society organizations, as appropriate.	It would appear that IDB does not require that consultations take place with interested parties (unaffected by the project). Consultations with civil society organizations are "encouraged," but not required. Some country systems do require consultations with interested parties (including civil society organizations) although not all systems make explicit distinctions between "affected" and "interested" parties.
[Category "A" Operations]	Affected parties for Category A projects must be consulted at least twice in the process of preparing an operation during the scoping phase of the environmental assessment or due diligence processes, and during the review of the assessment reports. These operations should have a public consultation plan defining the objectives and methodology to perform meaningful consultations with affected parties.	The legal framework should require two consultation opportunities during the EIA process, one during scoping and a second during review of the EIA report prior to final approval.	Use of the word "should" leaves it unclear whether IDB requires that Category "A" operations include a public consultation plan. In practice, few country systems require an explicit consultation plan, although most country systems do require some form of public consultation as part of the EA process and the requirements for consultation, where specified in the legal framework, may effectively perform the functions of a plan.
[Category "B" Operations]	For Category "B" operations, affected parties must be consulted at least once, preferably during the preparation or review of the ESMP, as agreed with the borrower. Consultations **should** provide, at a minimum, information to	The legal framework should require that the project proponent consult at least once with affected parties during preparation or review of the ESMP or equivalent. The legal framework should provide an	Use of the word "should" leaves it unclear whether IDB requires consultations operations to provide information and opportunities for dialogue regarding project scope of proposed mitigation measures with

A. Critical Element	B. IDB Policy per OP-703 Environmental and Safeguards Compliance Policy and Implementation Guidelines for the Environment and Safeguards Compliance Policy	C. Proposed Criteria for Finding of "Full Equivalence" of the Country Legal Framework with IDB Policy	D. Additional Equivalence Indicators/Comments
	affected parties and a dialogue regarding the project scope and proposed mitigation measures.	opportunity for affected parties to be informed and consulted on the project scope and proposed mitigation measures.	affected parties for Category "B" projects.
[Consultation: General Criteria]	For consultation purposes, appropriate information will be provided in location(s), format(s) and language(s) to allow for affected parties to be meaningfully consulted, to form an opinion and to comment on the proposed course of action.	The legal framework should provide that appropriate information will be provided in location(s), format(s) and language(s) to allow for affected parties to be meaningfully consulted, to form an opinion and to comment on the proposed course of action.	Country legal systems may follow diverse practices with respect to the physical access to information depending on the geographical, physical, administrative, and communications infrastructure. Where widespread internet access is the norm, it would be appropriate for environmental information about pending projects to be provided online; in other contexts, this may not be feasible. Likewise, the format and language in which such information is meaningfully conveyed can vary depending on literacy rates and which languages are recognized for official purposes.
[Consultation during Project Execution]	During execution, affected parties **should** be kept informed of those project-related environmental and associated social mitigation measures affecting them, as defined in the ESMP.	The legal framework should provide an opportunity for affected parties to be kept informed of environmental and associated social mitigation measures affecting them, during project implementation.	It is not clear that IDB requires that consultation with affected parties continue during project execution. In any case, such explicit consultation requirements are not common in country legal systems.
[EIA Disclosure]	EIAs and/or other relevant environmental analyses will be made available to the public consistent with the Bank's Disclosure of Information Policy (OP-102)[19]	The country legal framework will make EIAs and/or other relevant environmental analyses available to the public in a manner consistent with the country's legal framework with respect to disclosure of information. The country's legal framework should provide that the following environmental information be routinely disclosed to the public: • Environmental and Social Strategies (ESS) • Environmental Impact Assessments	IDB's Access to Information Policy (AIP) applies to IDB rather than to borrowers. Para 5.2 of the AIP cites the Environment and Safeguards Compliance Policy provision that "as part of the environmental assessment process... appropriate information will be provided in location(s), format(s) and languages(s) to allow for affected parties to be meaningfully consulted." To be fully equivalent to IDB's self-imposed AIP a country system should be required to disclose same types of environmental

[19] IP 102 was replaced by the IDB' s' Access to Information Policy (AIP) , which because effective January 1, 2011. Per Annex II of the AIP IDB discloses the following environmental information connection with Non-sovereign Guaranteed operations:

- Environmental and Social Strategies (ESS)
- Environmental Impact Assessments (EIA)
- Strategic Environmental Analyses (SEA)
- Environmental Analyses (EA)
- Environmental and Social Management Reports (ESMR)

A. Critical Element	B. IDB Policy per OP-703 Environmental and Safeguards Compliance Policy and Implementation Guidelines for the Environment and Safeguards Compliance Policy	C. Proposed Criteria for Finding of "Full Equivalence" of the Country Legal Framework with IDB Policy	D. Additional Equivalence Indicators/Comments
		(EIA) • Strategic Environmental Analyses (SEA) • Environmental Analyses (EA) • Environmental and Social Management Reports (ESMR)	documentation as IDB is required to disclose in connection with projects it supports. The AIP further states that Management's annual reports to the Board on implementation of the Access to Information policy (*see* paragraph 11.1) will review the practices of borrowers with respect to the disclosure of environmental and social assessments related to Bank-financed projects. The results of these reviews should provide IDB with further guidance on what is reasonable to expect on the part of a country system. It general, it may be observed that under most country systems, EIAs and other relevant environmental analyses are considered public documents for legal purposes and are prepared accordingly so as to avoid the need to consider protection of legitimately confidential information. However, direct public access to the full text of such documents maybe provided through a range of mechanisms, some of which may assign proactive responsibility for disclosure on the project proponent or government agency while others may place a burden on the public by requiring the public to make a formal request for access to such documents.
POLICY DIRECTIVE B.7 - Supervision and Compliance			
[Incorporation of ESMP Commitments into Contractual Documents]	Safeguard requirements, such as those in an ESMP must be incorporated into the project contract documents, its operating or credit regulations, or the project bidding documents, as appropriate, setting out as necessary milestones, timeframes and corresponding budgetary allocations to implement and monitor the plan during the course of the project	The legal framework should require that all project contractual documents, including permitting and financing instruments , incorporate all relevant ESMP commitments as appropriate, setting out as necessary milestones, timeframes and corresponding budgetary allocations to implement and monitor the plan during the course of the project.	
[Compliance Monitoring]	The teams should verify that safeguards included in the loan contract, operating regulations or sector letters are implemented. Supervision may involve different tasks, such as visiting project sites, meeting with the borrower and its representatives, and reviewing environmental monitoring reports. Category A projects will be reviewed at least annually.	The legal framework should require that project authorizing officials verify that ESMP commitments are implemented, at least on an annual basis for projects requiring EIA.	

A. Critical Element	B. IDB Policy per OP-703 Environmental and Safeguards Compliance Policy and Implementation Guidelines for the Environment and Safeguards Compliance Policy	C. Proposed Criteria for Finding of "Full Equivalence" of the Country Legal Framework with IDB Policy	D. Additional Equivalence Indicators/Comments
Noncompliance	Where environmental or associated social noncompliance issues arise during project implementation, the project team in charge of supervision will work with the borrower and/or executing agency on an action plan consistent with this Policy, to resolve them. This may require identifying corrective actions to be taken by borrower, such as modifying the design of the project, or mitigation measures and the environmental and social requirements (of which performance monitoring is but one element) within the ESMP.	The legal framework should provide for measures to resolve project non-compliance with ESMP or other permit conditions, including identifying corrective actions to be taken by the project proponent, such as modifying the design of the project, or mitigation measures and the environmental and social requirements.	The legal framework should also provide for appropriate remedies in the event of unresolved non-compliance, including civil and criminal sanctions where necessary.
POLICY DIRECTIVE B.8 - Transboundary Impacts			
[Identification of Transboundary Impacts during EA Process]	The environmental assessment process will identify and address, early in the project cycle, transboundary issues associated with the operation.	The legal framework should require identification and mitigation measures to address transboundary impacts during the early stages of the EA process.	In general, country systems treat transboundary issues as per the legal requirements to which they are obligated under bilateral and multilateral environmental agreements they have ratified. It is quite unusual for a country system to require consideration of transboundary impacts as part of EA beyond what is required by such agreements and obligations, as extra-territorial impacts are considered as going beyond their sovereign jurisdiction.
[Transboundary Issues]	The environmental assessment process for operations with potentially significant transboundary environmental and associated social impacts, such as operations affecting another country's use of waterways, watersheds, coastal marine resources, biological corridors, regional air sheds and aquifers, will address the following issues: (i) notification to the affected country or countries of the critical transboundary impacts; (ii) implementation of an appropriate framework for consultation of affected parties; and (iii) appropriate environmental mitigation and/or monitoring measures, to the Bank's satisfaction	The legal framework should require that the EA process identify and propose measures to address the country's transboundary obligations under applicable bilateral and multilateral environmental agreements.	See above.
[Transboundary Impacts]	Typically, potential transboundary impacts are associated with: • Air, ground or surface-water emissions or discharges that negatively affect neighboring countries' natural resources (e.g., rivers, coastal areas, critical natural habitats, critical cultural sites) or people; • The water flow of major water systems crossing from one sovereign state to another, water extraction from transboundary aquifers, major land use changes in areas of important aquifers, watersheds or water basins; and • Projects that can cause significant transboundary migration patterns of fauna, as well as changes in biological corridors and protected areas.	The legal framework should require that the EA process identify those potential impacts that are subject to applicable bilateral and multilateral environmental agreements.	See above.

A. Critical Element	B. IDB Policy per OP-703 Environmental and Safeguards Compliance Policy and Implementation Guidelines for the Environment and Safeguards Compliance Policy	C. Proposed Criteria for Finding of "Full Equivalence" of the Country Legal Framework with IDB Policy	D. Additional Equivalence Indicators/Comments
[Compliance with Applicable MEAs]	During the preparation of the operation, the borrower should verify that the project complies with any applicable Multilateral Environmental Agreements (MEAs) relevant to transboundary issues and that have been ratified by the borrower country	The legal framework should require that the EA process verify project compliance with the country's MEA requirements relevant to transboundary issues.	
[Notification of Affected Countries]	When operations are identified as having potentially significant transboundary impacts, the borrower or competent authorities, if necessary with the help of the Bank, should take appropriate steps to ensure notification of the affected countries of the critical transboundary impacts.	The legal framework should require that the competent authorities take appropriate steps to ensure notification of the affected countries of critical transboundary impacts, consistent with the country's obligations under applicable MEAs.	See above comments on transboundary issues.
[Consultation]	After the notification, the project team should confirm that an appropriate framework for consultation consistent with the requirements of this Policy…is implemented by the borrower.	The legal framework should require that the competent authorities take appropriate steps to ensure compliance with consultation requirements consistent with the country's obligations under applicable MEAs.	See above comments on transboundary issues.
[Mitigation and Compensation Measures and ESMP]	The borrower shall establish the appropriate mitigation and monitoring measures for these transboundary significant impacts. These measures are normally part of an environmental and social management plan The project team should confirm that these measures are consistent with the Bank's policies.	The legal framework should require that the project proponent or competent authorities take appropriate measures to steps to mitigate and monitor significant transboundary impacts consistent with the country's obligations under applicable MEAs.	See above comments on transboundary issues.
POLICY DIRECTIVE B.9 - Natural Habitats and Cultural Sites			
[Critical Natural Habitats or Cultural Sites]	The Bank will not support operations that, in its opinion, significantly convert or degrade critical natural habitats or that damage critical cultural sites If the project *might damage* the critical cultural site, the borrower, will seek alternative plans (design, location or other) that do not damage the critical cultural site.	The legal framework should explicitly prohibit approval of operations that significantly convert or degrade critical natural habitats or that damage critical cultural sites. In the event that a project might damage a critical cultural site, the legal framework will require that the projectu proponent seek alternative plans (design, location or other) that do not damage the critical cultural site.	
[Definition of Critical Natural Habitats]	*Critical natural habitats* are: (i) existing protected areas, areas officially proposed by governments for protection or sites that maintain conditions that are vital for the viability of the aforementioned areas; and (ii) unprotected areas of known high conservation value. Existing protected areas may include reserves that meet the criteria of the IUCN Protected Area Management Categories I through VI; World Heritage Sites, areas protected under the RAMSAR Convention on Wetlands; core areas of World Biosphere Reserves; areas in the UN List of National Parks and Protected Areas.	The legal framework should define a category of critical natural habitats to include: --existing protected areas, areas officially proposed by governments for protection or sites that maintain conditions that are vital for the viability of such areas as defined by the IUCN Protected Area Management Categories I through VI, the Ramsar Convention, core areas of World Biosphere Reserves; and areas in the UN List of	In general not all country systems categorize habitats in strict accordance with IUCN management categories or in a manner fully consistent with international conventions. This is due to the fact that in some cases protected areas legislation and designed sites may be established prior to a country's ratification of an MEA or engagement with IUCN with respect to protected areas. Therefore, equivalence analysis should look to the principles behind the categorizations

A. Critical Element	B. IDB Policy per OP-703 Environmental and Safeguards Compliance Policy and Implementation Guidelines for the Environment and Safeguards Compliance Policy	C. Proposed Criteria for Finding of "Full Equivalence" of the Country Legal Framework with IDB Policy	D. Additional Equivalence Indicators/Comments
	Areas of known high conservation value are sites that, in the Bank's opinion, may be: (i) highly suitable for biodiversity conservation; (ii) crucial for critically endangered, endangered, vulnerable or near threatened species listed as such in the IUCN Red List of Endangered Species; and (iii) critical for the viability of migratory routes of migratory species.	National Parks and Protected Areas. - Areas of known high conservation value are sites that, in the opinion of national biodiversity experts , may be: (i) highly suitable for biodiversity conservation; (ii) crucial for critically endangered, endangered, vulnerable or near threatened species listed as such in the IUCN Red List of Endangered Species; and (iii) critical for the viability of migratory routes of migratory species.	used in MEAs and IUCN designations rather than strict application of the terminology and hierarchies referenced in international agreements.
[Siting Preference]	Whenever feasible, Bank-financed operations and activities will be sited on lands already converted…..[However [w]here there is unequivocal evidence that land has been voluntarily converted exclusively to comply with such requirement of this Policy, and that such land consisted of a critical natural habitat; then *the Bank should not support the project*	The legal framework should include an explicit preference for siting projects on lands previously converted (although not those converted in anticipation of the proposed project).	In practice, it is unusual to find such explicit prohibitions and caveats in a country's legal framework.
[Natural Habitats (Non-Critical)]	In addition, the Bank will not support operations involving the significant conversion or degradation of natural habitats as defined in this policy, unless: (i) there are no feasible alternatives acceptable to the Bank; (ii) comprehensive analysis demonstrates that overall benefits from the operation substantially outweigh the environmental costs and; (iii) mitigation and compensation measures acceptable to the Bank—including, as appropriate, minimizing habitat loss and establishing and maintaining an ecologically similar protected area that is adequately funded, implemented and monitored.	The legal framework should prohibit degradation of (non-critical) habitats absent the following conditions: - absence of feasible alternatives; - determination through comprehensive analysis that overall projects benefits substantially outweigh the environmental costs ; and - mitigation and compensation measures including, as appropriate, minimizing habitat loss and establishing and maintaining an ecologically similar protected area that is adequately funded, implemented and monitored.	
[Definition of Natural (non-critical) Habitats]	*Natural habitats* are biophysical environments where (i) the ecosystems' biological communities are formed largely by native plant and animal species; and (ii) human activity has not essentially modified the area's primary ecological functions. Natural habitats may be sites that (i) provide critical ecological services required for sustainable human development (e.g., aquifer recharge areas, areas that sustain fisheries, mangrove or other ecosystems that help to prevent or mitigate natural hazards); (ii) are vital to ensure the functional integrity of ecosystems (e.g., biological corridors,	The legal framework should define (non-critical) natural habitats as those are biophysical environments where (i) the ecosystems' biological communities are formed largely by native plant and animal species; and (ii) human activity has not essentially modified the area's primary ecological functions.	Alternative definitions of non-critical natural habitat may be found in various country legal systems, depending on the types of habitats and population pressures encountered in particular countries. Flexibility should be exercised in evaluation the equivalency of such definitions.

A. Critical Element	B. IDB Policy per OP-703 Environmental and Safeguards Compliance Policy and Implementation Guidelines for the Environment and Safeguards Compliance Policy	C. Proposed Criteria for Finding of "Full Equivalence" of the Country Legal Framework with IDB Policy	D. Additional Equivalence Indicators/Comments
	natural springs); and (iii) have high levels of endemism. Natural habitats may occur in tropical humid, dry, and cloud forests; temperate and boreal forests; Mediterranean type shrub lands; natural arid and semi-arid lands; mangrove swamps, coastal marshes, and other wetlands; estuaries; seagrass beds; coral reefs; underwater vents; freshwater lakes and rivers; alpine and sub-alpine environments, including herb fields, grasslands, and *páramos*; and tropical and temperate grasslands		
[Definition of significant degradation]	*Significant conversion* is the elimination or severe diminution of the integrity of a critical or other natural habitat caused by a major, long-term change in land or water use. In both terrestrial and aquatic ecosystems, conversion of natural habitats can occur as the result of severe pollution. Conversion can result directly from the action of a project or through an indirect mechanism (e.g., through induced settlement along a road).	The legal framework should provide an operational definition of "significant conversion" consistent with the concept of the elimination or severe diminution of the integrity of a critical or other natural habitat caused by a major, long-term change in land or water use.	Alternative definitions of significant degradation may be found in various country legal systems, depending on the types of habitats and population pressures encountered in particular countries. Flexibility should be exercised in evaluation the equivalency of such definitions.
[Definition of Degradation]	*Degradation* is modification of a critical or other natural habitat that substantially reduces the natural habitat's ability to maintain viable populations of its native species.	The legal framework should provide an operational definition of "degradation" consistent with the concept of modification of a critical or other natural habitat that substantially reduces the natural habitat's ability to maintain viable populations of its native species.	See comments above on "significant degradation".
[Definition of Damage, with reference to Critical Cultural Sites]	*Damage,* in the context of a critical cultural site, means spoiling, compromising or impairing the condition or quality of a critical cultural site to the point that it will reduce its spiritual, historical or archeological value.	The legal framework should explicitly prohibit spoiling, compromising or impairing the condition or quality of a critical cultural site to the point that it will reduce its spiritual, historical or archeological value.	
[Definition of Ecologically Similar Area]	*Ecologically similar area* is an area of the same ecosystem or of equivalent natural functions and services, with a comparable composition of plants, animals and other organisms, and similar physical characteristics.	In providing for the establishment and maintenance of ecologically similar protected areas as a mitigation measure for conversion of non-critical habitat the legal framework should defined such as area as an area of the same ecosystem or of equivalent natural functions and services, with a comparable composition of plants, animals and other organisms, and similar physical characteristics	

A. Critical Element	B. IDB Policy per OP-703 Environmental and Safeguards Compliance Policy and Implementation Guidelines for the Environment and Safeguards Compliance Policy	C. Proposed Criteria for Finding of "Full Equivalence" of the Country Legal Framework with IDB Policy	D. Additional Equivalence Indicators/Comments
[Invasive Species]	The Bank will not support operations that introduce invasive species	The legal framework should prohibit approval of projects that introduce invasive species, with the exception of projects involving integrated pest management.	In some cases, a country system may permit an invasive species may be introduced as part of a deliberate policy of integrated pest-management in a natural area. IDB should consider this possibility.
[Identification of Impacts on Critical Cultural Sites]	The EA process will identify and assess impacts on critical cultural sites	The legal framework should explicitly require that the EA process identify impacts on critical cultural sites.	
[Definition of Critical Cultural Sites]	*Critical cultural sites* include but are not restricted to those protected (or officially proposed by governments for protection) such as World Heritage Sites and National Monuments, and areas initially recognized as protected by traditional local communities (e.g., sacred groves).	The legal framework should define critical cultural sites to include at least those protected (or officially proposed by governments for protection) such as World Heritage Sites and National Monuments, and areas initially recognized as protected by traditional local communities (e.g., sacred groves).	The legal framework of a country system with respect to protection of cultural sites may be distinct from and not always explicitly integrated into the legal framework for EA.
[Noncritical cultural sites/artifacts]	For other noncritical cultural sites or artifacts, appropriate measures will be taken to protect their integrity and function. Cultural sites that do not fall under the definition of "critical" should also be identified as part of the EA process and be assessed on the basis of their relative value and significance for local and affected communities. If significantly impacted, appropriate measures to protect, mitigate, or compensate noncritical cultural sites need to be integrated into the ESMP	The legal framework should require that appropriate measures be taken as part of the EA and ESMP processes, as appropriate, to protect the integrity and function of noncritical cultural sites or artifacts.	
[Definition of non-critical cultural sites]	*Cultural sites* are any natural or manmade areas, structures, natural features and/or objects valued by a people or associated people to be of spiritual, historical, and or archaeological significance. Material remains may be prominent, but will often be minimal or absent.	The legal framework should explicitly define (non-critical) cultural sites to include any natural or manmade areas, structures, natural features and/or objects valued by a people or associated people to be of spiritual, historical, and or archaeological significance with or without material remains.	The legal framework may provide to diverse instruments and criteria for the definition for cultural as distinguished from natural sites.
[Chance Find Procedures]	For operations where archeological or historical artifacts can be expected to be found either during construction or operations, the borrower will prepare and implement chance find procedures based on internationally	The legal framework should require project proponents to prepare and implement chance find procedures based on internationally accepted	The equivalence matrix should make reference to a specific set of internationally accepted practices for chance find procedures. Potential

A. Critical Element	B. IDB Policy per OP-703 Environmental and Safeguards Compliance Policy and Implementation Guidelines for the Environment and Safeguards Compliance Policy	C. Proposed Criteria for Finding of "Full Equivalence" of the Country Legal Framework with IDB Policy	D. Additional Equivalence Indicators/Comments
	accepted practices. Projects likely to encounter chance finds, should develop and implement specific procedures to handle chance finds occurrences, integrated into the project's ESMP. Category A projects should include in their EIA, when applicable, an analysis of the archeological potential of the areas of direct influence, and, as necessary, propose chance find procedures, based on internationally accepted practices	practices as part of the project ESMP for EIA as appropriate.	sources include the United Nations Educational, Scientific and Cultural Organization (UNESCO) and the International Centre for the Study and Restoration of Cultural Property (ICCROM).
POLICY DIRECTIVE B.10 -Hazardous Materials			
[Avoidance of adverse impacts on environment, health and safety]	Bank-financed operations should avoid adverse impacts to the environment and human health and safety occurring from the production, procurement, use, and disposal of hazardous material, including organic and inorganic toxic substances, pesticides and persistent organic pollutants (POPs).	The legal framework should explicitly require the avoidance of adverse environmental and health impacts from the production, procurement, use, and disposal of hazardous material, including organic and inorganic toxic substances, pesticides and persistent organic pollutants (POPs).	Some country systems may require the preparation of a Health Impact Assessment (HIA). Guidelines for HIA are available from the World Health Organization.
[Avoidance and minimization of production, procurement, use and disposal of hazardous material and substances]	The production, procurement, use and disposal of hazardous material and substances should be avoided whenever possible, and minimized in other cases.	The legal framework should explicitly prohibit or, if not blanket prohibition is not feasible, minimize the production, procurement, use and disposal of hazardous material and substances	
[Management Plans for Hazardous Materials or Substances]	Whenever the significant production or use of a hazardous material or substance cannot be avoided, a management plan should be prepared covering their transport, handling, storage and disposal, with associated management and reporting practices including preventive and contingency measures, in consultation with potentially affected workers and communities.	The legal framework should require that whenever the significant production or use of a hazardous material or substance cannot be avoided, a management plan should be prepared covering their transport, handling, storage and disposal, with associated management and reporting practices including preventive and contingency measures, in consultation with potentially affected workers and communities.	
[International Restrictions on Toxic and Hazardous Substances]	Bank operation and activities should take into account international restrictions on the use of toxic substances ,including the Basel Convention on the transboundary movement of hazardous wastes and the Rotterdam Convention on the prior informed consent procedure for	The legal framework should require that all operations and activities potentially involving toxic or hazardous substances comply with international restrictions on use and prior informed consent	

A. Critical Element	B. IDB Policy per OP-703 Environmental and Safeguards Compliance Policy and Implementation Guidelines for the Environment and Safeguards Compliance Policy	C. Proposed Criteria for Finding of "Full Equivalence" of the Country Legal Framework with IDB Policy	D. Additional Equivalence Indicators/Comments
	certain hazardous chemicals and pesticides in international trade	procedures for such substances, as ratified by the country, including the Basel and Rotterdam Conventions	
[Persistent Organic Pollutants or POPs]	Bank investment loans will not finance the production, procurement or use of POPs (as defined by the Stockholm Convention on Persistent Organic Pollutants), unless for an acceptable purpose allowed under the Stockholm Convention.	The legal framework should explicitly prohibit the production, procurement or use of POPs (as defined by the Stockholm Convention) unless for an acceptable purpose allowed under the Stockholm Convention.	
[IPM and IVM]	The Bank promotes and encourages integrated pest management (IPM) and integrated vector management (IVM) practices to reduce reliance on synthetic chemical pesticides	The legal framework should provide for incentives to promote IPM and IVM practices so as to reduce reliance on synthetic chemical pesticides	
[Avoidance of harmful pesticides]	The use of harmful pesticides should be avoided. The Bank will not finance operations involving toxic pesticides—as defined by the World Health Organization (WHO) as classes Ia, Ib, and II—except where adequate restrictions and sufficient capacity exist within the context of the operation for their proper and safe handling, storage and application.	The legal framework should explicitly prohibit operations involving toxic pesticides—as defined by the World Health Organization (WHO) as classes Ia, Ib, and II—except where adequate restrictions and sufficient capacity exist within the context of the operation for their proper and safe handling, storage and application.	Country systems doo not consistently include specific reference to WHO classification categories but may be based on equivalent principles of risk assessment.
[Standards for selection, manufacture, packaging, labeling, storage, handling, use and disposal of pesticides]	Where pesticides need to be used, the operations should preferably use those that have the least adverse effects on human health, non-target species and the environment, and their manufacture, packaging, labeling, storage, handling, use and disposal should be to appropriate standards.	The legal framework should reference scientifically-based (e.g. WHO and FAO) standards for pesticide selection and use based on human health and environmental impacts.	See above comment on WHO classification standards.
[transboundary movement of hazardous substances]	The borrower should comply with [applicable provisions of] the Basel Convention and the Rotterdam Convention's consultation process, in cases where transboundary movement of significant quantities of hazardous substances is expected.	The legal framework should include adequate provisions to ensure compliance with the provisions of the Basel and Rotterdam Conventions.	Some country systems include legal instruments that are explicitly designed to implement MEAs that the country has ratified while in other cases, the implementation provisions are contained in legal instruments that do not otherwise reference MEAs.
[ESMP Requirements]	When an operation involves significant quantities of hazardous materials, the borrower is responsible for preparing the ESMP, which should include:	The legal framework should require the project proponent to prepare an ESMP or equivalent management plan for any	When stated in terms of the "ESMP" this requirement places a high burden on the legal framework for ESMP that

A. Critical Element	B. IDB Policy per OP-703 Environmental and Safeguards Compliance Policy and Implementation Guidelines for the Environment and Safeguards Compliance Policy	C. Proposed Criteria for Finding of "Full Equivalence" of the Country Legal Framework with IDB Policy	D. Additional Equivalence Indicators/Comments
	a management plan that will address identification, labeling, handling, storage, use and disposal of the relevant hazardous materials and wastes.	operation that involves significant quantities of hazardous materials including a management plan that will address identification, labeling, handling, storage, use and disposal.	may not be otherwise addressed in the EA legal requirements. Country system requirements for such management plans may, therefore be found in other legal instruments related to hazardous materials rather than in the EA/ESMP legal framework.
Pest Management Plan (PMP)	The borrower is responsible for preparing a PMP when significant quantities of pesticides are used. This plan should address as a minimum the following elements: proposed applications, handling activities and plans for disposal of wastes after the Bank supported activities are completed, information on potential impacts and effects on: (i) toxicity and human health, according to the classification of World Health Organization's Recommended Classification of Pesticides by Hazard and Guidelines to Classification; (ii) target species; (iii) non-target species; (iv) the natural environment; and (v) environmental risk. Agreements on task, activities and budget required to handle these substances, required by the PMP will be included in the environmental and social management plan	The legal framework should require the project proponent to prepare a PMP, or equivalent management plan, that addresses the following elements: proposed applications, handling activities and plans for disposal of wastes after the proposed activities are completed, information on potential impacts and effects on: (i) toxicity and human health, according to the classification of World Health Organization's Recommended Classification of Pesticides by Hazard and Guidelines to Classification; (ii) target species; (iii) non-target species; (iv) the natural environment; and (v) environmental risk. Agreements on task, activities and budget required to handle these substances, required by the PMP will be included in the environmental and social management plan.	The requirement for a stand-alone PMP is not commonly found in country systems outside of certain large-scale and/or emergency agricultural and human health projects. Therefore, it is important to consider what is meant by "significant quantities" of pesticides.
[Standards for Packaging, Storage, and Labeling of Pesticides]	When local standards have not been sufficiently developed for pesticide management, the project team should request that the implementing agency/borrower, to follow recognized international standards, such as FAO's *Guidelines for Packing and storage of Pesticides* (Rome, 1985), and *Guidelines on Good Labeling Practice for Pesticides* (Rome, 1995).	The legal framework should reference or incorporate requirements for packaging, storage, and labeling of pesticides that are consistent with as FAO's *Guidelines for Packing and storage of Pesticides* (Rome, 1985), and *Guidelines on Good Labeling Practice for Pesticides* (Rome, 1995).	Country systems may reference alternative internationally accepted standards for pesticide management, including in some cases, industry standards or standards adopted by national agricultural and health organizations.

A. Critical Element	B. IDB Policy per OP-703 Environmental and Safeguards Compliance Policy and Implementation Guidelines for the Environment and Safeguards Compliance Policy	C. Proposed Criteria for Finding of "Full Equivalence" of the Country Legal Framework with IDB Policy	D. Additional Equivalence Indicators/Comments
POLICY DIRECTIVE B.11 - Pollution Prevention and Abatement			
[Source-specific emission and discharge standards]	The Bank will require clients to follow source-specific emission and discharge standards recognized by multilateral development banks. Taking into account local conditions and national legislation and regulations, the environmental assessment report or environmental and social management report will justify the standards selected for the particular operation, consistent with this Directive For numerical standards the Bank requires borrowers to follow source-specific emission and discharge standards recognized by multilateral development banks, such as the *Pollution Prevention and Abatement Handbook* (PPAH) (section III), as available at the time an operation formally enters the Bank pipeline, which describes pollution prevention and abatement measures and recommended emission levels. The environmental assessment for the operation may recommend alternative emission levels to those recognized by multilateral development banks and/or alternative approaches to pollution prevention and abatement for the project. In such case, the environmental assessment or the Bank's ESMR, if applicable, must provide a description of what standards and/or approaches are chosen for the particular operation, project or site**.** The first order of reference is the PPAH, and if the pollutant is not covered by the PPAH or if the PPAH is not appropriate for a particular case, other standards recognized by MDBs should be used	The legal framework should include source-specific emission and discharge standards that are consistent with the principles underlying those standards recognized by multilateral development banks, such as the World Bank Group Environmental, Health and Safety Guidelines (EHSGs). if the pollutant is not covered by the EHSGs or if the ESHGs not appropriate for a particular case, other standards recognized by MDBs may be appropriate. The legal framework should require that any project generating emissions and discharges subject to the applicable legal framework comply with such emissions and discharge standards and obtain explicit approval for any deviation from such standards.	NOTE: Section III of the PPAH (as referenced in IDB Policy Directive b. 11) was revised and reissued in 2006-07 as the World Bank Group Environmental, Health and Safety Guidelines. It is not reasonable to expect a country legal framework to reference the standards of an international lending institution such as the Word Bank Group, in connection with the adoption and implementation of national standards for emissions and discharges to the environment. The important point to consider in reference to the EHSGs is are not so much the specific emission and discharge standards contained therein but rather that the principles set forth in the country's legal framework for emissions and discharge control are consistent with the principles underlying international standards such as the ESHGS. "The Environmental, Health, and Safety (EHS) Guidelines are technical reference documents with general and industry-specific examples of Good International Industry Practice (GIIP)[20]….. The applicability of the EHS Guidelines should be tailored to the hazards and risks established for each project on the basis of the results of an environmental assessment in which site-specific variables, such as

[20] Defined as the exercise of professional skill, diligence, prudence and foresight that would be reasonably expected from skilled and experienced professionals engaged in the same type of undertaking under the same or similar circumstances globally. The circumstances that skilled and experienced professionals may find when evaluating the range of pollution prevention and control techniques available to a project may include, but are not limited to, varying levels of environmental degradation and environmental assimilative capacity as well as varying levels of financial and technical feasibility.

A. Critical Element	B. IDB Policy per OP-703 Environmental and Safeguards Compliance Policy and Implementation Guidelines for the Environment and Safeguards Compliance Policy	C. Proposed Criteria for Finding of "Full Equivalence" of the Country Legal Framework with IDB Policy	D. Additional Equivalence Indicators/Comments
			host country context, assimilative capacity of the environment, and other project factors, are taken into account. The applicability of specific technical recommendations should be based on the professional opinion of qualified and experienced persons. When host country regulations differ from the levels and measures presented in the EHS Guidelines, projects are expected to achieve whichever is more stringent. If less stringent levels or measures than those provided in these EHS Guidelines are appropriate, in view of specific project circumstances, a full and detailed justification for any proposed alternatives is needed as part of the site-specific environmental assessment. This justification should demonstrate that the choice for any alternate performance levels is protective of human health and the environment."
[Adoption of cleaner production processes, energy efficiency or renewable energy]	As part of agreed mitigation measures, the Bank may require that the borrower, where feasible and cost effective, adopt cleaner production processes, energy efficiency or renewable energy	The legal framework should provide the permitting authority with authority to require the project proponent to adopt cleaner production processes, energy efficiency or renewable energy, where feasible and cost effective.	Such authority and incentive programs are becoming commonplace in country systems, in particular with respect to clean energy sources and conservation.
[GHG emissions]	Operations that produce significant quantities of greenhouse gases will annually quantify direct GHG emissions, in accordance with the emission estimation methodologies of the Intergovernmental Panel on Climate Change (IPCC) or other internationally accepted methodologies.	The legal framework should provide authority to require that operations producing significant quantities of greenhouse gases will annually quantify direct GHG emissions, in accordance with the emission estimation methodologies of the Intergovernmental Panel on Climate Change (IPCC) or other internationally accepted methodologies.	This inclusion of such a requirement in country systems varies depending on a country's commitments undertaken under the United Nations Framework Convention on Climate Change and the Kyoto Protocol.

ANNEX II. PROPOSED CRITERIA FOR INTER-AMERICAN DEVELOPMENT EQUIVALENCE MATRIX FOR COUNTRY SAFEGUARD SYSTEMS: INVOLUNTARY RESETTLEMENT

A. Critical Element	IDB Policy per OP-710 Involuntary Resettlement Operational Policy and Background Paper, 1998 as per IDB submission to Forest Carbon Partnership Facility Task Force, June 3, 2011	B. Proposed Criteria for Finding of "Full Equivalence" of the Country Legal Framework with IDB Policy	C. Additional Equivalence Indicators/Comments
Assess Alternatives	**III. Principles:** **1**. Every effort will be made to avoid or minimize the need for involuntary Resettlement. A thorough analysis of project alternatives must be carried out in order to identify solutions that are economically and technically feasible while eliminating or minimizing the need for Involuntary resettlement.	The legal framework should be designed to require project proponents to, through an analysis of project alternatives, to avoid or minimize the need for involuntary resettlement.	This principle could be addressed through an incentive structure rather than a negative requirement.
Requirement for and Objectives of Resettlement Plans	**III. Principles:…** **2.** When displacement is unavoidable, a resettlement plan must be prepared to ensure that the affected people receive fair and adequate compensation and rehabilitation. Compensation and rehabilitation are deemed fair and adequate when they can ensure that, within the shortest possible period of time, the resettled and host populations will: achieve a minimum standard of living and access to land, natural resources, and services (such as potable water, sanitation, community infrastructure, land titling) at least equivalent to pre-resettlement levels;… **II. Objective:** The objective of the policy is to minimize the disruption of the livelihood of people living in the project's area of influence **Guidelines** **Objectives and Principles, p.2** Compensate the Loss of Customary Rights: …Resettlement plans should complement existing legal provisions, and should specifically address the needs of those people who have no legal protection. Various groups, such as indigenous peoples and small holders, have informal customary rights to land, forests, fishing grounds and other natural resources. Where access	In the event that resettlement is unavoidable (as confirmed by the authorizing entity), the legal framework should require the project proponent to prepare a resettlement pl ensure that the affected people receive fair and adequate compensation and rehabilitation, such that within the shortest possible period of time, the resettled and host populations (including the needs of people, such as Indigenous People, who may have no legal standing with respect to informal customary rights to land, forests, fishing grounds and other natural resources) will achieve a minimum standard of living and access to land, natural resources, and services (such as potable water, sanitation, community infrastructure, land titling) at least equivalent to pre-resettlement levels;…	The concept of "fair and equitable compensation" is widely accepted as a basis for involuntary land acquisition. However ,rehabilitation of affected people, including host populations, to a designated standard of living relative to pre-project resettlement levels is not a common feature of country systems. Compensation rights for "informal" settlers is infrequently the norm in country systems.

A. Critical Element	IDB Policy per OP-710 Involuntary Resettlement Operational Policy and Background Paper, 1998 as per IDB submission to Forest Carbon Partnership Facility Task Force, June 3, 2011	B. Proposed Criteria for Finding of "Full Equivalence" of the Country Legal Framework with IDB Policy	C. Additional Equivalence Indicators/Comments
	to these resources is lost or diminished the affected groups should be provided with adequate land or other alternatives to make good their losses….		
Eligibility for Resettlement Benefits	**Indicative Outline for a Model Resettlement Plan, p.30:** **3.b Entitlements for Project Affected Persons:** Definition of the population affected by the project and entitled to compensation (this would include those who lose land, access to natural resources etc., as well as those who will lose house sites). The eligibility criteria should be specific, clearly defined and should state the bases for deciding eligibility, such as length of tenancy or physical location in the affected site. The cutoff dates for assessment of losses and definition of qualifying households should be defined. The selection criteria should be clearly delineated.	The legal framework should clearly delineate the basis of eligibility of the population entitled to compensation for loss and land and access to resources, including cut off dates based on physical ownership, occupancy or use of land and resources so as to avoid opportunistic behavior and resulting conflicts..	Such requirements are commonly found in country systems.
Content of Resettlement Plans	**7. Legal and Institutional Framework.** The resettlement plan must identify the legal and institutional context within which the compensation and rehabilitation measures have to be implemented. The first step in designing the compensation and rehabilitation package is to determine the entitlements of affected persons under applicable laws and regulations, to identify any services or social benefits to which they might have access, and to ensure that sufficient resources are available. The next step is to assess what additional measures are needed, if any, to restore the livelihoods of the affected population to the pre-resettlement standard, and to design mechanisms capable of delivering the goods or services that are needed, including effective and expeditious procedures for the resolution of disputes. This allows the compensation and rehabilitation package to work within the constraints of local laws and institutions, complementing them only as required, with project specific measures. This may lead to the identification of gaps in the local institutional and regulatory frameworks that need not be incorporated into the resettlement plan, but which can eventually be addressed through	The legal framework should identify the legal and institutional context within which the compensation and rehabilitation measures have to be implemented. The legal framework should require resettlement plans to be based on baseline information including the identification of marginal, low-income and other vulnerable populations that could be affected. The baseline analysis should be required to include information on the number of people to be resettled, and on their socioeconomic and cultural characteristics, including disaggregation by gender. In addition, a detailed analysis will be carried out at the earliest opportunity, covering gender, ethnicity, income and other socioeconomic factors, so as to provide an accurate basis for the definition of	Not all country systems require the collection of baseline information for marginal populations lacking formal title to land and resources. IN many country systems the content of resettlement plans are not be specified in national legislation but rather customized to the conditions and circumstances of individual projects.

A. Critical Element	IDB Policy per OP-710 Involuntary Resettlement Operational Policy and Background Paper, 1998 as per IDB submission to Forest Carbon Partnership Facility Task Force, June 3, 2011	B. Proposed Criteria for Finding of "Full Equivalence" of the Country Legal Framework with IDB Policy	C. Additional Equivalence Indicators/Comments
	institutional strengthening or other components if the borrower and the Bank so agree. **V. Criteria for Design and Appraisal of the Resettlement Plan:…** 1. Baseline Information. Accurate baseline information must be compiled as early as possible. It will include information on the number of people to be resettled, and on their socioeconomic and cultural characteristics, including disaggregation by gender. In addition, the data will provide an important basis for the definition of eligibility criteria, and compensation and rehabilitation requirements. It must include sufficient information to be evaluated along with other project components. At a minimum, it must include: • evidence that appropriate measures have been taken to prevent new settlements in the area subject to resettlement; • a tentative cut-off date for compensation eligibility; • an estimate of the number of people to be resettled based on sufficiently reliable data; • a definition of the various options to be made available under the compensation and rehabilitation package; • an estimate of the number of people that will be eligible for each option; • a preliminary budget and schedule of execution; • a diagnosis of the viability of the regulatory and institutional framework, identifying issues to be resolved; and • evidence of consultation with the affected populations. A final resettlement plan … must contain: • the definition of the final package of compensation and rehabilitation options; • the eligibility criteria for each option; • a reasonably accurate estimate of the number of people that will receive each option or	eligibility criteria, and compensation and rehabilitation requirements and to determine the risks and design preventive measures to minimize them. In addition, the legal framework should require the draft resettlement plan to address the following elements: • evidence that appropriate measures have been taken to prevent new settlements in the area subject to resettlement; • a tentative cut-off date for compensation eligibility; • an estimate of the number of people to be resettled based on sufficiently reliable data; • a definition of the various options to be made available under the compensation and rehabilitation package; • an estimate of the number of people that will be eligible for each option; • a preliminary budget and schedule of execution; • a diagnosis of the viability of the regulatory and institutional framework, identifying issues to be resolved; and • evidence of consultation with the affected populations. The legal framework should require the final resettlement plan to address the following elements: • the definition of the final package of compensation and rehabilitation options; • the eligibility criteria for each option; • a reasonably accurate estimate of	

A. Critical Element	IDB Policy per OP-710 Involuntary Resettlement Operational Policy and Background Paper, 1998 as per IDB submission to Forest Carbon Partnership Facility Task Force, June 3, 2011	B. Proposed Criteria for Finding of "Full Equivalence" of the Country Legal Framework with IDB Policy	C. Additional Equivalence Indicators/Comments
	combination; • institutional arrangements and/or an execution mechanism that provides for the implementation of applicable local laws and regulations dealing with expropriation, rights to property, and the management of resettlement activities in a timely manner, assigns clear responsibilities for the execution of all elements of the resettlement plan, and provides for proper coordination with other project components; • the final budget funded within the overall project budget; • a calendar for execution of activities required to provide the goods and services that comprise the compensation and rehabilitation package, linked to landmarks of the overall project so that relocation sites (or other services) are made available in a timely manner; • provisions for consultation and involvement of local entities (public or private) that can contribute to execution and assume responsibility for the operation and maintenance of programs and infrastructure; • provisions for monitoring and evaluation, including funding, from the beginning of the execution period through the target date for achievement of full rehabilitation of the resettled communities; • provision for participatory supervisory arrangements, which combined with monitoring, can be used as a warning system to identify and correct problems during execution; and • a mechanism for the settlement of disputes regarding land, compensation and any other aspects of the plan. **IV. Special Considerations** Impoverishment Risk Analysis. When the baseline information indicates that a significant number of the persons to be resettled belong to marginal or low-income groups, special consideration will be given to the risks of impoverishment to which they may be exposed as a result	the number of people that will receive each option or combination; • institutional arrangements and/or an execution mechanism that provides for the implementation of applicable local laws and regulations dealing with expropriation, rights to property, and the management of resettlement activities in a timely manner, assigns clear responsibilities for the execution of all elements of the resettlement plan, and provides for proper coordination with other project components; • the final budget funded within the overall project budget; • a calendar for execution of activities required to provide the goods and services that comprise the compensation and rehabilitation package, linked to landmarks of the overall project so that relocation sites (or other services) are made available in a timely manner; • provisions for consultation and involvement of local entities (public or private) that can contribute to execution and assume responsibility for the operation and maintenance of programs and infrastructure; • provisions for monitoring and evaluation, including funding, from the beginning of the execution period through the target date for achievement of full rehabilitation of the resettled	

A. Critical Element	IDB Policy per OP-710 Involuntary Resettlement Operational Policy and Background Paper, 1998 as per IDB submission to Forest Carbon Partnership Facility Task Force, June 3, 2011	B. Proposed Criteria for Finding of "Full Equivalence" of the Country Legal Framework with IDB Policy	C. Additional Equivalence Indicators/Comments
	of resettlement.	communities; • provision for participatory supervisory arrangements, which combined with monitoring, can be used as a warning system to identify and correct problems during execution; and • a mechanism for the settlement of disputes regarding land, compensation and any other aspects of the plan.	
Definition of Area of Impact	**I. Definition and Scope:** This policy covers any involuntary physical displacement of people caused by a Bank project. **Guidelines** **Glossary, p ii** Project Area- Areas in and adjacent to the construction areas and other areas to be modified by the project (e.g., impoundment of reservoirs, irrigation command areas, rights of way for urban infrastructure projects). Project Impacts -The direct and indirect physical and socioeconomic impacts caused by the project within the project area. **Application of all safeguard policies to associated facilities per Directive B.4 of OP-703:** In addition to risks posed by environmental impacts, the Bank will identify and manage other risk factors that may affect the environmental sustainability of its operations. **Directive B.4 Guidelines:** Associated facilities not financed by the Bank may result in environmental or social risks for a project (see discussion in the guidelines Directive B3). **Directive B.3** The screening process will consider potential negative environmental impacts whether direct, indirect, regional or cumulative in nature, including environmentally related social and cultural impacts, of the operation and of its associated facilities if relevant. **Directive B.3 Guidelines** As defined in the Policy, associated facilities refer to new or additional works and/or infrastructure, irrespective of	The legal framework should require that resettlement plans and/or environmental and social assessments prepared in connection with a project delineate the area of impact of project activities that generate resettlement impacts (including direct, and indirect impacts) and including associated facilities, such as infrastructure necessary to the viability of a project..	In most country systems these requirements are more likely to be included in the legal framework for environmental assessment than in resettlement plans. This approach is consistent with the manner in which these requirements are addressed in IDB's environmental and social safeguards.

A. Critical Element	IDB Policy per OP-710 Involuntary Resettlement Operational Policy and Background Paper, 1998 as per IDB submission to Forest Carbon Partnership Facility Task Force, June 3, 2011	B. Proposed Criteria for Finding of "Full Equivalence" of the Country Legal Framework with IDB Policy	C. Additional Equivalence Indicators/Comments
	the source of financing, essential for a Bank-financed project to function, …		
Stakeholder Consultation	**Guidelines: III. The Resettlement Plan: Consultation and Community Participation.** Where possible, the affected population should be involved in the design of the resettlement plan. Community participation[21] helps ensure that compensation measures, relocation sites, economic rehabilitation projects and service provision reflect the needs and expectations of the people affected. It can also facilitate greater transparency and fair play in compensation procedures, and encourage greater community involvement in the operation and maintenance of service infrastructure and in the execution of economic development programs. **V. Criteria for Design and Appraisal of the Resettlement Plan:** **Community Participation.** The resettlement plan will include the results of consultations carried out in a timely and socio-culturally appropriate manner with a representative cross-section of the displaced and host communities. Consultations will take place during the design phase and will continue throughout the execution and monitoring of the plan, directly or through representative institutions and community organizations. Care will be taken to identify the most vulnerable subgroups and to ensure that their interests are adequately represented in this process. Baseline Information. **…**In addition, the data will provide an important basis for the definition of eligibility criteria, and compensation and rehabilitation requirements. **Guidelines, p. 41**: Preliminary Resettlement Plan required to include: "a strategy for the dissemination of information the project executing agency and for consultation with the affected communities, local organizations and relevant experts."	The legal framework should require that the resettlement plan be prepared through consultations carried out in a timely and socio-culturally appropriate manner with a representative cross-section of the displaced and host communities. The legal framework should require that consultations begin during the design phase and continue throughout the execution and monitoring of the plan, directly or through representative institutions and community organizations, and include vulnerable populations, including Indigenous People, women, children and the elderly as identified in baseline surveys. The legal framework should require that the results of such consultation be documented in the final resettlement plan that is approved by the authorizing entity. The legal framework should also require that the final resettlement plan contain a mechanism for the settlement of disputes regarding land, compensation and any other aspects of the plan.	In country systems where resettlement plans are a legal requirement, consultation with project-affected people is the norm along with requirements for dissemination of relevant information on potential resettlement impacts , compensation options and eligibility critiera.

[21] For additional details on participation see IR Guidelines, pp. 1, 10, 12, 13, 18-20

A. Critical Element	IDB Policy per OP-710 Involuntary Resettlement Operational Policy and Background Paper, 1998 as per IDB submission to Forest Carbon Partnership Facility Task Force, June 3, 2011	B. Proposed Criteria for Finding of "Full Equivalence" of the Country Legal Framework with IDB Policy	C. Additional Equivalence Indicators/Comments
Compensation Criteria	**Guidelines** **Objectives and Principles, p.2** **Provide Compensation at Replacement Cost:** Displaced people must not be made to subsidize the main project through unfair compensation, and should receive full replacement value for their assets… **Definitions, p. 21** Replacement cost is the standard that helps achieve the livelihood restoration goals of the Involuntary Resettlement Policy. See, for example, Guidelines, Definitions (p.21): As far as possible standardized measures should be used to assess the value of affected assets, particularly land and housing. These should be well publicized so as to make the compensation procedure as transparent as possible. Compensation should be based on a realistic assessment of cost replacement value…[22] Guidelines: III. The Resettlement Plan: Consultation and Community Participation. Where possible, the affected population should be involved in the design of the resettlement plan.	The legal framework should require that compensation be based on internationally accepted principles of "replacement cost" the basis of which should be made fully transparent to affected people.	"Replacement cost" is not a universally accepted criterion for compensation as a result of physical or economic displacement. Some country systems refer to "market values" or fiscal assessment criteria as the basis for compensation, with the consequence of under-valuing land and resources paid to affected people. In addition, there are diverse approaches to calculating such costs that may not be consistent with IDB's understanding of "replacement cost.".
Cash Compensation	A detailed analysis will be carried out at the earliest opportunity, covering gender, ethnicity, income and other socioeconomic factors, in order to determine the risks and design preventive measures to minimize them. In this context, cash compensation will only be offered as an option if the social and economic conditions of the affected population, the institutional setting and housing market, or the complementary services included in the resettlement plan, are such as to ensure that it can be	The legal framework should require that cash compensation is offered as an option only if it the authorizing entity can determine that the social and economic conditions of the affected population, the institutional setting and housing market, or the complementary services included in the resettlement plan, are such as to ensure that it can be invested in a manner that will restore	In practice, many if not most country systems provide for cash compensation as the only recourse regardless of whether project-affected people are equipped to operation in a cash as distinguished from a subsistence economy.

[22] Replacement cost is the standard that helps achieve the livelihood restoration goals of the Involuntary Resettlement Policy. See, for example, Guidelines, III. The Resettlement Plan: Definitions (p.21): As far as possible standardized measures should be used to assess the value of affected assets, particularly land and housing. These should be well publicized so as to make the compensation procedure as transparent as possible. Compensation should be based on a realistic assessment of cost replacement value. Undervaluation can result in impoverishment of the affected households, excessive overvaluation can also create major problems, attracting people to the affected area in the hope of receiving compensation, or speculation to artificially increase the value of the land or houses to be compensated. Where large numbers of people are affected, regular independent monitoring should be used to provide an accurate and updated assessment of the cost replacement values of land and housing. The impact of inflation should be taken into account, as should the price rises that result from the increased demand and the availability of compensation money. Independent monitoring is also advisable in those cases where the compensation package includes a land-for-land option. …Where the existing legal provisions of the country, state or municipality fail to ensure that affected households are adequately compensated, additional resources should be made available through the economic rehabilitation or housing programs to ensure that the overall objective of the resettlement plan, of improving or at least restoring the former standard of living is fully achieved.

A. Critical Element	IDB Policy per OP-710 Involuntary Resettlement Operational Policy and Background Paper, 1998 as per IDB submission to Forest Carbon Partnership Facility Task Force, June 3, 2011	B. Proposed Criteria for Finding of "Full Equivalence" of the Country Legal Framework with IDB Policy	C. Additional Equivalence Indicators/Comments
	invested in a manner that will restore the affected population´s standard of living.	the affected population´s standard of living. If such criteria are not met, the legal framework should require that the project proponent make every feasible effort to compensate affected people in kind so as to restore the affected population's standard of living to pre-resettlement level.	
Dispute Resolution	**V. Criteria for Design and Appraisal of the Resettlement Plan:** **Community Participation**. **6. [Timeliness]**. …The final [resettlement] plan must contain:….a mechanism for the settlement of disputes regarding land, compensation and any other aspects of the plan	The legal framework should require that, in the absence of institutionalized arrangements for settlement of disputes regarding land, compensation and any other aspects of resettlement, the resettlement plan will provide for such a mechanism.	Many country systems have dispute resolution procedures that operate at various levels of administrative authority ranging from the project level, to municipal, provincial and higher levels, including formal judicial systems. The critical consideration is the extent to which such mechanisms can provide project-affected people with impartial and timely decisions and outcomes in dispute situations.
Sub-Projects	**IV. Special Considerations** **5. Global and Sector Loans.** In certain types of Bank operations, where the universe of physical infrastructure investments is not specifically identified prior to project approval, it is not possible to include the preparation of the resettlement plan (s) in the preparation of the project itself. Nevertheless, it is necessary to include in these operations, provisions designed to ensure that any resettlement eventually required is carried out in accordance with Bank policies and guidelines, as follows: **i. Global Loans.** When a global operation (such as global credit, multiple works, time-slice, social investment funds, municipal development) provides funding through intermediary agencies for subprojects that are not identified ex-ante, it is not possible to prepare resettlement plans ahead of time. Likely resettlement impacts will be identified through the analysis of a sample of projects and through generic considerations regarding the types of projects expected to be financed, and will be addressed in accordance with the involuntary resettlement guidelines. When resettlement is	The legal framework should provide for appropriate planning and response mechanisms to accommodate project structures having components with the potential to require resettlement but for which the affected populations and impacts cannot be ascertained at the time the project structure is approved.	It is not common for country systems to require resettlement planning for activities that do not have direct and immediate and t resettlement impacts. incorporate procontry sysT i

A. Critical Element	IDB Policy per OP-710 Involuntary Resettlement Operational Policy and Background Paper, 1998 as per IDB submission to Forest Carbon Partnership Facility Task Force, June 3, 2011	B. Proposed Criteria for Finding of "Full Equivalence" of the Country Legal Framework with IDB Policy	C. Additional Equivalence Indicators/Comments
	identified as a potential impact, an analysis of the local legal and institutional framework will be carried out so that appropriate execution mechanisms can be identified and developed. The operational regulations will include procedures to identify any projects that might entail resettlement, and to apply requirements that comply with the Bank's policy and guidelines with respect to involuntary resettlement. **ii. Sector Loans.** Some sector loans are designed to promote growth and investment in sectors that require building infrastructure that is likely to cause involuntary resettlement (such as transportation, electricity generation, water and sewage, among others). In those cases identified above where sector loans include initiatives to strengthen institutional capacity and reform the regulatory framework, adequate provisions for sound resettlement practices will be promoted.		
Resettlement Involving Indigenous Communities	**V. Criteria for Design and Appraisal of the Resettlement Plan:** **4. Indigenous Communities.** Those indigenous and other low-income ethnic minority communities whose identity is based on the territory they have traditionally occupied are particularly vulnerable to the disruptive and impoverishing effects of resettlement. They often lack formal property rights to the areas on which they depend for their subsistence, and find themselves at a disadvantage in pressing their claims for compensation and rehabilitation. The Bank will, therefore, only support operations that involve the displacement of indigenous communities or other low-income ethnic minority communities in rural areas, if the Bank can ascertain that: the resettlement component will result in direct benefits to the affected community relative to their prior situation; customary rights will be fully recognized and fairly compensated; compensation options will include land-based resettlement; and the people affected have given their informed consent to the resettlement and compensation measures.	The legal framework should contain provisions to ensure that the authorizing entity will approve activities having the potential to displace indigenous communities or other low-income ethnic minority communities in rural areas, if the authorizing entity can ascertain that: the resettlement component will result in direct benefits to the affected community relative to their prior situation; customary rights will be fully recognized and fairly compensated; compensation options will include land-based resettlement; and the people affected have given their informed consent to the resettlement and compensation measures	Country systems that include legal frameworks that are explicitly designed to protect the rights of Indigenous Peoples are more likely than other systems to provisions that apply more stringent requirements to resettlement activities that affected Indigenous Peoples than do country systems that do not have specialized legal frameworks to protect Indigenous Peoples.

A. Critical Element	IDB Policy per OP-710 Involuntary Resettlement Operational Policy and Background Paper, 1998 as per IDB submission to Forest Carbon Partnership Facility Task Force, June 3, 2011	B. Proposed Criteria for Finding of "Full Equivalence" of the Country Legal Framework with IDB Policy	C. Additional Equivalence Indicators/Comments
Assess Resettlement Plan Outcomes	**V. Criteria for Design and Appraisal of the Resettlement Plan:** **Community Participation.** **7. Monitoring and Evaluation.** The resettlement component of an operation must be fully and specifically covered in the reports on the progress of the overall project, and included in the logical framework of the operation. The monitoring activities will focus on compliance with the resettlement plan in terms of the social and economic conditions achieved or maintained in the resettled and host communities. The plan and the loan agreement will specify the monitoring and evaluation requirements and their timing. Whenever possible, qualitative and quantitative indicators will be included as benchmarks to evaluate those conditions at critical time intervals related to the progress of overall project execution. The final evaluation will be scheduled at a target date estimated for completion of the plan, defined as the date on which it is expected that the living standards the plan was designed to provide are achieved. In the case of global loans, the operational regulations will require Bank approval of the resettlement plan before a commitment is made to finance any subproject requiring resettlement. In all cases, independent supervision and multidisciplinary evaluation will be provided to the extent required by the complexity of the respective resettlement plan.	The legal framework should require the authorizing entity and/or project proponent to monitor outcomes of the resettlement plan based on defined criteria, including baseline data and plan objectives. The legal framework should provide for the monitoring activity to include multidisciplinary evaluation will be provided to the extent required by the complexity of the respective resettlement plan.	Country systems that require formal resettlement plans frequently include mandatory provisions for auditing and monitoring resettlement outcomes.

ANNEX III. PROPOSED CRITERIA FOR INTER-AMERICAN DEVELOPMENT EQUIVALENCE MATRIX FOR COUNTRY SAFEGUARD SYSTEMS:INDIGNEOUS PEOPLES

A. Critical Element	Operational Policy on Indigenous Peoples, February 2006	B. Proposed Criteria for Finding of "Full Equivalence" of the Country Legal Framework with IDB Policy	C. Additional Equivalence Indicators/Comments
Definition of Indigenous Peoples	I. Definitions For the purposes of this policy, the term indigenous peoples refers to those who meet the following three criteria: (i) they are descendants from populations inhabiting Latin America and the Caribbean at the time of the conquest or colonization; (ii) irrespective of their legal status or current residence, they retain some or all of their own social, economic, political, linguistic and cultural institutions and practices; and (iii) they recognize themselves as belonging to indigenous or pre-colonial cultures or peoples.	The legal framework recognizes Indigenous Peoples as a distinct category of the population according to the following criteria: (i) they are descendants from populations inhabiting Latin America and the Caribbean at the time of the conquest or colonization; (ii) irrespective of their legal status or current residence, they retain some or all of their own social, economic, political, linguistic and cultural institutions and practices; and (iii) they recognize themselves as belonging to indigenous or pre-colonial cultures or peoples	Individual country systems may refer to a definition that is more country-specific .reflecting country demographics, pre- and post- colonial history. Terms other than Indigenous Peoples may be used but would be equivalent so long as the defining characteristics of Indigenous Peoples are consistent with the IDB criteria.
Prevention and Mitigation of Adverse impacts.	**B. Safeguards in Bank Operations** **4.4 (a) Adverse Impacts** (ii) When potential adverse impacts are identified, the Bank will require and verify that the project proponent incorporate the design and implementation of the measures necessary to minimize or prevent such adverse impacts, including consultation and good faith negotiation processes consistent with the legitimate decision-making mechanisms of affected indigenous peoples or groups, mitigation measures, monitoring, and fair compensation.	The legal framework should require project proponents and/or authorizing entities to take specified measures, including technical criteria and procedures and mechanisms to prevent or mitigate direct or indirect adverse impacts on indigenous peoples or their individual or collective rights or assets.	

A. Critical Element	Operational Policy on Indigenous Peoples, February 2006	B. Proposed Criteria for Finding of "Full Equivalence" of the Country Legal Framework with IDB Policy	C. Additional Equivalence Indicators/Comments
	5.3 Operational Measures (b) Once the decision to proceed with the processing of a project with potential adverse impacts has been made, the Bank will provide guidance for, and to the Bank's satisfaction as early as possible in the project cycle, verify compliance by the project proponent with, the following requirements: (i) preparation of sociocultural evaluations as inputs for the loan document, analysis mission, and the project environmental and social review process; (ii) implementation of socioculturally appropriate and duly documented consultation and good faith negotiation processes with the affected indigenous peoples in relation to project design, analysis of alternatives, preparation, due diligence, and execution; and (iii) incorporation into the project of enforceable measures for mitigation, restoration, and compensation reflected in the content of the loan document and of project contractual documents and detailed in plans for indigenous protection, compensation, and development or in other instruments in a timely manner.	The legal framework should require that these mechanisms include consultation and good faith negotiation processes consistent with the legitimate decision-making mechanisms of affected indigenous peoples or groups, mitigation measures, monitoring, and fair compensation.	
Particularly significant potential adverse impacts	B. Safeguards in Bank Operations 4.4 (a) Adverse Impacts (iii) For cases of particularly significant potential adverse impacts that carry a high degree of risk to the physical, territorial or cultural integrity of the affected indigenous peoples or groups, the Bank will further require and verify that the project proponent demonstrate that it has, through a good faith negotiation process, obtained agreements regarding the operation and measures to address the adverse impacts as necessary to support, in the Bank's judgment, the sociocultural viability of the operation. 5.3 Operational Measures (c) In addition to the requirements described in the preceding paragraph (b), for projects with particularly significant adverse impacts on indigenous peoples or groups, the Bank will require that the project proponent provide, no later than by the date of consideration of the	The legal framework should require that for cases of particularly significant potential adverse impacts that carry a high degree of risk to the physical, territorial or cultural integrity of the affected indigenous peoples or groups, the project authorizing entity will verify that the project proponent demonstrate that it has, through a good faith negotiation process, obtained agreements regarding the operation and measures to address the adverse impacts as necessary to support, in the Bank's judgment, the sociocultural viability of the operation	Operational measures with respect to this safeguard element apply to Bank procedures and are not appropriately considered in the context of borrow systems

A. Critical Element	Operational Policy on Indigenous Peoples, February 2006	B. Proposed Criteria for Finding of "Full Equivalence" of the Country Legal Framework with IDB Policy	C. Additional Equivalence Indicators/Comments
	operation by the Board of Executive Directors, evidence duly verified by the Bank and to the Bank's satisfaction of the agreements reached with the affected peoples, as stipulated in paragraph 4.4(a)(iii) of this policy Footnote 18: As an exception, evidence of agreements may be presented: (a) before the first disbursement for operations where the proponent can demonstrate that it agreed with affected indigenous peoples that the circumstances of the operation justify additional rounds of negotiations in order to finalize said agreements; and (b) throughout operations with investments not specified *a priori*, provided there is a plan for consultation and negotiation agreed with the affected indigenous peoples identified in the early stages of project processing that also provides for inclusion of any indigenous peoples identified in later stages		
Territories, land, and natural resources	B. 4.4 (b) **Territories, land, and natural resources**. Operations that directly or indirectly affect the legal status, possession, or management of territories, lands, or natural resources traditionally occupied or used by indigenous peoples will include specific safeguards, consistent with the applicable legal framework regarding ecosystem and land protection. Such safeguards include: (i) respect for the rights recognized in accordance with the applicable legal norms;…) Where legal or administrative protection is insufficient to ensure that the project will not directly or indirectly cause the deterioration of the physical integrity or legal status of the affected lands, territories or resources, the project will include the pertinent restrictions or corrective or compensatory measures.	The legal framework should explicitly incorporate safeguard measures for operations that directly or indirectly affect the legal status, possession, or management of territories, lands, or natural resources traditionally occupied or used by indigenous peoples. In the absence of legal or administrative norms for such circumstances, the legal framework should require the project proponent to adopt and implement pertinent restrictions or corrective or compensatory measures,	

A. Critical Element	Operational Policy on Indigenous Peoples, February 2006	B. Proposed Criteria for Finding of "Full Equivalence" of the Country Legal Framework with IDB Policy	C. Additional Equivalence Indicators/Comments
Projects for Natural Resource Extraction and Management and Protected Areas Management	B. 4.4 (b) **Territories, land, and natural resources** (ii) in projects for natural resource extraction and management and protected areas management, the inclusion of: (1) prior consultation mechanisms to safeguard the physical, cultural, and economic integrity of the affected people s and the sustainability of the protected areas and natural resources; (2) mechanisms for the participation of indigenous peoples in the utilization, administration and conservation of these resources; (3) fair compensation for any damage these peoples might suffer as a result of the project; and (4) whenever possible, participation in project benefits	For projects involving natural resource extraction and management and protected areas management, the legal framework should require: (i) prior consultation mechanisms to safeguard the physical, cultural, and economic integrity of the affected peoples and the sustainability of the protected areas and natural resources; (2) mechanisms for the participation of indigenous peoples in the utilization, administration and conservation of these resources; (3) fair compensation for any damage these peoples might suffer as a result of the project; and (4) whenever possible, participation in project benefits	
Respect for Indigenous rights	**B. 4.4 Safeguards in Bank Operations** (c) Indigenous rights. The Bank will take into account respect for the rights of indigenous peoples and individuals established in the applicable legal norms according to their relevance to Bank operations.	The legal framework should require the project proponent and/or authorizing entity to take into account respect for the rights of indigenous peoples and individuals established in the applicable legal norms	
Definition of Indigenous Rights	**I. Definitions** **1.2 Indigenous rights** include the rights of indigenous peoples and individuals whether originating in the indigenous legislation issued by States, in other relevant national legislation, in applicable international norms in force for each country or in the indigenous juridical systems of each people, hereinafter collectively referred to as the "applicable legal norms."	The legal framework applicable to development projects having the potential to adversely affect Indigenous People should specify the legal norms applicable to Indigenous People including reference to national legislation, international norms in force.	
Applicable International Norms	**Footnote 4**: International legislation includes, as in force for each country: • United Nations Universal Declaration of Human Rights (1948); • International Covenant on Civil and Political Rights (1966), • American Convention on Human Rights (1969), the International Covenant on Economic, Social, and Cultural Rights (1976),	The legal framework should include explicit provisions designed to implement international agreements ratified by the country including such agreements that have yet to come into force internationally.	The Declaration on the Rights of Indigenous Peoples was adopted by the General Assembly on Thursday September 13, by a majority of 144 states.

A. Critical Element	Operational Policy on Indigenous Peoples, February 2006	B. Proposed Criteria for Finding of "Full Equivalence" of the Country Legal Framework with IDB Policy	C. Additional Equivalence Indicators/Comments
	• International Convention on the Elimination of all Forms of Racial Discrimination (1966), • Convention on the Rights of the Child (1990), • International Labor Organization (ILO) Convention 107 concerning the Protection and Integration of Indigenous and Other Tribal and Semi-Tribal Populations in Independent Countries (1957), • ILO Convention 169 concerning Indigenous and Tribal Populations in Independent Countries (1989), • Agenda 21 adopted by the United Nations Conference on Environment and Development (UNCED) (1992), and • International Convention on Biological Diversity (1992), as well as the corresponding international jurisprudence of the Inter-American Court of Human Rights or similar bodies whose jurisdiction has been accepted by the relevant country. Other international instruments currently in preparation, such as the draft United Nations Declaration on the Rights of Indigenous Peoples and the draft American Declaration on the Rights of Indigenous Peoples, establish aspirational principles that may be taken into account to the extent that these instruments are finalized and subscribed by the relevant country.		
Collective and Individual Rights	**Footnote 3**: When valid collective and individual rights co-exist, deference will be given to collective rights particularly with regard to rights over land, territory, and natural resources	The legal framework should give preference to collective rights over individual rights where such valid rights co-exist.	
Indigenous Governance and Judicial Institutions	**I. Definitions** 1.2 Indigenous juridical systems will be taken into account according to the rules for their recognition established in the legislation of each country. In the absence of such rules these systems will be recognized whenever they are consistent with national legislation and do not contradict fundamental rights established in national legislation and do not contradict fundamental rights established in	The legal framework should recognize the legitimacy and role of indigenous judicial systems to the extent consistent with national legislation and fundamental rights as established in national legislation and international norms.	

A. Critical Element	Operational Policy on Indigenous Peoples, February 2006	B. Proposed Criteria for Finding of "Full Equivalence" of the Country Legal Framework with IDB Policy	C. Additional Equivalence Indicators/Comments
	national legislation and in international norms. Footnote 5; The concept of indigenous juridical system, also known as internal or self-generated, includes laws of origin, customary rights, customs and uses, and indigenous justice and juridical systems. Seventeen out of 19 countries with indigenous populations in Latin America and the Caribbean recognize customary law **1.3 Indigenous governance** is defined as the scope of governance by indigenous peoples that, within the structure of the applicable legal norms and of the nation-states of which these peoples are part, and in keeping with indigenous peoples' own organizational structures, contemplates control of their own economic, social and cultural development, internal management of their own lands and territories in recognition of the special relationship that exists between the land and ethnic and cultural identity, and effective participation in local, provincial, and sub-national government		
Evaluation of Potential Adverse Impacts	**B. Safeguards in Bank Operations** **4.4 (a) Adverse Impacts** (i) The Bank will require and verify that the project proponent conduct an evaluation to determine the seriousness of potential adverse impacts on physical and food security, lands, territories, resources, society, rights, traditional economy, way-of life and identity or cultural integrity of indigenous peoples, and to identify the indigenous peoples affected and their legitimate representatives and internal decision-making procedures. This evaluation will include preliminary consultations with potentially affected indigenous peoples.	The legal framework should require project proponents and/or authorizing entities to evaluate the significance of potential adverse impacts on physical and food security, lands, territories, resources, society, rights, traditional economy, way-of life and identity or cultural integrity of indigenous peoples, and to identify the indigenous peoples affected and their legitimate representatives and internal decision-making procedures. This evaluation should be required to include preliminary consultations with potentially affected indigenous peoples.	
Prevention of ethnically based discrimination	**B. 4.4** **(d) Prevention of ethnically based discrimination**. The Bank will not finance projects that exclude indigenous peoples on the basis of ethnicity. In Bank projects where implicit factors exist that exclude indigenous peoples and individuals from the benefits of Bank-funded activities on ethnic grounds, the project activities will include such corrective measures, such as:	The legal framework should explicitly prohibit approval of projects that discriminate against Indigenous Peoples on the basis of ethnicity. The legal framework should require the authorizing entity to determine whether implicit factors exist that would have the effect of such discrimination and if	

A. Critical Element	Operational Policy on Indigenous Peoples, February 2006	B. Proposed Criteria for Finding of "Full Equivalence" of the Country Legal Framework with IDB Policy	C. Additional Equivalence Indicators/Comments
	(i) informing indigenous organizations and individuals of their rights under labor, social, financial, and business legislation and of the recourse mechanisms available; (ii) dissemination, training, and measures to eliminate access barriers to benefits and resources such as credit, employment, business services, health services and education services, and other benefits generated or facilitated by the projects; (iii) granting to indigenous workers, entrepreneurs, and beneficiaries the same protection afforded under national legislation to other individuals in similar sectors and categories, taking into account gender issues and ethnic segmentation in goods and labor markets, as well as linguistic factors; and (iv) assuring equal opportunity for proposals submitted by indigenous peoples.	such a determination is made to require the project proponent to take one or more of the following corrective measures: i) informing indigenous organizations and individuals of their rights under labor, social, financial, and business legislation and of the recourse mechanisms available; (ii) dissemination, training, and measures to eliminate access barriers to benefits and resources such as credit, employment, business services, health services and education services, and other benefits generated or facilitated by the project (iii) granting to indigenous workers, entrepreneurs, and beneficiaries the same protection afforded under national legislation to other individuals in similar sectors and categories, taking into account gender issues and ethnic segmentation in goods and labor markets, as well as linguistic factors; and (iv) assuring equal opportunity for proposals submitted by indigenous peoples.	
Indigenous culture, identity, language, and traditional knowledge	**B. 4.4.** **(e) Indigenous culture, identity, language, and traditional knowledge**. In recognition of the special sociocultural and linguistic characteristics of indigenous peoples, Bank operations will include such measures as are necessary to protect these assets from potential adverse impacts. In relevant projects, a consultation and good faith negotiation process will be used to identify the potential risks and impacts and to design and implement socioculturally appropriate measures. In case of commercial development of indigenous cultural and	The legal framework should incorporate explicit provisions for the protection of indigenous culture, identity, language, and traditional knowledge through consultation and good faith negotiation to identify the potential risks and impacts and to design and implement socioculturally appropriate measures. The legal framework should require prior agreement by affected people for any project involving commercial development of indigenous cultural and	

A. Critical Element	Operational Policy on Indigenous Peoples, February 2006	B. Proposed Criteria for Finding of "Full Equivalence" of the Country Legal Framework with IDB Policy	C. Additional Equivalence Indicators/Comments
	knowledge resources, the Bank will require prior agreement by the affected peoples that includes safeguards for intellectual property and traditional knowledge, as well as provisions for their equitable participation in the benefits derived from such commercial development.	knowledge resources and their equitable participation in the benefits derived from such commercial development.	
Transborder indigenous peoples	**B. 4.4** **(f) Transborder indigenous peoples.** In regional projects involving two or more countries or in border areas where indigenous peoples are present, the Bank will adopt such measures as are necessary to contravene adverse impacts of its projects that might affect transborder peoples. These will include consultation and good faith negotiation processes, legal security and territorial control programs, and other culturally appropriate programs related to rights and priorities in health, freedom of movement, dual nationality (within the context of the applicable legal norms), and cultural, social, and economic integration between the affected peoples, among others.	The legal framework should incorporate provisions designed to implement any transborder agreements made by the country with respect to indigenous peoples.	These provisions are applicable primarily to the Bank as an international lender to projects involving two or more countries. Country systems would remain accountable for any binding agreements with neighboring countries involving indigenous peoples but would likely be precluded by considerations of national sovereignty from taking more proactive measures.
Uncontacted indigenous peoples.	**B. 4.4.** **(g) Uncontacted indigenous peoples**. In view of the exceptional nature of uncontacted indigenous peoples, also known as "peoples in voluntary isolation," as well as their special vulnerability and the impossibility of applying prior consultation and good faith negotiation mechanisms, the Bank will only finance projects that respect the right of these peoples to remain in said isolated condition and to live freely according to their culture. In order to safeguard the collective and individual physical, territorial, and cultural integrity of these peoples, projects with the potential of impacting these peoples, their lands and territories, or their way of life will have to include the appropriate measures to recognize, respect and protect their lands and territories, environment, health and culture, and to avoid contact with them as a consequence of the project Footnote 14: The scope of this safeguard is limited to cases of small groups and peoples living mainly in the Chaco and the Amazon jungle refuge areas who do not wish to establish contact with Western civilization, and whose health, culture, and way of life are extremely	The legal framework should require project proponents and authorizing entities to respect the right of indigenous peoples living in voluntary isolation to remain isolated and live freely according to their culture.	Consistent with Bank policy the only country systems to which this safeguard is applicable would be those which have territorial jurisdiction over groups and peoples living mainly in the Chaco and the Amazon jungle refuge areas who do not wish to establish contact with Western civilization, and whose health, culture, and way of life are extremely vulnerable to external contact.

A. Critical Element	Operational Policy on Indigenous Peoples, February 2006	B. Proposed Criteria for Finding of "Full Equivalence" of the Country Legal Framework with IDB Policy	C. Additional Equivalence Indicators/Comments
	vulnerable to external contact.		
Screening for Presence of and Impacts on Indigenous Peoples	**5.3 Operational Measures** **(a)** The Bank, taking into account the perspectives of indigenous peoples, will systematically perform a technical review of all operations submitted for its consideration in the programming and identification stages in order to: (i) determine whether indigenous peoples who might be affected are present and identify potential impacts and benefits for these peoples be they direct, indirect, cumulative or regional; and (ii) depending on the nature, scope, and intensity of the impacts and benefits identified, determine the level of analysis needed to address indigenous issues, including sociocultural analyses and consultation and good faith negotiation processes. This review will be performed by the responsible Bank division. If the project so warrants, the review will rely on experts in indigenous issues and, whenever possible, on inputs from the indigenous peoples who might be affected by the project. The findings of this review will be incorporated into the Project Concept Document.	The legal framework should require project proponents to screen for the presence of Indigenous Peoples in project-affected areas and determine whether and how Indigenous Peoples are likely to be affected including through direct, indirect, cumulative or regional impacts. In determining the presence of and impacts on Indigenous Peoples, the legal framework should require project proponents and/or authorizing entities to rely on experts in Indigenous issues and, whenever possible, on inputs from the indigenous peoples who might be affected by the project.	
Consultation with Indigenous Peoples	**5.3 Operational Measures** (b) Once the decision to proceed with the processing of a project with potential adverse impacts has been made, the Bank will provide guidance for, and to the Bank's satisfaction as early as possible in the project cycle, verify compliance by the project proponent with, the following requirements: (ii) implementation of socioculturally appropriate and duly documented consultation and good faith negotiation processes with the affected indigenous peoples in relation to project design, analysis of alternatives, preparation, due diligence, and execution; **Footnote 15.** In countries that have governmental agencies specialized in indigenous issues and in the protection of indigenous rights, the project proponent will seek the participation of these agencies in all stages of the consultation process. **5.3 Operational measures** **Footnote 16:** As an exception, when the potentially	The legal framework should require the authorizing entity to verify in the event that a decision is made by the authorizing entity to proceed with a project having potential adverse impacts on Indigenous Peoples that socio-culturally appropriate and duly documented consultation and good faith negotiation processes with the affected indigenous peoples in relation to project design, analysis of alternatives, preparation, due diligence, and execution has been conducted except where potentially affected indigenous peoples show no interest in taking part in the consultation process, the project proponent may satisfy this requirement by presenting evidence of the following: its good faith efforts to	

A. Critical Element	Operational Policy on Indigenous Peoples, February 2006	B. Proposed Criteria for Finding of "Full Equivalence" of the Country Legal Framework with IDB Policy	C. Additional Equivalence Indicators/Comments
	affected indigenous peoples show no interest in taking part in the consultation process, the project proponent may satisfy this requirement by presenting evidence of the following: its good faith efforts to consult the affected peoples; the fact that there are no enabling conditions to carry out the consultation along with an analysis of the reasons and circumstances for this situation and the basis for both; and the alternative means used to identify necessary and socioculturally appropriate mitigation measures. IV. Policy Directives: Promoting Development with Identity The Bank will conduct participatory diagnostic studies and promote the inclusion of the corresponding conclusions and recommendations into the design of projects, programs, and technical cooperation operations. To be considered by the Bank, these operations specifically targeting indigenous beneficiaries must have the respective country's support or non-objection and be based on socio-culturally appropriate processes of consultation with the indigenous peoples concerned. The consultations will be carried out in a manner appropriate to the circumstances, with a view to reaching agreement or obtaining consent. **V. Implementation** Depending on the nature, scope, and intensity of the impacts and benefits identified, the Bank will determine the level of analysis needed to address indigenous issues, including socio-cultural analyses and consultation and good faith negotiation processes. **IV. Policy Directives: Promoting Development with Identity** The Bank will conduct participatory diagnostic studies and promote the inclusion of the corresponding conclusions and recommendations into the design of projects, programs, and technical cooperation operations. To be considered by the Bank, these operations specifically targeting indigenous beneficiaries must have the respective country's support or non-objection and be based on socio-culturally appropriate processes of	consult the affected peoples; the fact that there are no enabling conditions to carry out the consultation along with an analysis of the reasons and circumstances for this situation and the basis for both; and the alternative means used to identify necessary and socioculturally appropriate mitigation measures. In the case of projects with particularly significant adverse impacts on indigenous peoples or groups, the legal framework should require that the authorizing entity will require that the project proponent provide, no later than by the date of consideration of the operation by the Board of Executive Directors, evidence duly verified by the Bank and to the Bank's satisfaction of the agreements reached with the affected peoples,	

A. Critical Element	Operational Policy on Indigenous Peoples, February 2006	B. Proposed Criteria for Finding of "Full Equivalence" of the Country Legal Framework with IDB Policy	C. Additional Equivalence Indicators/Comments
	consultation with the indigenous peoples concerned. The consultations will be carried out in a manner appropriate to the circumstances, with a view to reaching agreement or obtaining consent. Once the decision to proceed with the processing of a project with potential adverse impacts has been made, the Bank will provide guidance and verify compliance by the project proponent with the following … requirements. …as early as possible in the project cycle: **(i)** the preparation of sociocultural evaluations as inputs for the loan document, analysis mission, and the project environmental and social review process; **(ii)** the implementation of socio-culturally appropriate and duly documented consultation and good faith negotiation processes14 with the affected indigenous peoples in relation to project design, analyses of alternatives, preparation, due diligence, and execution; In addition to the requirements described in the preceding paragraph, in the case of projects with particularly significant adverse impacts on indigenous peoples or groups, the Bank will require that the project proponent provide, no later than by the date of consideration of the operation by the Board of Executive Directors, evidence duly verified by the Bank and to the Bank's satisfaction of the agreements reached with the affected peoples, as stipulated in section (c) of the paragraph on adverse impacts in section IV of this policy.		