

INTER-AMERICAN DEVELOPMENT BANK



BRAZILIAN INFRASTRUCTURE INVESTMENT FUND

(BR-L1011)

ENVIRONMENTAL AND SOCIAL MANAGEMENT REPORT

(ESMR)

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I. INTRODUCTION

- 1.1 There is an urgent need in Brazil for an increase in investments in transportation, communication, energy, water and sewage infrastructure. As an illustration of this need, the Brazilian government's Planning Ministry (Ministerio de Planejamento) four-year development plan (the Plano Plurianual 2004-2007) describes some R\$298 billion (approximately US\$101.5 billion) in basic infrastructure needs. These numbers do not include telecom investments.
- 1.2 The development of physical infrastructure projects is essential for ensuring long-term economic growth. The private sector cannot become more productive and competitive if the infrastructure base needed to facilitate the processes for producing good and assets is not in place.

II. FACILITY DESCRIPTION

- 2.1 In view of the above, the IDB is proposing the formation of the Brazilian Infrastructure Investment Fund (BIIF) in the amount of up to the Reais equivalent of US\$ 575 million that: a) will help overcome the current reluctance by private sponsors to invest directly in essential basic infrastructure projects and companies in Brazil by showing them that debt financing is readily available, and b) will attract other private funding sources to facilitate the financing of these investments. This fund is expected to be comprised of US\$ 75 million in A loans from the IDB and US\$ 500 million capital contributions from pension funds in Brazil and other institutional investors. It will invest in infrastructure with the objective of obtaining long-term returns for its investors that better the long-term investments currently available in Brazil.
- 2.2 Briefly, the BIIF is a closed-end mixed debt-equity fund with a 15-year life, designed to provide a source of long-term financing in local currency to a market that lacks such resources, thereby contributing to the development of infrastructure in Brazil as well as to its sustainable development in general.
- 2.3 The Fund is expected to invest in debt, equity, and equity like instruments issued by a total of approximately 15-20 different projects or businesses, concentrating in Energy, Transportation, Water and Sanitation, Telecom, and Gas Pipelines. The fund will follow concentration limits vis a vis type of industry as well as type of financing offered always following the IDB eligibility criteria. The Fund will not finance projects or activities listed in the Environmental Exclusion List, and as possible, will foster investments in environmentally favorable projects such as energy efficiency, alternative energies, solid waste management (recycling), sanitation, etc. See Tables 1 and 2 for limits associated to the type of financing and to the investment and sector concentration, respectively.
- 2.4 The BIIF will be managed by an independently selected Fund Manager who may also be expected to contribute capital to the Fund. The Fund Manager will be hired through a public competitive

bidding process, following a call for proposals issued by IDB, and will be responsible for identifying investment opportunities, making investments in the sectors agreed with the Bank, maintaining a diversified portfolio and obtaining an expected return, while managing the day-to-day operation of the Fund. The Fund Manager will need to be able to analyze and structure prospective investments from the perspective of a creditor and equity investor and must therefore be capable of assessing the creditworthiness of the project or company and the prospects for making an adequate return on equity. The Fund Manager will also be required to have (i) a general understanding of environmental, social, and health and safety best practices as they relate to the financial sector, in particular with respect to project finance and corporate finance of large infrastructure projects and (ii) demonstrated capabilities to apply the Environmental Management System developed by the IDB for the BIIF.

Table 1 . Limits per Type of Financing

	Limit	Base Case
Project Type		
Greenfield	Limited to 45% of portfolio	43%
Capex	No limit	47%
Renegotiation	Limited to 10% of portfolio	10%

Table 2. Limits per Investment and Sector Concentration

	Limit	Base Case
Investment		
Debt Investments	Minimum 80% of portfolio	80%
Equity Investments	Limited to 20%	20%
Sectors		
Energy	Limited to 40%	36%
Transportation	Limited to 40%	36%
Water and Sanitation	Limited to 40%	11%
Telecom	Limited to 40%	12%
Gas Pipelines	Limited to 40%	5%

III. ENVIRONMENTAL AND SOCIAL IMPACTS

- 3.1 The potential direct key negative environmental, social, health and safety, and labor impacts associated with this Fund are those related to or caused by the specific infrastructure projects that will be financed by the Fund. These impacts can be diverse and their significance will depend on the project characteristics (e.g. sector, type, location, etc.).
- 3.2 The key potential environmental risks to the IDB associated with the BIIF could include:
 - 3.2.1 Environmental credit (financial) risks to the Fund, jeopardizing its sustainability and thus affecting IDB's participation (e.g. repayment). These risks refer to potential negative effects on the Fund's financial sustainability because of environmental or social aspects such as non-performing loans due to environmental or social issues (e.g. clean up costs, law suits, fines, etc), or reduction in equity or asset values due to environmental liabilities.
 - 3.2.2 Reputation risks as a consequence of Fund investment in projects or companies (i) that incur material environmental and social impacts that are not adequately mitigated, or (ii) that have a poor image and/or significant public opposition because of the nature of the project or the historically poor environmental, social, health and safety, and labor practices and/or performance of the companies involved.
- 3.3 To a lesser degree there may also be reputation risks to the IDB associated with the Fund Manager's environmental, social, health and safety or labor practices such as poor working or labor conditions/environment (e.g. lack of non-discriminatory policies, inadequate emergency preparedness, lack of fire exits, etc) or significant liabilities in their facilities or operations (e.g. buildings/offices with PCB transformers, asbestos, lead paint, etc).
- 3.4 The principal positive environmental and social impact from this Fund is that the participation of the Bank will result in more environmental and socially sustainable projects financed in Brazil as a result of the implementation of an Environmental Management System (EMS). Additionally, as stated above, the Fund will foster investments in environmental favorable projects such as energy efficiency, alternative energies, solid waste management (recycling), sanitation, etc.

IV. ENVIRONMENTAL AND SOCIAL MANAGEMENT

- 4.1 The key potential negative impacts associated with the BIIF will be mitigated by the application of the Environmental Management System ("EMS"), describe in detail below.
- 4.2 The reputation risks described in section 3.3, associated with potential environmental, social, health and safety, and labor liabilities of the Fund Manager's facilities and operations will be mitigated by assuring: (i) compliance with local regulations related to health and safety and

emergencies, including emergency equipment and regular training programs, (ii) application of an “Institutional Code of Conduct” that would set the values and principles governing its activities, which among other things, states that Fund Manager employees and clients are treated equitably, fairly, and in an unbiased fashion regardless of social factors, (iii) Fund Manager’s representation that there is no known environmental or health and safety liabilities in any of their facilities or operations, and (iv) that all labor liabilities, if any, have been properly provisioned and are within the accepted ranges for Brazil in the banking sector.

BIIF’s Environmental Management System (EMS)

- 4.3 The EMS will be developed based on the IDB-Private Sector Department (PRI) environmental and social management guidelines, reflecting PRI Environmental and Social Unit (ESU) extensive experience with private large infrastructure projects in Latin America. Once the BIIF’s design is fully finalized and the Fund Manager is selected, the final EMS will include further detail on how the environmental, social, health and safety, and labor requirements are properly engrained in the Fund’s project cycle.
- 4.4 The EMS will include: (i) Environmental Policy, (ii) project eligibility criteria (Environmental Exclusion List), (iii) project review to identify, assess, monitor, and mitigate potential environmental, social and health and safety impacts and risks (including both liabilities and public concerns) and approval process for all operations (iv) environmental and social Legal Agreement standard terms and conditions, (v) monitoring requirements, (vi) organizational structure and training, (vii) reporting requirements, and (viii) external EMS third party audits. The EMS will assume a risk management approach, and will develop differentiated procedures for Project Finance, Corporate Finance, as well as debt and equity investments. These components are summarized below, and will be extensively detailed in the final EMS. A summary of this EMS is proposed to be made available to the Public upon request.

Environmental Policy:

The environmental Policy will incorporate essentially the following components: (i) Application of an Environmental Risk Management Approach, (ii) Compliance with all applicable Brazilian and IDB environmental, social, health and safety, and labor legal requirements, (iii) Promoting sustainable development projects that maximize to the extent possible the positive project-associated benefits while adequately mitigating project-related negative impacts and risks, (iv) Fostering information disclosure, stakeholder involvement, and transparency; and (v) stimulating the use of sound environmental, social, and health and safety practices and management systems. (See Annex A for proposed Fund’s Environmental Policy).

Project eligibility criteria:

The EMS will include an Exclusion List, that will outline those projects, companies, and activities not eligible for BIIF financing. (See Annex B for proposed Environmental, Social, and Health and Safety Eligibility Criteria, and the Environmental Exclusion List).

Project review and approval process:

The environmental procedure outlined below will be applied to all operations financed by the Fund, regardless if they are equity investments, project finance, or corporate finance. This process includes:

- *Initial Screening:* The Fund Manager's project team, will request information to the project sponsor. Based on the information provided, the Fund Manager will apply an Environmental, Social, and Health and Safety Eligibility Criteria, including an Environmental Exclusion List (See Annex B). As part of the EMS there will be a standard checklist to be used by the Fund Manager to determine initial eligibility for a given transaction or project. If the prospective client company or project is engaged or associated in/to an excluded activities, the client will be so informed, and further consideration of financing for the project will be terminated. The Fund Manager's Project Team will present the proposed project to the relevant internal Fund committees in order to confirm the project eligibility, after which the Fund may sign a Mandate Letter or Memo of Understanding (MOU) with the project sponsor. Once the Mandate Letter is signed the proposed project officially enters the BIIF pipeline (i.e., can be considered officially a potential Fund project). The initial project eligibility review document drafted by the Fund Manager's Project Team, will specifically include a (i) statement associated with the project compliance status, (ii) potential significant/major environmental and social issues, and positive impacts, (iii) type of environmental, social, health and safety requirements, and (iv) type and level of Environmental and Social Due Diligence. (See Annex C for Potential Significant or Major Environmental, Social or Health and Safety Issues).
- *Mandate (or Memo of Understanding - MOU):* Once a project has been granted eligibility, the Fund will enter into a legal agreement (e.g. Mandate Letter or MOU) with the Company or project sponsor ("The Client"), by which the Client agrees to authorize the Fund to commence a full and detail Due Diligence evaluation of all aspects of the project, including but not limited to environmental, social, health and safety, and labor aspects. In this legal agreement the client must agree in writing to (i) provide all requested information for the Fund's Environmental and Social Due Diligence, and (ii) comply with the information disclosure and public consultation requirements, and with the environmental, social, and health and safety BIIF requirements. (See Annex D for a summary of the basic Environmental and Social Requirements)
- *Environmental and Social Due Diligence (ESDD):* After the Mandate Letter has been executed, BIIF will initiate an Environmental and Social Due-Diligence (ESDD) to assess the project in detail and to confirm the feasibility of the project for BIIF financing in terms of environmental, social and health and safety aspects. The formal ESDD typically consists of three steps. (i) *Information Review* of all relevant environmental, social, and health and safety project documents and information and any subsequent information requested by the BIIF or

obtained during the site reconnaissance, (ii) *Site Reconnaissance* consisting of visual observation of relevant areas directly and indirectly affected by the project, meetings with relevant individuals/entities associated with the Project to discuss the environmental, social, and health and safety issues, and obtaining any additional information required, and (iii) *Report Preparation* summarizing the results of the ESDD. The ESDD will focus on (i) regulatory compliance, (ii) the environmental and social direct, indirect, and cumulative impacts associated to a specific operations, (iii) the environmental, social, and health and safety risks and liabilities of the transaction, (iv) the potential financial and reputation risks to the Fund and its shareholders, and (v) the environmental, social, and health and safety, and contingency Plans and Procedures the Client has implemented to manage such impacts and risks. (See Annex E for Checklists for both an ESDD and ESDD Conclusions Report).

- *Project Review and Approval:* As a result of the ESDD, the BIIF's Project Team generates an Environmental and Social Feasibility Report (ESFR), summarizing the findings of the evaluation, and outlining the strengths and recommended areas of improvements. Clients must be able to demonstrate to the BIIF's satisfaction, appropriate environmental and social management capabilities and compliance with applicable environmental, social, health and safety Brazilian regulation, BIIF environmental requirements, and applicable IDB operational policies. Where compliance cannot be demonstrated, an Environmental, Social and Health and Safety (ESHS) Action Plan must be agreed to in order for the loan/investment to proceed. The Plan must specify all of the necessary actions to bring a project into compliance, with target completion dates, responsibilities and budget for each specified action. The BIIF determines the project acceptability or feasibility, in terms of environmental, social, and health and safety aspects, based upon this review by the Project Team and ultimately is approved by the BIIF Board of Directors. At this stage the BIIF's project team also defines the level and frequency of ESHS supervision required.
- *Project Execution:* Based of the ESFR and related information, the BIIF may undertake negotiations towards financial closing, incorporating in the project legal documentation the project specific environmental, social, health and safety terms and conditions.

Legal Agreement:

The Project Team must prepare and negotiate with the Client a project Loan/Common Agreement. The Loan/Common Agreement establishes the project-specific legal terms and conditions for the financing of the project. The Loan/Common Agreement must specifically include the environmental, social, health and safety, and labor terms and conditions ("environmental and social terms and conditions") applicable to the project. The purpose of these terms and conditions is to legally define all of the Fund's environmental, social, health and safety, and labor requirements.

The environmental, social, health and safety, and labor ("environmental and social") related terms and conditions (i.e., requirements) which must be included in all BIIF loan agreements consist of the *Standard Terms and Conditions*, which typically, with minimum modification, are

applicable to all BIIF projects, and *Project Specific Terms and Conditions*, which are the project-specific requirements that are identified primarily during the Environmental and Social Due-Diligence of a proposed BIIF. The project/specific requirements may include the Environmental, Social, and Health and Safety (ESHS) Action Plan.

The standard environmental and social terms and conditions which will be included in all BIIF project Loan/Common Agreements, may be expanded and/or modified to reflect the project-specific requirements, which are based upon the applicable environmental and social policies and procedures, along with the results of the project's Environmental and Social Due-Diligence. The types of environmental and social clauses for the Loan/Common Agreement are grouped as: Definitions, Representations and Warranties, Disbursement related, Covenants, Events of Default, and BIIF project specific Environmental and Social Guidelines. (See Annex F)

Monitoring:

The BIIF will require to perform monitoring (supervision) for all projects in execution in order to (i) ensure implementation of, and compliance with, the project-specific environmental, social and health and safety components and requirements, and (ii) to assess and understand the status and compliance of environmental, social, and health and safety aspects of projects during their execution (i.e., life of the loan or equity investment). The effectiveness of a project to properly minimize, mitigate and control adverse environmental, social, and health and safety impacts and risks during project implementation will be determined by these project-specific monitoring (supervision) activities.

The main objectives of project monitoring of environmental and social aspects are to: (i) assess compliance with all specified environmental, social, and health and safety requirements in the project legal agreements; (ii) identify the present level of project-related negative impacts on the relevant environmental, social, and health and safety conditions; (iii) identify the present level of environmental financial risk; (iv) assess the local perceptions of the project; and (v) identify the positive environmental and social related activities/actions that the company/project has performed.

The BIIF monitoring of the Client's activities will identify opportunities for improvement, or improvements made since the last visit. Performance and opportunities will be discussed with the Client as appropriate. Where appropriate, the BIIF's Project Team may direct borrowers to organizations that can help them improve their environmental performance.

As promptly as possible after the Fund Manager becomes aware of any non-compliance with the environmental requirements, its must work with the Client, to enforce the terms of the loan agreement and/or develop a Corrective Action Plan as appropriate.

The project monitoring of environmental, social, and health and safety aspects includes the development of an Environmental and Social Project Monitoring Plan, and may involve

Environmental and Social Monitoring Consultants, and Environmental, Health and Safety Audits.

The project monitoring of environmental and social aspects of BIIF projects (especially project finance projects) typically will be associated with the following phases of the project:

- *Financial Closure/First Disbursement*: This typically involves a confirmation of the borrower's completion of the project-specific environmental, social, and health and safety requirements for financial closure and first disbursement, especially related to project environmental, social and health and safety plans. In addition, it may involve a site visit to confirm compliance with applicable environmental, social and health and safety requirements.
- *Construction Phase*: This typically involves routine office reviews and site visits, as appropriate, in order to assess compliance with the project-specific environmental, social, and health and safety requirements. At the end of construction (e.g., technical or physical completion), this typically will involve confirmation that during construction all environmental, social, and health and safety requirements were implemented. In addition, prior to operation of the project, this will include an assessment of the adequacy of the project-specific operational phase environmental, social, and health and safety plans.
- *Operation Phase*: This typically involves routine office reviews and site visits, as appropriate, in order to assess compliance with the project-specific environmental, social, and health and safety requirements and to monitor the project-related operational impacts (e.g., air emissions, wastewater discharges, etc.).
- *Project Completion (termination of loan)*: This typically involves an ex-post evaluation of the project (loan) in terms of environmental, social, and health and safety aspects.

Reporting Requirements:

The EMS includes two types of Environmental Reporting, the first refers to the environmental and social reporting that the BIIF will require from its clients, and the second refers to an environmental and social report from the BIIF's Fund Manager to the IDB and other shareholders.

(i) Project EHS Monitoring Reports from Individual Clients to the BIIF: those corresponding to individual financed projects as determined in specific Monitoring Plans and in the Legal Agreements. These will be project specific, and their content and frequency will be associated to the project phase.

(ii) Environmental and Social Compliance Report (ESCR) required from the BIIF to the IDB: corresponding to the Fund's portfolio overall environmental and social matters, EMS application, and with specific reporting requirements as determined in the BIIF-IDB loan agreement. This ESCR will be provided to the IDB on a semi-annual basis during the Fund's

investment period, and yearly there-after, unless for events specifically required otherwise under the loan agreement.

Organization Structure and Training:

Once the Fund Manager is selected, the EMS will clearly outline the organizational structure responsible for EMS application, with clear roles, responsibilities and capabilities. This section of the EMS will also include the strategy to develop capacity and training in the EMS procedures to all of the Fund Manager's personnel. This section will include the possibility for the BIIF to use external consultants to help the Fund Manager in the application of this EMS.

External Audit:

The EMS will be periodically audited by an independent third party to assure compliance to procedures, proper documentation, and provide insight on how it can be improved.

V. RECOMMENDATIONS

- 5.1 The direct review and approval of individual projects financed by the Fund will be the responsibility of the Fund Manager and the Investment Committee, respectively. Therefore, in the public competitive bidding process for the Fund Manager, environmental management capabilities, experience, and understanding of environmental best practices for the financial sector will be seriously considered and heavily factored in its selection.
- 5.2 Prior to financial closure the Bank will develop the final EMS for the BIIF. The EMS must be fully implemented before the Fund formally considers any transaction/project.
- 5.3 The IDB will require compliance with the EMS and all environmental and social provisions for each IDB disbursement, and will require semi-annual environmental reporting from the Fund Manager during the fund investment period, and annually there after.

ANNEX A

PROPOSED BIIF ENVIRONMENTAL POLICY.

“The BIIF is committed to ensuring that each project is assessed, approved and monitored with due regard to environmental, social, and health and safety aspects, that each project is environmentally and socially viable and sustainable, and all project-related impacts and risks are adequately mitigated or controlled.

The fundamental principles for BIIF projects related to environmental, social and health and safety aspects are:

- *Comply with all applicable in-country and BIIF environmental, social, health and safety, and legal requirements;*
- *Promote sustainable development projects that maximize to the extent possible the positive project-associated benefits while adequately mitigating project-related negative impacts and risks;*
- *Promote information disclosure, stakeholder involvement, and transparency;*
- *Promote use of sound environmental, social, and health and safety practices and management systems; and*
- *Promote local, national, and regional economic and social development by utilizing the human, financial and material resources of member countries.*

No investment will be made in any project unless the EH&S and social aspects have been addressed to the satisfaction of the Investment Committee, and unless the appropriate Brazilian authority has initially approved the project.

In order to ensure adherence to the standards and policies mentioned above, the BIIF will follow the process described in the EMS”

ANNEX B

PROPOSED PROJECT ELIGIBILITY CRITERIA IN TERMS OF ENVIRONMENTAL, SOCIAL, AND HEALTH AND SAFETY.

Projects should be deemed eligible in terms of environmental, social, and health and safety aspects, if ALL of the following are true. The Project and the Company:

(i) will comply with all applicable Brazilian environmental, social, health and safety, and labor laws and regulations, including permits and authorizations, and all adopted/signed international conventions and treaties. (While this would seem apparent, this should be confirmed with the Project Sponsors especially for projects involving existing facilities, operations, assets, etc.);

(ii) will comply with all applicable BIIF environmental and social requirements, including without limitation, Inter-American Development Bank policies and guidelines. In particular, this would include: compliance with the IDB's policy on information disclosure; preparation of an Environmental Impact Assessment (EIA) according to best practices, for those projects which require an EIA; and compliance with the IDB's policy on involuntary resettlement, for those projects involving expropriation and resettlement.

(iii) Does not involve, either directly or indirectly, any characteristic that should be considered non-eligible for BIIF project financing, as outlined in the BIIF Environmental Exclusion List. *Note: Some of the stated characteristics may not be applicable given the Fund's infrastructure mandate.*

BIIF ENVIRONMENTAL EXCLUSION LIST

Projects or Companies directly involved with production, use, or activities listed below are not eligible for financing under the Fund:

- Those that are illegal under Brazilian laws or regulations or international conventions and agreements, including without limitation Brazilian requirements related to environmental, health and safety, and labor aspects.
- Weapons and munitions.
- Alcoholic beverages (excluding wine and beer)¹.
- Tobacco².

¹ This does not apply to companies for which the operations/activities related to these criteria comprise less than 10 percent of companies total annual revenue

² This does not apply to companies for which the operations/activities related to these criteria comprise less than 10 percent of companies total annual revenue

- Gambling, casinos and equivalent enterprises³.
- Wildlife or wildlife products regulated under Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES)⁴.
- Radioactive materials⁵.
- Unbounded asbestos fibers⁶.
- Commercial logging operations or the purchase of logging equipment for use in primary tropical moist forest⁷.
- Forestry projects or operations that lack sustainable management, forestry projects in areas of high ecological value with the exception of preservation and light non-extractive use of forest resources.
- Plantation projects that would require the removal of existing non-degraded natural forest.
- Polychlorinated biphenyl compounds (PCBs).
- Pharmaceuticals subject to international phase outs or bans⁸.
- Pesticides/herbicides subject to international phase outs or bans⁹.
- Ozone depleting substances subject to international phase out¹⁰.
- Drift net fishing in the marine environment using nets in excess of 2.5 km. in length.

³ This does not apply to companies for which the operations/activities related to these criteria comprise less than 10 percent of companies total annual revenue

⁴ www.cites.org

⁵ This does not apply to the purchase of medical equipment, quality control (measurement) equipment and any equipment where it can be demonstrated that the radioactive source is to be trivial and/or adequately shielded

⁶ This does not apply to the purchase and use of bonded asbestos cement sheeting where the asbestos content is <20%.

⁷ Primary forest is defined as relatively intact forest that has been essentially unmodified by human activity for the previous 60 to 80 years; and Tropical moist forest is generally defined as forest in areas that receive not less than 100 mm of rain in any month for two out of three years and have an annual mean temperature of 24⁰ C or higher.

⁸ Pharmaceutical products subject to phase outs or bans in United Nations, *Banned Products: Consolidated List of Products Whose Consumption and/or Sale Have Been Banned, Withdrawn, Severely Restricted or not Approved by Governments*. (Last version 2001, www.who.int/medicines/library/qsm/edm-qsm-2001-3/edm-qsm-2001_3.pdf)

⁹ Pesticides and herbicides subject to phase outs or bans included in both the Rotterdam Convention (www.pic.int) and the Stockholm Convention (www.pops.int).

¹⁰ Ozone Depleting Substances (ODSs) are chemical compounds which react with and deplete stratospheric ozone, resulting in the widely publicized 'ozone holes'. The Montreal Protocol lists ODSs and their target reduction and phase out dates. The chemical compounds regulated by the Montreal Protocol includes aerosols, refrigerants, foam blowing agents, solvents, and fire protection agents. (www.unep.org/ozone/montreal.shtml).

- Transboundary trade in waste or waste products¹¹, except for non-hazardous waste destined for recycling.
- Persistent Organic Pollutants (POPs)¹².
- Non-compliance with workers fundamental principles and rights at work¹³.
- Involuntary resettlement¹⁴
- Significant degradation of a National Park or similar protected area¹⁵.

¹¹ Define by the Basel Convention (www.basel.int).

¹² Defined by the International Convention on the reduction and elimination of persistent organic pollutants (POPs)(September 1999) and presently include the pesticides aldrin, chlordane, dieldrin, endrin, heptachlor, mirex, and toxaphene, as well as the industrial chemical chlorobenzene (www.pops.int)

¹³ Fundamental Principles and Rights at Work means (i) freedom of association and the effective recognition of the right to collective bargaining; (ii) prohibition of all forms of forced or compulsory labor; (iii) prohibition of child labor, including without limitation the prohibition of persons under 18 from working in hazardous conditions (which includes construction activities), persons under 18 from working at night, and that persons under 18 be found fit to work via medical examinations; (iv) elimination of discrimination in respect of employment and occupation, where discrimination is defined as any distinction, exclusion or preference based on race, color, sex, religion, political opinion, national extraction, or social origin. (International Labor Organization: www.ilo.org)

¹⁴ Unless it can be fully demonstrated that such involuntary resettlement fully complies with the IDB Policy on Involuntary Resettlement (OP-710)

¹⁵ In addition to in-country designated areas, other areas include: natural World Heritage Sites (defined by World Heritage Convention, <http://whc.unesco.org/nwhc/pages/doc/main.htm>), United Nations List of National Parks and Protected Areas, designated wetlands of international importance (defined by RAMSAR Convention, www.ramsar.org), or selected areas (e.g., strict nature reserves/wilderness areas, natural parks, natural monuments or habitat/species management areas) defined by IUCN (International Conservation Union, www.iucn.org).

ANNEX C

POTENTIALLY SIGNIFICANT OR MAJOR ENVIRONMENTAL, SOCIAL OR HEALTH AND SAFETY PROJECT ISSUES

- The project is located in or near important or sensitive environmental areas (e.g., containing threatened or endangered species, containing species of high economic value, tropical rain forests, natural parks, designated special protection zones/areas, etc.).
- The project is located in or near important or sensitive social areas (e.g., indigenous peoples, vulnerable population, young or elderly populations, schools, hospitals, etc.).
- The project involves resettlement of affected people or significant amounts of expropriation.
- There is strong, negative public perception of the project or strong public opposition (or there are major concerns) especially by those in the directly affected project area and those who have the potential to raise significant political and public concerns about the project (e.g., NGOs, labor unions, political activists, etc.).
- The project (or company) has existing facilities, operations, or assets (e.g., power plant, land, etc.) which may be contaminated (including soil, ground water, surface water and sediments, and existing buildings and equipment) and thus generate environmental financial liabilities.
- The project consists of high risk activities (e.g., storage and use of hazardous materials and wastes, high potential for explosions or fires, high degree of worker safety or potential exposure risks, natural hazards (floods, seismic, etc.), terrorist activities, etc.).
- The project will generate potentially significant (defined both in terms of quantity and type of pollutant) air emissions, waste water discharges, hazardous wastes, or non-hazardous wastes (e.g., construction debris, sanitary waste).
- The Project Sponsor(s) has a poor past history in terms of environmental financial liabilities, environmental regulatory compliance, worker accidents and health issues, and Corporate philosophy towards environmental and social issues (thereby raising the issue that poor past performance may imply poor future performance and thus pose problems for the Bank).
- The Project Sponsor is not responsible for performing the Environmental Impact Assessment, obtaining governmental authorizations and permits, and/or implementing project mitigation and monitoring measures (i.e. all or some of these are the responsibility of a governmental entity or of a third party, thereby raising the concern of greater potential for difficulties ensuring quality control and impartiality due to indirect responsibility).

ANNEX C (continued)

- The in-country environmental, social, and health and safety regulatory structure is either poorly developed (thus potentially lacking reasonably sufficient laws and regulations to protect the environment or unable to properly/adequately enforce the laws, regulations and project mitigation measures), and/or undergoing significant and/or rapid changes (thus potentially very unstable, causing changes to the requirements for design and operation).
- The environmental, social, and health and safety governmental authorities either lack sufficient resources and capabilities to ensure a full and complete evaluation of proposed projects or lack the ability to fully monitor and enforce all regulatory requirements.
- The project involves international issues or transboundary impacts (e.g., air emissions, water usage, waste water discharges, international environmental treaties or conventions).
- The project (or the sponsor) is a “red flag” project from an NGO’s (i.e., non-governmental organization) perspective (applicable to projects involving dams, hydroelectric power plants, new oil or gas exploration/development, new highway in natural or sensitive area, etc.)

ANNEX D

BIIF PROPOSED ENVIRONMENTAL, SOCIAL, HEALTH AND SAFETY AND LABOR REQUIREMENTS

The fundamental requirement for all projects financed¹⁶ by the BIIF, in terms of environmental, social, and health and safety is that each Environmental Party¹⁷ must comply with all Environmental Requirements¹⁸ such that all project-related impacts and risks are adequately mitigated or controlled, and the project borrower shall promote and incorporate, to the extent feasible, positive environmental, social, and health and safety components within the project. In practical terms, projects must comply with the BIIF Environmental Policy, and the following requirements¹⁹:

Environmental and Social Requirements

Assessment and Mitigation of Project Impacts

All projects financed by the BIIF must comply with all applicable IDB environmental and social policies, which includes an assessment of potential project related impacts in order for the BIIF to confirm the feasibility of financing the project. The assessment of project impacts must include all relevant environmental and social related factors, for example, land use, climate and meteorological conditions, air quality, noise, geology, soils, natural hazards, water resources (surface and ground water, coastal, etc.), flora (especially tropical rain forests, wetlands, or unique or sensitive habitats), fauna, endangered and threatened species (including sensitive species, economically important species), natural parks or protected areas, archeological resources, cultural and historical resources, visual resources, population and settlement patterns, livelihoods (level of employment and income patterns), health and education levels (including endemic diseases), services and infrastructure, social organizations and groupings, indigenous populations, gender, and vulnerable populations (elderly, poor, disabled, young).

The BIIF will require that each potential project borrower (sponsor) present the necessary and relevant documentation in order to ensure that a proper evaluation of the proposed project can be made and that adequate written plans and procedures exist to mitigate and monitor all project-related environmental, social and health and safety impacts and risks. BIIF will require the project and the project company to comply with all environmental, social, and health and safety requirements (e.g., mitigation measure, monitoring program, actions, works, etc.) identified in project environmental reports. The types of environmental

¹⁶ Includes project finance, corporate finance, either via debt or equity investment.

¹⁷ Use standard definitions

¹⁸ Use standard definitions

¹⁹ The application of these requirements to an individual project is based upon the specific project type and characteristics. In addition, some project environmental and social requirements may be identified during the due-diligence of the proposed project.

documentation (reports) typically required for the large infrastructure projects financed by BIIF are:

- An *Environmental Impact Assessment* (EIA) which is required by BIIF for all projects with potentially significant impacts on the natural and human environment. The development of the EIA entails the systematic study, analysis and evaluation of a project's potential environmental and social impacts (both positive and negative) taking into account overall cumulative primary and secondary consequences likely to alter significantly the quality of the natural and human environment. The BIIF also requires that the project EIA be made available to local potentially affected persons and groups (see Information Disclosure and Public Consultation below).
- An *Environmental and Social Management Plan* (ESMP) which defines the project-specific proposed environmental and social control and mitigation measures, monitoring programs, and responsibilities. The ESMP needs to be developed based upon an assessment of environmental and social impacts and risks for the proposed project.
- A *Health and Safety Plan* which presents the necessary procedures, equipment, training, and responsibilities to properly minimize and control project-specific worker health and safety risks.
- A *Contingency Plan* which shall describe the necessary measures, procedures, equipment, training, responsibilities, and resources required to adequately control, respond and remediate potential project risks and emergencies,
- A *Corrective Action Plan*, if necessary or applicable, to correct any existing non-compliances or liabilities which were identified based upon an *Environmental, Health and Safety Audit* performed on existing facilities and operations.
- A *Resettlement Plan*, if applicable, for projects involving resettlement or expropriation, which fully complies with the Inter American Development Bank policy on Involuntary Resettlement (OP-710).

Sector Guidelines

The BIIF will not have mandated sector-specific environmental or social guidelines or requirements (e.g., emission and discharge limits for power plants, etc.). However, the BIIF typically will require compliance with the applicable sector specific guidelines in the World Bank Pollution Prevention and Abatement Handbook (August 1998). In addition, other sector guidelines may be applied (e.g., International Finance Corporation general health and safety guideline).

Information Disclosure and Public Consultation

The BIIF will comply with in all relevant aspects to the Inter-American Development Bank Policy on Disclosure of Information (OP-102) which defines various requirements related to the disclosure of information to the public that must be performed prior to the presentation of the project Loan Proposal to the BIIF Board of Directors. The project borrowers is required to implement the appropriate level of public consultation and information disclosure during all phases of the project, in order to ensure that adequate and timely information is provided to the affected people and other stakeholders and that these groups are given sufficient opportunity to voice their opinions and concerns.

Positive Aspects

The BIIF is interested not only in mitigating the negative impacts of projects, but also in attempting to maximize the project positive benefits and impacts. These relate not only to those direct project benefits (e.g., increased employment, economic development, energy efficiency, recycling/ integrated waste management, etc.), but also to the implementation of specific project programs (components) that will provide “positive environmental and social benefits”. Many private sector companies (i.e., borrowers) routinely implement specific environmental and social programs/components that provide positive benefits or enhancements to the affected areas or persons. Thus, the BIIF will work with project companies to help select the types of positive environmental and social programs and activities in an attempt to maximize their positive and beneficial effect on local populations.

ANNEX E

ENVIRONMENTAL AND SOCIAL DUE-DILIGENCE CHECKLIST

Compliance

1. Does the project EIA for the new proposed project(s)/work(s) to be directly financed by the BIIF satisfy all applicable in-country (national, regional and local) regulatory requirements, including the submittal of the EIA to the applicable governmental authority(ies), approval of the EIA by the governmental authority, identification of any government required modifications and/or enhancements to the EIA, and confirmation of performance and/or compliance by the project sponsor with governmental required actions?
2. Does the project EIA comply with applicable Bank policies on environmental and social impact?
3. Have all applicable in-country (national, regional, local) environmental, social, and health and safety regulatory authorizations and permits have been obtained?
4. Did the information presented for the permit/authorization correctly reflect the proposed project?
5. Has the project complied with all governmentally permit/authorization requirements (i.e., permit conditions, requirements, etc.)?
6. If a specific regulatory permit or authorization has not been obtained, is there a specific plan for obtaining the permit/authorization, including proposed time schedule to obtain the permit and identification of potential risks or project problems due to the absence of a permit or delays in obtaining the permit?
7. Does the project comply with all applicable in-country environmental, social and health and safety regulatory operating requirements (i.e., design characteristics, reporting, monitoring, etc.)?
8. Does the project comply with any applicable international environmental treaties and conventions?
9. Does the project sponsor have a plan/procedure for monitoring changes in environmental, social, and health and safety regulatory requirements and for complying with these future changes?

Environmental and Social Impact Assessment

1. Are all project impacts properly identified and accurately described, and if not, then identify any potential impacts not completely or accurately presented?

2. Are all project impacts properly mitigated or compensated? If not, then recommend and/or modify/elaborate mitigation measures for those project proposed mitigations that are not identified or completely or accurately presented.
3. Have sufficient environmental and social monitoring programs been established for both the project construction and operation phases? If not, then recommend and/or modify/elaborate monitoring programs that are not identified or completely or accurately presented.
4. Are there sufficient detailed plans and procedures (either existing or proposed/planned to be developed) for the proposed mitigation measures and monitoring activities and that the proposed plans and procedures are technically and socially appropriate for the proposed project given the site environmental and social characteristics? If not, then recommend which detailed plans and/or procedures should be developed.
5. Have complete and accurate cost estimates been established for all project construction and operational environmental and social mitigation and monitoring activities, and is adequate funding established and assured to pay the costs of construction and operational environmental and social mitigation and monitoring activities?
6. Has the responsibility for each mitigation measure and monitoring activity been assigned and is the assigned entity/person aware of their assigned responsibility and prepared and capable to fulfill the requirements?
7. Will adequate environmental training be provided to all workers involved with the project, both during construction and operations, related to prevention of environmental and social impacts, and the proper implementation and operation of mitigation measures and monitoring activities?
8. Are there specific procedures to be implemented during project implementation (i.e., project supervision and evaluation) to ensure complete and proper implementation of the construction and operational environmental and social mitigation measures and monitoring activities, including definition of who will perform the activities (i.e., project sponsor), their authority (i.e., ability to initiate immediate actions), the technical skills required, proposed reporting procedures when problems are detected, and the procedures to ensure correction of any identified problems or deficiencies?
9. Is independent (third-party) quality control or project supervision activities recommended? If so, describe and present in the report's Recommendations.

Disclosure of Information and Public Consultation

1. Is there a specific written plan or procedure dealing with public consultation, social communication, and information disclosure?
2. Was the affected population adequately informed of the project and particular the potential environmental and social impacts?
3. Was the project Environmental Impact Assessment or any of the environmental documents made available to the affected public (and how, when)?

4. Were there activities performed in terms of public consultation and participation with the affected communities, including affected population, NGOs, governmental entities, etc.?
5. Will there be some ongoing activities performed during project construction and operation to inform the public of project status, activities, changes, etc.?

Health and Safety

1. Is there a specific written Health and Safety Plan for both the construction and operational phases of the project?
2. Does the plan include sufficient detailed procedures which are technically appropriate to deal with all project specific health and safety issues?
3. Will adequate health and safety training be provided to all workers involved with the project, both during construction and operations, related to prevention of health and safety accidents?

Environmental Risks and Contingency/Emergency Plan

1. Have all the potential project risks been identified for both the construction and operation phases of the project and in both the directly and indirectly affected areas, including both natural hazards (i.e., seismic, faults, sink holes, flooding, hurricanes, tornadoes) and man-induced risks (i.e., spills, fires, accidents, unplanned emissions/discharges, etc.)?
2. Is there an existing (or proposed) adequate construction and operation phase contingency plan (emergency plan, spill prevention and control plan) and procedures to deal with all project related risks?
3. Are there assurances that sufficient resources (financial, equipment, personnel, etc.) will be made available to ensure effective implementation of the contingency plan and procedures?
4. Will adequate training be provided to all applicable workers involved with the project, both during construction and operations, related to prevention of risks and the proper implementation of contingency procedures?

Concession and Construction Contract

1. Are there any potential risks, liabilities, and important issues or clauses related to the environmental, social, or health and safety related clauses in the concessionaires contract (terms and conditions)?
2. Are there specific clauses related to environmental, health and safety in the construction contract?
3. Do the clauses in the concession contract and construction contract totally reflect all requirements in project environmental, health and safety documents (plans, procedures, etc.)?

Environmental, Health and Safety Management Systems

1. Does the company/project have an Environmental Management System and/or an Health and Safety Management System?
2. Are these systems analogous to ISO 14000 or other systems?
3. Are these systems complete, in that they include, as a minimum, a description of written policies and procedures, defined staff responsibilities, training programs, auditing/inspection programs, and reporting procedures?
4. Does the company/project have (or intend to obtain) certification of their systems?
5. Does the company have specific written procedures for assessing and mitigating impacts associated with new (future) works/projects (i.e. development of environmental impact assessments, implementation of necessary mitigation and monitoring measures, standard construction contracts with specific clauses related to environment, health and safety, etc)?

Environmental Financial Liabilities

1. Are there any existing environmental financial risks and liabilities associated with the project assets and collateral (i.e., property, facilities, equipment, etc.), and if so, have all of these been fully identified by the company project?
2. Are there any uncertainties and/or data gaps related to the identified environmental financial risks and liabilities?
3. Are there identified adequate recommended actions (i.e., eliminate, reduce, or transfer) for each identified environmental financial risk and liability, including estimated costs (or range of costs) and any operational or schedule considerations?

CHECKLIST ESDD REPORT CONCLUSION SECTION

Compliance

- Does the project EIA satisfy all applicable in-country (national, regional and local) regulatory requirements, including the submittal of the EIA to the applicable governmental authority(ies), approval of the EIA by the governmental authority, identification of any governmental required modifications and/or enhancements to the EIA, and confirmation of performance and/or compliance by the project sponsor with governmental required actions?
- Does the project EIA comply with applicable Bank policies on environmental and social impact?
- Are all project impacts properly identified and accurately described, and if not, then identify any potential impacts not completely or accurately presented?
- Are all project impacts properly mitigated or compensated? If not, then recommend and/or modify/elaborate mitigation measures for those project proposed mitigations that are not identified or completely or accurately presented (present in the report's Recommendations section).
- Have sufficient environmental and social monitoring programs been established for both the project construction and operation phases? If not, then recommend and/or modify/elaborate monitoring programs that are not identified or completely or accurately presented (present in the report's Recommendations section).
- Are there sufficient detailed plans and procedures (either existing or proposed/planned to be developed) for the proposed mitigation measures and monitoring activities and that the proposed plans and procedures are technically and socially appropriate for the proposed project given the site environmental and social characteristics? If not, then recommend which detailed plans and/or procedures should be developed (present in the report's Recommendations section).
- Are complete and accurate cost estimates been established for all project construction and operational environmental and social mitigation and monitoring activities, and is adequate funding established and assured to pay the costs of construction and operational environmental and social mitigation and monitoring activities?
- Has the responsibility for each mitigation measure and monitoring activity been assigned and is the assigned entity/person aware of their assigned responsibility and prepared and capable to fulfill the requirements?
- Will adequate environmental and health and safety training be provided to all workers involved with the project, both during construction and operations, related to prevention of environmental and social impacts, and the proper implementation and operation of mitigation measures and monitoring activities?

- Are there specific procedures to be implemented during project implementation (i.e., project supervision and evaluation) to ensure complete and proper implementation of the construction and operational environmental and social mitigation measures and monitoring activities, including definition of who will perform the activities (e.g., project sponsor), their authority (e.g., ability to initiate immediate actions), the technical skills required, proposed reporting procedures when problems are detected, and the procedures to ensure correction of any identified problems or deficiencies? If insufficient procedures exist, then recommend appropriate project supervision activities (present in the report's Recommendations section).
- Is independent (third-party) quality control or project supervision activities recommended? If so, describe and present in the report's Recommendations.
- Have all applicable in-country (national, regional, local) environmental and social regulatory authorizations and permits have been obtained?
- Did the information presented for the permit/authorization correctly reflect the proposed project?
- Has the project complied with all governmentally permit/authorization requirements (i.e., permit conditions, requirements, etc.)?
- If a specific environmental or social regulatory permit or authorization has not been obtained, is there a specific plan for obtaining the permit/authorization, including proposed time schedule to obtain the permit and identification of potential risks or project problems with not having the permit or with delays in obtaining the permit?
- Does the project comply with all applicable in-country environmental and social regulatory operating requirements (e.g., design characteristics, reporting, monitoring, etc.)?
- Does the project comply with any applicable international environmental treaties and conventions?
- Does the project sponsor have a plan/procedure for monitoring changes in environmental and social regulatory requirements and for complying with these future changes?
- Was the affected population adequately informed of the project?
- Was the project Environmental Impact Assessment made available to the affected public (and how, when)?
- Were there activities performed in terms of public consultation and participation with the affected communities, including affected population, NGOs, governmental entities, etc.?
- Will there be some activities performed during project construction and operation to inform the public of project status, activities, changes, etc.?
- Have all the potential project risks have been identified for both construction and operation phases of the project and in both the direct and indirect project effected areas, including both

natural hazards (e.g., seismic, faults, sink holes, flooding, hurricanes, tornadoes) and man-induced risks (e.g., spills, fires, accidents, unplanned emissions/discharges, etc.)?

- Is there an existing (or proposed) adequate contingency plan and procedures to deal with all project related risks?
- Are there assurances that sufficient resources (financial, equipment, personnel, etc.) will be made available to ensure effective implementation of the contingency plan and procedures?
- Will adequate training be provided to all applicable workers involved with the project, both during construction and operations, related to prevention of risks and the proper implementation of contingency procedures?
- Are there any potential risks, liabilities, and important issues or clauses related to the environmental, social, or health and safety related clauses in the concessionaires contract (terms and conditions)?
- Are there any existing environmental financial risks and liabilities associated with the project assets and collateral (e.g., property, facilities, equipment, etc.), and if so, then state the location, source and description of each financial risk/liability?
- Are there any uncertainties and/or data gaps related to the identified environmental financial risks and liabilities?
- Are there identified adequate recommended actions (e.g., eliminate, reduce, or transfer) for each identified environmental financial risk and liability, including estimated costs (or range of costs) and any operational or schedule considerations?

ANNEX F

SUMMARY OF POTENTIAL STANDARD ENVIRONMENTAL AND SOCIAL TERMS AND CONDITIONS FOR BIIF LOAN/COMMON AGREEMENTS

The following presents a summary of standard environmental and social terms and conditions that potentially should be included in BIIF Loan/Common Agreements associated with: Definitions, Representations and Warranties, Disbursement related, Covenants, Events of Default, and BIIF project specific Environmental and Social Guidelines.

DEFINITIONS

Contingency Plan, Corrective Action Plan, Environmental and Social Management Plan, Environmental Claims, Environmental and Social Consultant, Environmental Impact Assessment, Environmental Laws, Environmental Matter, Environmental Party, Environmental Plans, Environmental and Social Requirements, Environmental, Health and Safety Management System, Fundamental Principles and Rights at Work, Hazardous Substances, Health and Safety Plan, Spill Prevention and Counter-control Plan, and BIIF project specific Environmental and Social Guideline and other project specific requirements (e.g., Environmental and Social Compliance Report, Resettlement Plan, Public Consultation Plan, etc.).

REPRESENTATIONS AND WARRANTIES

- No past or existing environmental, social, or health and safety liabilities, claims, or material complaints.
- No past or existing non-compliance with Environmental or Social Requirements.
- Receipt and accuracy of Environmental Plans.
- Other – Project Specific.

DISBURSEMENTS

The Borrower shall certify (via written certificate from an Authorized Officer of the Borrower):

- Compliance by the Project and any Environmental Party with all Environmental and Social Requirements;
- In relation to the project, there are no adverse environmental, health, safety or social risks or impacts that have not been adequately mitigated or compensated;

- There are no Environmental Claims and no material complaints associated with the project or any Environmental Party.

Additionally, the BIIF may require an Environmental and Social Consultant to confirm Borrower's above certification, and review other project specific Environmental and Social Requirements.

COVENANTS

- Compliance by Project and all Environmental Parties with Environmental and Social Requirements
- Implement an Environmental, Health and Safety Management System
- Implement routine activities to make project-related environmental and social information available to the local public and to maintain a system of consultation with the public
- Environmental and Social Compliance Reporting by Borrower to the Fund
- Prompt notification of non-compliance or other significant issues to Fund
- Contracting of Environmental and Social Consultant to assist Fund in Project monitoring
- Future submittal of operational Environmental Plans, which must be acceptable to Fund
- Conditions for Project Technical Completion (Borrower's certificate, Environmental Consultants verification)
- Option for Fund to perform an Environmental, Health and Safety Audit
- Negative Covenant related to no resettlement without Fund approval and compliance with Inter-American Development Bank Policy on Involuntary Resettlement (OP – 710).
- Other – Project Specific

POTENTIAL EVENTS OF DEFAULT

- Non-compliance by the project or any Environmental Party with the Environmental and Social Requirements.

BIIF PROJECT SPECIFIC ENVIRONMENTAL AND SOCIAL GUIDELINES

- Applicable General and Sector Guidelines in World Bank Pollution Prevention and Abatement Handbook (July 1, 1998).
- Other - Project Specific