

World Bank safeguards: BIC views on architecture and scope of the safeguards review

April 30, 2013

The Bank Information Center would like to submit the following views on World Bank safeguards architecture and the scope of the Bank's safeguards update and consolidation.

Overview

- **Architecture.** Neither the IFC nor the investment lending reform (ILR) approaches should be considered appropriate as models on which to base the World Bank safeguards update. The Bank should build on its existing strengths and incorporate the best of international law and practice from all relevant institutions, including for example the Asian Development Bank and OPIC.
- **Scope of the review.** The World Bank safeguards review should not be limited to investment lending, but rather should include full and systematic consideration of possible safeguards application to all Bank activities and operations with potential for significant environmental, social, or human rights impacts, including development policy lending, program for results financing, and country assistance/partnership strategies. Any decision on the coverage of the safeguards should come at the end of the safeguards review, not at the beginning.
- It is essential to get the broad architecture and scope issues resolved satisfactorily at the outset of the review, before the Bank puts forward its first draft of the safeguards policies. Otherwise the credibility of the safeguards review will be undermined.

Architecture

- **IFC.** Although there is some good content in the IFC sustainability policy and performance standards (e.g., on labor and FPIC), IFC's approach devolves too much responsibility to borrowers, tolerates open-ended compliance, lacks transparency, fails to meet Pelosi Amendment standards for public availability of EAs, and has other major weaknesses that make IFC undesirable as a model for the World Bank safeguards to emulate.
- **ILR.** Similarly, despite helpful efforts by a number of EDs to fix major flaws, the recent investment lending "reform" exercise eliminated or downgraded to non-binding guidance dozens of formerly mandatory supervision and economic evaluation requirements. The ILR approach is also undesirable as a model for the safeguards update.
- **No dilution commitments.** Bank reliance on IFC or ILR approaches as models for the safeguards review would likely result in many changes that BIC would consider to be a weakening of existing WB safeguard protections, and not consistent with commitments made by Dr. Kim not to allow dilution of the safeguards.

Scope of the safeguards review

- The Bank has attempted to limit the scope of the safeguards review to investment lending (IL). For reasons discussed below, CSOs will continue to push hard for safeguards application to all types of Bank activities with potential for significant social, environmental, and human rights impacts.
- It is essential for the credibility of the safeguards update and consolidation, and ultimately for the sustainability of World Bank operations, for the Bank to begin now to systematically and thoughtfully consider in this process whether and how the safeguards might beneficially apply to both IL and non-IL activities, including but not limited to development policy lending (DPL), program for results loans (P4R), and plans including country assistance/partnership strategies (CAS).

Other IFIs and governments provide safeguards coverage of non-IL activities. The safeguard approach paper says the update will include “a global review of good practice / lessons learned.” This needs to include good practice on non-IL activities, where the Bank has fallen behind. For example:

- The Asian Development Bank’s 2009 safeguards policies apply to all of its activities, including its policy-based and country systems lending, and its private sector lending.
- International good practice among governments, including the US and in Europe, applies environmental and social assessment requirements to significant government actions related to planning, policies, and programs.

Coverage of the World Bank safeguards is not a new issue. The range of activities a safeguard policy applies to, or does not apply to, is of critical importance to the effectiveness and real-world impact of the policy. Accordingly, each of the existing safeguard policies already contains language on what IL and non-IL activities are or are not covered by the policy.

- In some cases coverage has changed over time in important ways. Safeguard policy language on coverage needs to be systematically reviewed and updated alongside all the other language of the safeguard policies.
- For example, the Bank’s environmental assessment (EA) policy (OP 4.01) for a number of years was explicitly applied to sectoral policy-based lending.
 - In particular, for some years OP 4.01 said that “Sector adjustment loans (SECALs) are subject to the requirements of this policy. EA for a SECAL assesses the potential environmental impacts of planned policy, institutional, and regulatory actions under the loan.” The policy stated further that “actions that would require such assessment include, for example, privatization of environmentally sensitive enterprises, changes in land tenure in areas with important natural habitats, and relative price shifts in commodities such as pesticides, timber, and petroleum.”
 - The Bank’s experience of OP 4.01 covering, and not covering, policy-based lending needs to be evaluated as part of the safeguards review process.
- And just this month (April 2013), in a non-transparent way the Bank has added an explicit P4R exclusion to all the safeguard policies. By doing so, the Bank has taken an understanding with the pilot “to be reviewed” P4R instrument – that the safeguard policies would not apply to pilot P4R financing – and turned it into a permanent exclusion from all of the safeguard policies; and this with no prior notification or public consultation, and while saying the safeguards review cannot consider P4R lending. This is not reasonable, and makes it even more essential that transparent and systematic consideration of P4R financing is included in the safeguards review.

The Bank’s non-IL activities can have significant impacts. Evidence from independent evaluation group (IEG) reports, Inspection Panel investigations, and CSO case studies shows clearly that some of the Bank’s non-IL activities can have significant environmental, social, and human rights impacts. These include activities such as DPL, P4R, and CAS.

- For example, according to IEG, over the last 10 years 70% of the Bank’s lending to the forest sector was through DPLs, which are not currently covered by OP 4.01 and have no requirement for EA. This is one of the most environmental and socially sensitive sectors, with potential for major impacts on indigenous peoples and biodiversity, among other things. Some of these DPLs were made in low-governance countries and resulted in serious Inspection Panel claims.
- The Bank’s country assistance strategies include plans for numerous high-impact activities such as dams, roads, and agriculture. The only way these 3-year plans and resource allocations will not have significant impacts is if the Bank does not fund them.

- The safeguards update and consolidation needs to examine whether and how environmental and social management of these and other highly significant non-IL Bank actions should be consolidated under the safeguard policies.
 - Activities with similar risks need to have similar requirements for assessment and mitigation, and for transparency, regardless of the type of lending instrument used.

Non-IL activities are growing as a percentage of Bank lending – Please see attached graph.

The World Bank has already developed EA tools needed to address non-IL activities.

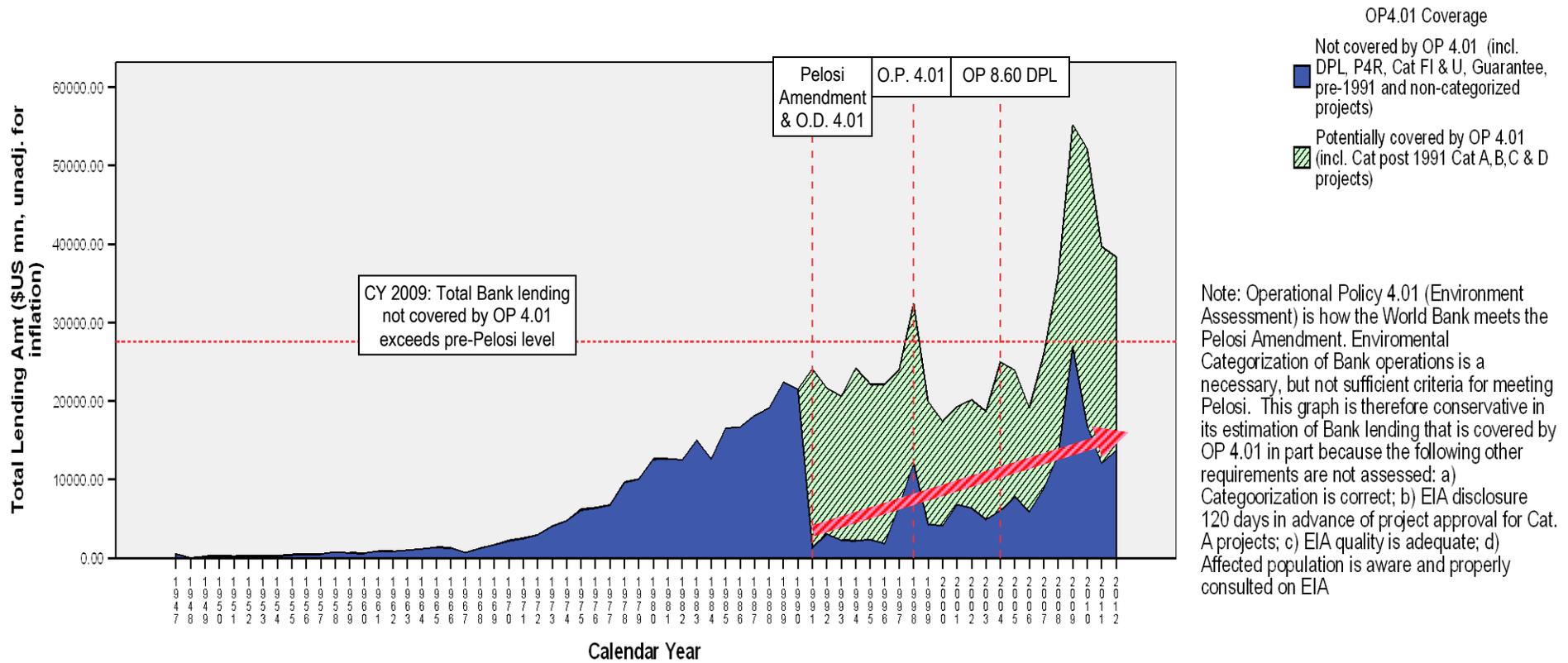
Since adoption of its first EA policy in 1989 (as part of the IDA-9 replenishment process), the Bank has developed a variety of effective environmental and social assessment tools that can address non-IL activities including CASs, P4R financing, and DPLs.

- These include Strategic Environmental and Social Assessment (SESA), Sectoral Environmental Assessment (SEA), Regional Environmental Assessment (REA), among others.
- These types of EAs have been effectively applied by the Bank. For example SESAs are required for national REDD- readiness plans funded by the Bank, and SEAs and REAs have been used for policy and programmatic lending.

Avoid pre-judgment of safeguards review outcomes.

- Safeguards coverage – what types of Bank activities are or are not subject to the requirements of the safeguards policies – is of absolutely fundamental importance to the design and effectiveness of the safeguards policies and, in our view, to the Bank’s mission.
- Such major decisions should come at the end of the safeguards review, not before the review has even gotten underway.
 - At the end of the safeguards review, decisions on safeguards coverage can be made with the benefit of thoughtful and systematic examination of the experiences of the Bank, international good practice among other institutions and governments, IEG, the Inspection Panel, and stakeholders including indigenous peoples, affected communities, and CSOs.
- The Bank’s proposal to limit the safeguards review to investment lending would pre-judge the outcome of the review, pre-empt the learning and discussion that is needed to make informed decisions, and call into question the credibility of the safeguards review. It is neither reasonable nor beneficial for the Bank.
- Consideration of safeguards coverage issues and non-IL activities in the current safeguards update and consolidation does not require review at this time of OP 8.60 (DPL policy), OP 9.00 (P4R policy), or other related policies such as OP 10.00 (Investment Lending). Neither does it preclude nor pre-judge future updates of those policies.
- The Bank should begin now to fully consider safeguards coverage of non-IL activities in the safeguards review. It could do so in a way similar to what is proposed for “emerging areas” such as climate change, labor, or gender: namely, without pre-judging final outcomes on these issues, the Bank’s approach paper says that “Examination of these areas, and if and how they can best be addressed by the Bank, will be part of the review process.”
 - We would expect the Bank to follow through on such a commitment by building into the safeguards review opportunities for thoughtful and systematic examination and discussion of safeguards coverage of non-IL activities, including reviews of global good practice, similar to the ways it has proposed to address the emerging issues.

World Bank (IBRD+IDA) Lending Not Covered by Safeguard Policy OP 4.01 - Environment Assessment



Source: BIC Calculations from World Bank Project database