

**U.S. Comments on the Safeguard Policy Statement, Second Draft, October 2008**  
**Additional Comments**  
*Submitted to the ADB*

We would like to provide the following additional comments, in light of our further consideration of these issues.

Environmental Principles – Minimum public disclosure of EIAs for Category A projects of 120 days should be included in principle 6. The following text would achieve this: "... before project appraisal (and, for projects with significant impacts, for at least 120 days), in a form..."

Environmental Categorization – We understand that the word "sensitive" in the World Bank's definition is to include areas that are sensitive and significantly impacted even if small, i.e., not to require that the impacted area be large. Accordingly, we recommend including "sensitive areas" in our previously recommended definition ("... but not limited to impacts on human populations, biodiversity, natural habitats, other sensitive areas, natural resources and/or physical cultural resources.")

Alternative approaches to ensuring that smaller but sensitive areas may be given a Category A rating might also work.

Financial Intermediary projects – For non-targeted financial intermediary (FI) loans, urge that, for subprojects with significant social or environmental risks, the SPS also require the application of the ADB's requirements (namely, the policy delivery process general requirements and the borrower/client SR1-3 requirements). In other words, we recommend that, even for non-targeted FIs, the ADB do as the IFC does in requiring application of the full requirements to subprojects with significant impacts.

(This is in addition to our earlier comment urging that an FI's environmental and social management system ensure implementation of the ADB's safeguard principles and be commensurate to the potential environmental and social risk.)

Country systems – We recommend that, at this time, the ADB's efforts focus on the sector level rather than the country level, and that the ADB either ensure that it has the legal capacity to undertake rigorous equivalence assessments or work closely with the World Bank, which does. We also recommend mandatory in-country consultations on equivalence assessments (rather than the current optional approach). These have been helpful in World Bank experience.

International Obligations – We had made a recommendation regarding paragraph 82. We note that the IFC's PS1, section on "Introduction to the Performance Standards on Social and Environmental Sustainability," has the following text that might be useful. It reads, "3. In addition to meeting the requirements under the Performance Standards, clients must comply with applicable national laws, including those laws implementing host country obligations under international law."

