



# Draft Environmental and Social Policy Statement

Overseas Private Investment Corporation  
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## 1. INTRODUCTION

### OPIC Introduction

**1.0** OPIC is the U.S. Government's development finance institution. It mobilizes private capital to help address critical development challenges and in doing so, advances U.S. foreign policy and national security priorities. Because OPIC works with the U.S. private sector, it helps U.S. businesses gain footholds in emerging markets, catalyzing revenues, jobs and growth opportunities both at home and abroad. OPIC achieves its mission by providing investors with financing, political risk insurance, and support for private equity investment funds, when commercial funding cannot be obtained elsewhere. Established as an agency of the U.S. Government in 1971, OPIC operates on a self-sustaining basis at no net cost to American taxpayers.

### Statement of Purpose and Scope

**1.1** This Environmental and Social Policy Statement ("Policy Statement") addresses OPIC's commitments regarding the environmental and social<sup>1</sup> dimensions of sustainable development and provides **Applicants** (See Glossary) notice of the general environmental and social requirements that OPIC applies in evaluating prospective projects and monitoring on-going OPIC-supported projects. These environmental and social requirements apply to all projects supported through OPIC insurance, reinsurance, direct loans, or investment guaranties, including support through **Financial Intermediaries** (See Glossary).

### OPIC Commitment

**1.2** As a development assistance agency of the United States Government, OPIC policies reflect the five principal goals of the United States development cooperation policy (Section 101 of the **Foreign Assistance Act** (See Glossary)):

- The alleviation of the worst physical manifestation of poverty among the world's poor majority.
- The promotion of conditions enabling developing countries to achieve self-sustaining economic growth with equitable distribution of benefits.
- The encouragement of development processes in which individual civil and economic rights are respected and enhanced.
- The integration of developing countries into an open and equitable international economic system.
- The promotion of good governance through combating corruption and improving transparency and accountability.

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<sup>1</sup> The term "social", as used throughout this Policy Statement, refers to those issues which pertain to **Project Affected People**, including communities and **Workers**, and relate to socioeconomic status, vulnerability, gender, **Human Rights**, **Cultural Heritage**, **Labor Rights** and working conditions, health and safety, security, and participation in decision making (See Glossary).

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**1.3** This Environmental and Social Policy Statement outlines how OPIC will put into practice its commitment to the development goals (See Paragraph 1.2) through its environmental and social review and monitoring processes. Specifically OPIC will ensure through its processes that projects receiving OPIC support:

- Are environmentally and socially sustainable.
- Are compatible with low and no-carbon economic development.
- Respect **Human Rights** (See Glossary), including the rights of **Workers** (See Glossary) and the rights of **Project Affected People** (See Glossary).
- Avoid adverse impacts and, if such impacts are unavoidable, properly mitigate or compensate for the impacts.
- Undertake **Meaningful Consultation** (See Glossary) with **Project Affected People** (See Glossary) regarding project activities.
- Are undertaken in countries that are taking steps to adopt and implement laws that extend **Internationally Recognized Worker Rights** (See Glossary).

**1.4** For its own operations, OPIC will implement best practices in environmental management and reporting in accordance with the provisions of Executive Order 13693 – Planning for Federal Sustainability in the Next Decade (March 25, 2015).

### Source of Policy

**1.5** This Policy Statement implements applicable environmental and social requirements and procedures contained in U.S. law. Additionally, this Policy Statement reflects specific policy commitments that have been made by OPIC with respect to environmental and social policies and procedures. Finally, this Policy Statement adopts, as a standard for the environmental and social review process, the **International Finance Corporation's** ("**IFC,**" See Glossary) Performance Standards on Social and Environmental Sustainability ("**Performance Standards,**" See Glossary), and **Industry Sector Guidelines** (See Glossary) and any subsequent revisions to those standards.

## 2. SCREENING AND CATEGORIZATION

**2.0 Objectives:** (1) to define the **Area of Influence** (See Glossary) of the **Project** (See Glossary) for the purposes of environmental and social review and public consultation; (2) to identify the nature and magnitude of environmental and social risks and impacts, including those project impacts that could preclude OPIC support; (3) to identify issues to be investigated in detail in the environmental and social review process; and (4) to determine OPIC requirements for documentation, consultation, disclosure, notification and third party audits.

**2.1 Scope of Application:** The requirements contained within this section apply to all projects supported through OPIC insurance, reinsurance, direct loans, or investment guaranties, including support through **Financial Intermediaries**.

### **OPIC Roles and Responsibilities**

**2.2** OPIC screens applications to identify as early as possible the risk of adverse environmental and social impacts of proposed projects and to identify project impacts that could preclude OPIC support because a project is a **Categorically Prohibited Project** (See Glossary and Appendix B).

**2.3** OPIC will not support certain types of projects, as listed in Appendix B, **Categorically Prohibited Projects**.

**2.4** OPIC reviews the risks and impacts identified by the **Applicant**, the **Applicant's** defined **Area of Influence**, and information on **Project Affected People** to determine whether the information is adequate, accurate, objective and appropriate to the size and nature of project activities. As required, OPIC will seek additional information from the **Applicant** and knowledgeable third parties to verify the information.

**2.5** OPIC categorizes projects based on OPIC's preliminary assessment of (1) the potential environmental and social risks and impacts of a project in the absence of any required mitigation, (2) the **Applicant's** commitment and capacity to effectively manage the environmental and social risks and impacts, including the ability to implement any required mitigation and (3) the potential role of third parties in achievement of successful outcomes.

- Projects considered high risk are those that discharge high levels of contaminants (including **Greenhouse Gases** (See Glossary)) into the environment in the absence of adequate pollution controls, as well as those projects that are considered high risk in the absence of sound environmental and social management. Examples of these categories of projects are provided in Appendix A.
- Large-scale projects are generally considered to represent a high risk because of the greater potential to impact large geographic areas outside of a project boundary or a large number of people living in nearby communities. Although quantitative screening thresholds that define what is meant by "large-scale" are not available for all projects, several examples are provided in Appendix A.
- Projects that could result in the diminishment of ecosystem services or social values at a particular site are considered high risk. Ecosystem services are benefits that people

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obtain from ecosystems including food, freshwater, shelter, timber, surface water purification, carbon storage and sequestration, climate regulation, and protection from natural hazards. Examples of social values include site attributes important for ethnic or religious reasons or attributes of cultural or historic significance. Examples of ecologically or socially sensitive locations are provided in Appendix A.

- Projects that are in locations, industries, or sectors with historical issues related to adverse impacts on **Project Affected People** are considered high risk. Other circumstances that may be considered high risk include projects with demonstrated local opposition, environments of fragile security or history of security personnel abuses, legacy of gender or ethnic discrimination/violence, or country contexts where national **Human Rights** laws are below international standards.
- Projects that are in locations, industries, or sectors with a documented history of **Labor Rights** (See Glossary) issues are considered high risk. Examples of such high risk projects may involve significant construction activities or manual harvesting of agricultural commodities or **Extractive Industries** (See Glossary), which may present circumstances that make it difficult for **Workers** to exercise trade union rights, or have a higher likelihood of using forced (including trafficked) or child labor.

**2.6** OPIC categorizes all projects and **Subprojects** as Category A, B, C or D based on environmental and social factors. OPIC may apply an additional classification of **Special Consideration** (See Glossary) to projects that have heightened potential for project-related social risks related to the involvement of or impact on **Project Affected People** including **Workers**.

- Category A projects are likely to have significant adverse environmental and/or social impacts that are irreversible, sensitive, diverse, or unprecedented. In the absence of adequate mitigation measures, Category A projects are considered high risk. Appendix A provides an illustrative list of sensitive sectors and project siting factors that may lead to a Category A categorization.
- Category B projects are likely to have limited adverse environmental and/or social impacts that are few in number, generally site-specific, largely reversible and readily addressed through mitigation measures. Category B projects are considered medium risk. For these reasons, the scope of OPIC's environmental and social assessment for Category B projects is narrower than that required for Category A projects. Examples of Category B projects may include small to medium scale housing developments in urban areas, restaurants, and light manufacturing.
- Category C projects are likely to have minimal adverse environmental or social impacts. Examples of Category C projects may include financial services, telecommunications projects not involving new physical infrastructure, bid bonds and data processing.
- Category D is reserved for initial approval of guaranties to **Financial Intermediaries**, which will make investments in or provide financing to projects or enterprises ("**Subprojects**," See Glossary) engaged in activities within Categories A, B or C.

**Subprojects**, originated by the **Financial Intermediaries** screened as Category D, are subsequently screened and subjected to the full scope of OPIC's environmental and social assessment process including public disclosure and consultation, **Greenhouse Gas** emission accounting, and conditions and monitoring requirements as warranted by the nature and scope of the **Subproject** and its environmental and social risks and impacts. For additional information regarding OPIC-supported **Financial Intermediaries** see Paragraphs 3.29 to 3.34.

- **Special Consideration** projects are considered to have heightened potential for project-related social risks related to the involvement of or impact on **Project Affected People** including **Workers**. Projects may be classified as **Special Consideration** based on an assessment of the likelihood and/or severity of possible social risks, and their relevance to a project. Key risk factors that are taken into consideration may include:
  - Industry or sector: labor-intensive industries or sectors that are statistically more likely to infringe upon **Labor Rights**.
  - Regional vulnerabilities: projects in countries (i) with a documented history of **Labor Rights** issues, (ii) having recently experienced conflict associated with **Project Affected People**, or (iii) with weak or compromised regulatory systems.
  - Presence of vulnerable groups: (i) utilization or reliance to a large degree on large pools of sub-contracted, unskilled, temporary, and/or migrant **Workers**, including within the supply chain; (ii) project risks or impacts that fall disproportionately on **Project Affected People** who, because of their particular circumstances, may be disadvantaged or vulnerable, or (iii) sectors in which there is a high risk for the use of forced labor or child labor.
  - Significant adverse impacts: (i) projects anticipated to have adverse impacts on a significant numbers of **Workers**, or (ii) projects that by their nature or footprint could cause or be anticipated to cause (or be complicit in) significant adverse Human Rights impacts.

**2.7** In categorizing projects, OPIC considers direct, indirect, induced, supply-chain related, regional, trans-boundary and cumulative environmental and social impacts. OPIC assesses risks at key stages in the project life cycle including pre-construction, construction, operations, decommissioning and closure.

**2.8** In categorizing investments in existing projects, including privatizations, OPIC assesses environmental and social impacts and risks associated with (1) current operations and (2) any risks and impacts from planned expansions or modifications.

### **Applicant Roles and Responsibilities**

**2.9 Applicants** must meet the requirements of the **Performance Standards**. Included within this requirement are the risk and impact identification requirements of **Performance Standard 1**, which requires (1) Identification of all relevant environmental and social risks of the **Project** including issues identified in **Performance Standards 2 through 8**; (2) Identification of all factors that define the **Project's Area of Influence**; and (3) Identification of groups and communities that may be directly or indirectly affected by the **Project** (i.e., **Project Affected People**), including groups and communities that may be differentially or disproportionately affected by

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the project because of their disadvantaged or vulnerable status. The process of identifying risks, impacts, **Area of Influence** and **Project Affected People** shall be adequate, accurate, objective and appropriate to the size and nature of the **Project** activity.

**2.10** Consistent with the requirements of **Performance Standard 1**, **Applicants** are required to provide an overarching policy statement of the environmental and social objectives and principles that will be used to guide the **Project** and achieve sound and sustainable environmental and social performance. The policy statement should identify (1) the internationally recognized standards, certification schemes or codes of practice that will apply to the **Project**; (2) the individual who will be responsible for execution of the policy statement; and (3) the means of communicating the policy statement within the **Applicant's** organization. The policy statement shall be appropriate to the size and nature of the **Applicant's** organization.

**2.11** Consistent with the requirements of **Performance Standard 1**, **Applicants** are required to identify whether the environmentally and socially sound and sustainable outcome of the **Project** is dependent on the performance of a third party. A third party may be a government agency (e.g., acting as a regulator or implementer of a relocation or compensation program), a contractor or subcontractor, or a supplier.

## 3. ENVIRONMENTAL AND SOCIAL REVIEW

**3.0 Objectives:** (1) to determine whether projects seeking OPIC support can be implemented in accordance with this Policy and the **Performance Standards**; (2) to identify opportunities to avoid adverse impacts and, if impacts are unavoidable, to identify required mitigation and compensation; (3) to identify opportunities to improve environmental and social performance of projects seeking OPIC support; and (4) to establish OPIC-specific performance requirements for certain project sectors.

**3.1 Scope of Application:** The requirements contained within Paragraphs 3.2 – 3.16 of this section apply to all projects supported through OPIC insurance, reinsurance, direct loans, or investment guaranties, including support through **Financial Intermediaries**. The requirements in Paragraphs 3.18 – 3.34 of this section only apply to those projects in the relevant project sector.

### **OPIC Roles and Responsibilities**

**3.2** OPIC undertakes a review of an **Applicant's Environmental and Social Management System ("ESMS,"** See Glossary) to determine whether the **ESMS** meets the requirements of Performance Standard 1 and whether environmental, health, safety and social aspects of a project can be effectively managed by an **Applicant**. The review will consider direct, indirect, induced, supply-chain related, regional, trans-boundary and cumulative environmental and social risks and impacts.

**3.3** OPIC confirms that the **Applicant** has undertaken **Meaningful Consultation** with **Project Affected People** within the defined **Area of Influence**.

**3.4** OPIC confirms that the identified set of policies and objectives for environmental and social performance are adequate to address identified environmental and social risks and impacts and are appropriate to the size and nature of the project activity. As necessary, OPIC will identify supplemental actions that are required to meet the **Performance Standards**, avoid adverse impacts or enhance environmental and social performance. OPIC will incorporate the **Performance Standards** that the project is required to meet, including project specific conditions and actions, in **OPIC Agreements** (See Glossary).

**3.5** OPIC confirms with the **U.S. Department of State** (See Glossary) that a project may receive OPIC support based on a consultative **Human Rights** review.<sup>2</sup> For consistency across U.S. Government agencies, OPIC relies on the guidance provided by the **U.S. Department of State**, the lead U.S. agency on **Human Rights** matters and determinations.

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<sup>2</sup> Pursuant to Section 239 (i) of the **Foreign Assistance Act**, OPIC must take into account in the conduct of its programs in a country, in consultation with the **U.S. Department of State**, all available information about observance of and respect for **Human Rights** and fundamental freedoms in such country and the effect the operation of such programs will have on **Human Rights** and fundamental freedoms in such country.

**3.6** OPIC will decline support for a project when (1) a project is a **Categorically Prohibited Project**; (2) a project fails to address environmental and social issues in a satisfactory manner and cannot be expected to meet the requirements of the **Performance Standards** over a time frame considered reasonable and feasible; (3) residual impacts after mitigation are unacceptable; (4) a project does not comply with the host country's environmental and social laws or regulations; (5) a project does not respect **Labor Rights**; or (6) the **U.S. Department of State** advises that OPIC decline support for a project based on the consultative **Human Rights** review (See Paragraph 3.5 above).

### **Applicant Roles and Responsibilities**

**3.7 Applicants** must meet the requirements of the **Performance Standards**. **Applicants** are required to establish an **ESMS** that meets the requirements in **Performance Standard 1**. The level of detail and complexity of the ESMS should be risk-based and commensurate with the size and nature of the project organization. Key areas of an ESMS are human resources management, environmental management, occupational health and safety management and effective management of community impacts and relations, including mechanisms and frequency for reporting to **Project Affected People** on project performance. An acceptable framework for an **ESMS** is one that provides for the effective management of the environmental and social risks and impacts associated with a project, including risks related to **Labor Rights** and **Human Rights** (See Paragraph 3.15).

**3.8 Applicants** are required to undertake **Meaningful Consultation** with **Project Affected People** within the defined **Area of Influence**. For all projects **Applicants** are required to meet the requirements related to **Stakeholder** engagement, **Stakeholder** analysis and engagement planning, access to information, consultation, reporting to **Stakeholders** and the establishment of a grievance mechanism. The form and scope of the consultation should be commensurate with the project risks and the nature and scope of the project.

**3.9** The requirement to establish an **ESMS** extends to **Subprojects** undertaken by OPIC-supported **Financial Intermediaries**. **Financial Intermediaries** shall have a mechanism in place to assess the environmental and social impact of their operations and those investments made with (or in the case of investment funds, made through the fund using) the OPIC support and take action to ensure compliance with OPIC policies.

**3.10** Environmental and social impact assessment is the process used to identify potential environmental and social impacts and risks associated with the **Project**. The assessment process also identifies any mitigation or corrective measures that will enable the **Project** to meet the applicable requirements in **Performance Standards 2** through 8, any applicable host country laws and regulations, and OPIC requirements. **Applicants** seeking OPIC support for Category A and B projects, and **Special Consideration** projects, must conduct some form of environmental and social assessment. Depending on the type of project and the nature and magnitude of the risks and impacts, the assessment could involve an **Environmental and Social Impact Assessment** ("ESIA," See Glossary), a limited or focused environmental and social review, or a straightforward application of environmental siting, pollution standards, design criteria or construction standards. The types of issues, risks to be examined, impacts to be assessed and **Meaningful Consultation** to be undertaken can also vary considerably, depending on the nature of the **Project** and its size, location and stage of development. For those projects with

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heightened social risks, OPIC will review the process by which the Project has incorporated **Social Risk Due Diligence** (See Glossary) into its assessment and operations. The following general topics, when applicable, are examined during the environmental and social assessment review:

- Environmental issues, including site description, existing land use, description of manufacturing or commercial process, materials used and stored on-site, land use impacts resulting from the **Project**, impacts to any aquatic or terrestrial resources, biological diversity, including rare and endangered plants and animals and their habitat, air emissions, including emissions of **Greenhouse Gases**, energy efficiency, water use, liquid effluents and solid wastes, pollution controls or other mitigation measures employed, occupational and community health and safety protections, impact on the source of raw materials if derived from areas including ecologically sensitive areas and supply chains identified in Performance Standard 2. Category A projects are required to include a **Climate-related Vulnerability** assessment as part of the **ESIA**.
- Project-related social issues, including affected populations, housing, income, employment and working conditions, land use, visual impacts, noise and lighting impacts, as well as any fiscal, cultural, ethnic, religious, and **Human Rights** impacts. Information should also be provided on impacts to **Project Affected People** including any **Economic or Physical Displacement** (See Glossary), individuals and groups that may be particularly vulnerable because of gender, poverty or other factors, and the potential for increased transmission of communicable diseases. Where conditions exist for discrimination or community conflict, details should be provided, as well as management plans to mitigate impacts of the project on such conflicts. Project-related social impacts should be quantified to the extent feasible.

**3.11** Greenfield Category A projects and significant expansions or modifications of existing projects require the submission of a full-scale **ESIA**. Depending on potential environmental and social risks OPIC also may require the submission of a **Baseline Audit** (See Glossary) of existing Category A or B facilities. The purpose of a **Baseline Audit** is to identify past and present concerns, current status of regulatory compliance, management systems and performance as well as potential risks and liabilities of the **Project**. Additional guidance on the format and content requirements for **ESIAs** and **Baseline Audits** may be found in Guidance Note 1 – Social and Environmental Assessment and Management Systems at:

[http://www.ifc.org/wps/wcm/connect/b29a4600498009cfa7fcf7336b93d75f/Updated\\_GN1-2012.pdf?MOD=AJPERES](http://www.ifc.org/wps/wcm/connect/b29a4600498009cfa7fcf7336b93d75f/Updated_GN1-2012.pdf?MOD=AJPERES)

**3.12** For Category B projects OPIC requires submission of sufficient information and documentation on which to base the review of the **ESMS**. The level of detail required will vary depending on the type and size of the **Project**, but, at a minimum, **Applicants** should submit one or more documents or analyses that describe:

- The **Project** and its environmental and social aspects.
- Maps, drawings or schematics of the **Project** and **Area of Influence**.
- Compliance with the legal and regulatory framework of the host country and applicable international environmental, health and safety, and social, including labor, performance requirements.

- Key potential impacts and risks, including identification of any **Project Affected People** and estimated **Direct Emissions** (See Glossary) of **Greenhouse Gases**.
- Planned mitigation measures and any residual risks or impacts.
- Planned monitoring and reporting of environmental and social performance.
- A description of the process of **Meaningful Consultation**.

**3.13** Projects that have been screened as Category C (i.e., projects with minimal environmental or social impacts) are not required to establish a formal **ESMS**, but are required to establish policies and procedures that will be used to guide the project (See Paragraph 2.10), submission of sufficient information necessary to confirm the absence of potential adverse environmental and social risks, and a worker and community grievance mechanism (See Paragraph 3.9).

**3.14** When specific mitigation measures or actions are required for a project to comply with the **Performance Standards**, host country laws and regulations, or the OPIC requirements, **Applicants** are required to prepare and implement an **Environmental and Social Action Plan** (“**ESAP**,” See Glossary). The level of detail required will depend on the nature and magnitude of the risks and adverse impacts of the **Project** or **Subproject** and may range from a brief description to a series of specific plans. **ESAPs** are required for all Category A projects and for Category B projects that are dependent on mitigation and monitoring measures to avoid or reduce potentially significant environmental and social impacts. Draft **ESAPs** for Category A projects must be prepared as part of the required **ESIA** and made public in accordance with OPIC’s disclosure requirements. The **ESAPs** shall:

- Describe the actions necessary to implement mitigation measures or corrective actions to be undertaken.
- Prioritize these actions.
- Include a timeline for their implementation.
- Be disclosed to **Project Affected People** and **Stakeholders** in a timely manner.
- Describe the schedule and mechanism for external reporting on the implementation of the **ESAP**.

**3.15 Applicants** are required to establish, maintain, update and strengthen as necessary, an **ESMS** required for effective project implementation, including any actions required under the **ESAP**. Management systems must have organizational structures with clearly defined roles, responsibilities and authorities, appropriate human and financial resources allocated for implementation and adequate training for employees and contractors. If there are material weaknesses in the management system, OPIC will require strengthening of the management system as a condition of OPIC support. Additional guidance on the establishment of an **ESMS** may be found in Guidance Note 1 –Assessment and Management of Environmental and Social Risks and Impacts:

[http://www.ifc.org/wps/wcm/connect/b29a4600498009cfa7fcf7336b93d75f/Updated\\_GN1-2012.pdf?MOD=AJPERES](http://www.ifc.org/wps/wcm/connect/b29a4600498009cfa7fcf7336b93d75f/Updated_GN1-2012.pdf?MOD=AJPERES)

### Tailored Reviews

**3.16** OPIC undertakes detailed, tailored environmental and social reviews (See Paragraphs 3.18 to 3.34) for certain sectors and types of projects in response to OPIC policies and practices and

new OPIC products or initiatives, which are based on emerging trends in international best practices related to environmental and social safeguards.

### **Investments in Large, Diverse Enterprises**

**3.17 Applicants** seeking OPIC support for investments in large, diverse enterprises are required to define the scope of the intended use of proceeds from the investment in terms of specific projects for which the environmental and social impacts can be readily assessed.

### **Project Development Activities**

**3.18** Project development activities including non-invasive, non-construction activities are often required in response to competitive bidding announcements or to raise capital. These activities include the posting of bid bonds and preparing environmental impact assessments, feasibility studies, and design documents. Projects involving these types of activities are screened as Category C provided:

- The projects do not involve invasive or construction activities;
- The project under development is not subject to a categorical prohibition (See Appendix B); and
- OPIC support for the development investment does not obligate OPIC to support future project implementation.

### **Construction and Operations of Dams**

**3.19** For projects involving the construction and operation of dams that are not otherwise categorically prohibited (See Appendix B), OPIC applies screening and environmental and social assessment criteria that incorporate core values and strategic priorities as identified in the 16 November 2000 Report of the World Commission on Dams (WCD) [http://www.unep.org/dams/WCD/report/WCD\\_DAMS%20report.pdf](http://www.unep.org/dams/WCD/report/WCD_DAMS%20report.pdf). OPIC has adopted those elements of the WCD policy that inform good public policy and are within OPIC's capacity to implement. Specific factors that are considered in OPIC's screening and review of projects involving dams may be found at the following link: [https://www.opic.gov/sites/default/files/docs/dam\\_review\\_procedures.pdf](https://www.opic.gov/sites/default/files/docs/dam_review_procedures.pdf)

### **Forestry Projects**

**3.20** OPIC will not support commercial forestry projects that involve the extraction of timber from **Critical Forest Areas** (See Glossary) or **Critical Natural Habitats** (See Glossary) or the clearance of **Critical Forests** or **Critical Natural Habitats** for non-forestry activities (See Appendix B). All other projects involving timber extraction from **Natural Forests** (See Glossary), including all boreal, temperate, and plantation **Forests** (See Glossary) must be, and remain, certified by an independent non-governmental organization.

**3.21** Certifiers must be accredited by an international accreditation body (such as the Forest Stewardship Council (<https://us.fsc.org/en-us>)) that can hold the certifier accountable to a common set of environmental and social principles and procedural protocols, including periodic

review and re-accreditation. The purpose of certification is to demonstrate that timber extraction activities are managed sustainably.

**3.22** Any forest product labeling associated with a certified **Forest** must be guaranteed by a credible independent certification body that connects the labeled product to its certified forest-of-origin.

**3.23** Projects involving forest products that source raw materials from third parties must demonstrate that the raw materials are not being sourced from a **Critical Forest Area** or **Critical Natural Habitats** and that the raw material extraction is conducted in compliance with host country law.

### Health Care

**3.24** All projects providing patient care must obtain satisfactory accreditation based on a quality evaluation of the technical competence of the institution's resources and organization by an internationally recognized accreditation organization (such as Joint Commission International <http://www.jointcommissioninternational.org>), or in the case of a health care service provider for which accreditation standards are not available, certification or similar high quality rating by a third-party expert in the health care field satisfactory to OPIC. All projects must maintain this accreditation, certification or high quality rating throughout the term of OPIC support. The cost of this accreditation or certification is the responsibility of the **Applicant**.

**3.25** OPIC may consider support for health care projects that include elements of traditional medicine where there is an established national policy that regulates traditional treatments; establishes the role of traditional medicine within the national health care system; and clarifies the relationship between traditional medicine and the official health service system. Additional guidance on this issue may be found at [http://www.who.int/topics/traditional\\_medicine/en/](http://www.who.int/topics/traditional_medicine/en/)

**3.26** All hospitals, medical centers, and other projects that purchase pharmaceuticals for the purpose of providing them, directly or indirectly, to patients shall restrict drug purchasing to pharmaceuticals registered for use in the host country and to drug suppliers that comply with the World Health Organization's Good Manufacturing Practices for both imported and locally produced goods.

[http://www.who.int/medicines/areas/quality\\_safety/quality\\_assurance/production/en/](http://www.who.int/medicines/areas/quality_safety/quality_assurance/production/en/)

**3.27** Projects involving the manufacturing of pharmaceuticals or medical equipment are given close review by OPIC. Prior to supporting such projects, OPIC must receive evidence that the safety and effectiveness of such products are certified by the U.S. Food and Drug Administration or an equivalent foreign public health authority. OPIC also requires evidence that the products have not been withdrawn from the U.S. market for reasons of safety or lack of effectiveness.

### Renewable Fuels Projects

**3.28** For the purposes of this policy **Renewable Fuels** (See Glossary) are defined as fuels that meet all of the following criteria<sup>3</sup>: (1) fuels that are produced only from Renewable Biomass (See Glossary); (2) fuels that are used to replace or reduce the quantity of fossil fuel present in transportation fuel, heating oil or jet fuel; and (3) fuels that meet lifecycle **Greenhouse Gas** emissions reduction thresholds when compared to the 2005 baseline average gasoline and diesel that they replace. Emissions reduction thresholds are as follows: **Renewable Fuel** – 20 %; **Advanced Biofuel** (See Glossary) – 50%; **Biomass-based Diesel** (See Glossary) – 50%; and **Cellulosic Biofuel** (See Glossary) – 60%. **Renewable Fuels** projects that meet these criteria are considered “clean technology” projects for the purposes of Section 8.7 of this policy provided the **Applicant** annually demonstrates compliance with the criteria in this section through an annual independent third party audit. **Direct Greenhouse Gas Emissions** associated with fossil fuel combustion in **Renewable Fuel** projects are subject to OPIC **Greenhouse Gas** policy requirements (Section 8), including annual cap allocation (Sections 8.4) and Category A screening thresholds (See Appendix A).

### Financial Intermediaries

**3.29 Financial Intermediaries** are vehicles or entities that receive support from OPIC and provide debt to, make equity investments in or provide financial services to eligible companies (collectively referred to as **Subprojects**). No **Financial Intermediary** may use OPIC support for the purpose of investing in, lending to, or providing services to an entity engaged in a **Categorically Prohibited Project**.

**3.30** OPIC’s review of **Subprojects** involves the same screening, assessment, disclosure, compliance and monitoring procedures as all other direct **Applicants** to OPIC, including Category A disclosure and **Greenhouse Gas** policy requirements (See Section 8). OPIC provides prior written consent to each of these **Subprojects** on the basis of potential environmental and social risks. OPIC does not delegate the environmental and social review of **Subprojects** to **Financial Intermediaries** unless consent is provided in advance based on criteria in Paragraph 3.31.

**3.31** A **Financial Intermediary**’s proposed investment or lending strategy is taken into account in OPIC’s assessment of the risk of adverse environmental and social impacts associated with the **Financial Intermediary**’s **Subprojects** at the time the **Financial Intermediary**’s structure is approved by OPIC. Factors taken into consideration include the size and nature of the prospective investments, the prospective use of proceeds from the investment, the term of the investment, and the targeted investment sectors. If OPIC determines that all prospective **Subprojects** are likely to have minimal or no adverse environmental or social impacts OPIC may consent in advance to all prospective investments, provided that the **OPIC Agreement** contains exclusion lists prohibiting investments in entities engaged in categorically prohibited activities or activities likely to have significant adverse environmental or social impacts.

**3.32 Financial Intermediaries** are required to maintain at all times an **ESMS** to ensure compliance with OPIC policies (See Paragraph 3.10).

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<sup>3</sup> For additional information on eligibility criteria, lifecycle analyses and third party audit requirements see 40 CFR Part 80 – Regulation of Fuels and Fuel Additives. U.S. Environmental Protection Agency.

**3.33** If a **Financial Intermediary's** lending or investment strategy indicates the potential for significant adverse environmental, health, safety or social impacts associated with prospective investments, OPIC will require additional mitigation to reduce risk and potential liabilities. Examples of additional mitigation include:

- Additional capacity building including retention of an environmental and social coordinator to provide full time supervision and implementation of OPIC requirements with respect to environmental, health, safety and social concerns;
- Use of binding restrictions on the use of proceeds; and/or
- More frequent reporting to OPIC on the environmental and social performance of **Subprojects**.

**3.34** Where **Financial Intermediary** operations and such investments could have significant adverse environmental or social impacts, the Financial Intermediary shall cause, or in the case of non-controlling minority positions use commercially reasonable efforts to cause, such investments to (a) identify potential environmental and social risks and mitigants through an environmental/social impact assessment, and (b) require appropriate actions to ensure **Subproject'** operations are in compliance with OPIC policies . In cases where the relevant IFC Performance Standards are more stringent than host country law, the FI shall apply the relevant IFC Performance Standards to their operations and investment activities with specific targeted actions to be implemented over an appropriate timetable. For the avoidance of doubt, in cases where **Financial Intermediaries** are providing debt, **Financial Intermediaries** shall cause or use commercially reasonable efforts to cause (as applicable) compliance with (a) and (b) above by contractually requiring such compliance and enforcing such contractual rights.

## 4. ENVIRONMENTAL AND SOCIAL STANDARDS

**4.0 Objectives:** (1) to specify standards of performance necessary to achieve environmentally and socially sustainable outcomes; and (2) to identify project-specific international best practices.

**4.1 Scope of Application:** The requirements in this section apply to all projects supported through OPIC insurance, reinsurance, direct loans and loan guaranties, including support through **Financial Intermediaries**.

### **OPIC Roles and Responsibilities**

**4.2** At a minimum, OPIC requires that all projects must meet the **Performance Standards**, applicable **Industry Sector Guidelines**, including any revisions issued by **IFC, Internationally Recognized Worker Rights**, and host country laws, regulations and standards related to environmental and social performance, including host country obligations under international law. In addition, where OPIC has developed sector-specific approaches (See Paragraphs 3.17 – 3.34), OPIC requires projects to meet those requirements, when applicable. In accordance with the provisions of **Performance Standard 3**, alternative pollution prevention and control technologies may be approved, provided that (1) the alternative performance levels are consistent with the overall requirements of **Performance Standard 3**; and (2) the alternative performance levels are protective of the environment and **Project Affected People** within the **Area of Influence**.

**4.3** OPIC is responsible for identification of supplemental standards (over and above those standards identified in Paragraph 4.2) when additional preventative or protective measures are necessary to adequately mitigate specific project-related environmental and social risks and impacts. Supplemental standards include (1) standards issued by other international organizations relating to public health, safety and the environment such as the World Health Organization, the International Maritime Organization, the Food and Agriculture Organization and the International Civil Aviation Organization; (2) relevant and applicable U.S. federal standards; and (3) standards of best practice developed by governments, industry associations, and non-governmental organizations.

**4.4** OPIC is responsible for ensuring that all **OPIC Agreements** include the specific performance requirements that a project is required to meet throughout the life of OPIC support.

**4.5** OPIC is responsible for disclosing project-specific performance requirements in project summaries that are posted on the OPIC web site. Any approved alternative pollution prevention and control technologies will be identified in project summaries.

**4.6** For those projects in which a Multilateral Development Bank (MDB) such as the European Bank for Reconstruction and Development, the African Development Bank, the Asian Development Bank, or the Inter-American Development Bank is involved, OPIC may apply the policies, in whole or in part, of the respective MDB (other than the **Performance Standards**) to a project to facilitate U.S. participation in the transaction.

### Applicant Roles and Responsibilities

**4.7 Applicants** are required to meet the **Performance Standards, Industry Sector Guidelines, Internationally Recognized Worker Rights**, and host country laws, regulations and standards related to environmental and social performance, including host country obligations under international law. **Applicants** are also required to meet any sector-specific requirements (See Paragraphs 3.16 – 3.34), when applicable, and supplemental performance requirements as identified by OPIC (See Paragraph 4.3).

**4.8** The requirement to meet the project-specific performance requirements extends to on-site contractors and sub-contractors of the **Project** that work for a substantial duration of time on the **Project** or are material to the primary operations of the **Project**. **Applicants** are responsible for ensuring that on-site contractors and sub-contractors meet the performance requirements.

**4.9** Projects that involve new facilities or business activities are required to meet the project-specific performance requirements from the outset.

**4.10** For existing projects (e.g., privatizations), the performance requirements must be attained within a reasonable period of time following the receipt of OPIC support, with the exception of **Labor Rights** requirements, which must be met from the outset. If material compliance has not been demonstrated at the time of OPIC approval, **Applicants** are required to prepare and implement a corrective action or **Remediation Plan** (See Glossary) demonstrating how compliance with the **Project**-specific requirements will be achieved within the specified time period. **Remediation Plans** for Category A projects are subject to public disclosure and third-party audits.

**4.11 Applicants** seeking OPIC support must demonstrate compliance with host country environmental, health, safety and social requirements. Where host country requirements differ from the **Performance Standards, Industry Sector Guidelines**, and **Internationally Recognized Worker Rights**, the project is expected to meet whichever is more stringent.

### Revision of Standards

**4.12** International organizations, the United States Government and industry groups periodically revise guidelines and standards to reflect technological advances and improved understanding of environmental, health, safety and social risks. Complete applications that are received after the effective date of a new guideline or standard will be assessed against that new guideline or standard.

**4.13** Complete applications that are received before the effective date of a new guideline or standard will be assessed against the guideline or standard in effect on the date of application provided that OPIC commitment to provide support is achieved within one year of the effective date of the new guideline or standard. If commitment is not achieved within one year after the effective date of the new guideline, the project will be subject to the new guideline.

## 5. PUBLIC CONSULTATION AND DISCLOSURE

**5.0 Objectives:** (1) to ensure that **Project Affected People** are informed and consulted during project preparation and implementation; and (2) to enhance transparency and accountability related to OPIC's environmental and social management.

**5.1 Scope of Application:** The requirements contained within this section apply to all projects supported through OPIC insurance, reinsurance, direct loans, or investment guaranties, including support through **Financial Intermediaries**.

### OPIC Roles and Responsibilities

**5.2** OPIC makes information available concerning its activities to enable **Applicants** and **Stakeholders**, including **Project Affected People** and members of the interested public, an opportunity to better understand OPIC's business activities. Institutional information that is made available on OPIC's web site includes annual reports, audited financial statements, program handbooks, Board resolutions, claims determinations, arbitral awards, bilateral agreements and annual **Greenhouse Gas** accounting for OPIC's portfolio.

**5.3** Although disclosure of project-related information is primarily the responsibility of **Applicants**, OPIC is committed to making non-confidential project-specific information available to enhance transparency and accountability and to foster good governance. Project-related information that is posted on the OPIC web site includes project summaries, summaries of OPIC environmental and social site-monitoring reports, OPIC's active portfolio list and portfolio company investments of OPIC-supported investment funds. Notwithstanding this commitment, OPIC may withhold records or portions of records that are exempted from public disclosure under the Freedom of Information Act (FOIA). Additional information on OPIC's FOIA implementing regulation is available at <https://www.opic.gov/who-we-are/foia>.

**5.4** OPIC provides advance notice and information about potential projects to be voted on by OPIC's Board of Directors to ensure that interested parties are aware in advance of public hearing dates and have sufficient information to prepare for the public hearing. A public hearing notice is issued at least 20 days in advance of the hearing. Information summaries on projects to be voted on by the OPIC Board are made public at least 15 days in advance of the hearing. The summaries include the following environmental and social information as appropriate to the nature and scale of a project and commensurate with the potential environmental and social risks and impacts:

- Rationale for screening category;
- Environmental and social standards used in the project assessment;
- Description of the major environmental and social risks and impacts of the **Project**;
- Key measures required to mitigate environmental and social risks to acceptable levels;
- Description of action(s) required to achieve conformance with the environmental and social standards used in project assessment;
- Information related to OPIC environmental and social site monitoring visits; and
- Description of the **Applicant's** consultation with **Project Affected People**.

**5.5** OPIC provides advance notice and information on Category A projects, whether subject to Board approval or not, to ensure that interested parties have sufficient information to meaningfully contribute to the OPIC decision-making process. **ESIAs** and **Baseline Audits** required for Category A projects are made public on OPIC's web site for a designated comment period of not less than 60 days before OPIC makes a decision on whether to support a project. Acceptance of a document for disclosure does not imply project approval. Public comment on the projects are invited and considered by OPIC in advance of any decision on a project. No application for a Category A project may be approved without this public disclosure and opportunity for comment. At the same time the **Applicant's ESIA** or **Baseline Audit** is released for public comment, OPIC posts on its web site an initial project summary. The initial project summaries identify the rationale for designating the project as Category A, environmental and social standards to be used in project assessment and the location for local access to environmental and social project information. OPIC also posts on its web site detailed project summaries for a period of not less than 40 days before Category A projects are presented for approval. These detailed project summaries document OPIC's findings from the environmental and social assessment process and contain the following additional environmental and social information:

- Description of the major environmental and social risks and impacts of the **Project**;
- Key measures required to mitigate environmental and social risks to acceptable levels;
- Description of action(s) required to achieve conformance with the environmental and social standards used in project assessment;
- Information related to OPIC environmental and social site monitoring visits; and
- Description of the **Applicant's** consultation with **Project Affected People**.

**5.6** Comments received on projects, including any comments received during public hearings, as well as OPIC management's response to those comments, will be posted on OPIC's web site at least 7 days prior to presenting a project for approval.

**5.7** For those projects with the potential for significant adverse impacts on **Project Affected People**, OPIC will confirm prior to project approval that: (1) the **Applicant** has engaged the affected groups and communities as required under Performance Standard 1 and (2) there is **Broad Community Support** (See Glossary) for the **Project**.

**5.8** OPIC also prepares and discloses project summaries which contain environmental and social information related to non-Category A, non-Board projects. These project summaries are posted on OPIC's web site for a period of not less than 30 days prior to execution of the **OPIC Agreement**.

**5.9** An **Applicant's ESIA** or **Baseline Audit** submitted for disclosure often does not contain all of the final negotiated commitments made by an **Applicant** to mitigate or remediate environmental and social risks and impacts. The final **ESAP** or final **Remediation Plan** for Category A projects is made public on OPIC's web site following OPIC acceptance.

**5.10** OPIC requires **Applicants** to conduct and certify that they have conducted third-party audits for all Category A projects. Third-party auditors must supply certifications that the audit has been completed and that the Category A projects are in compliance with all environmental

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and social conditions contained within the **OPIC Agreement**. The auditor certification and a publically releasable summary of audit findings is made public on the OPIC web site.

**5.11** OPIC is required to notify host country governments of any environmentally sensitive investment considered for support. This notification is required to identify guidelines and other standards of international organizations relating to public health, safety or the environment that are applicable to the **Project** and, to the maximum extent practicable, any restriction related to public health or safety that would apply to the project if it were undertaken in the United States. This requirement applies to all proposed investment support screened as Category A. All **Host Country Notifications** (See Glossary) are made public on OPIC's web site.

**5.12** OPIC reports annually to Congress and the public regarding its implementation of this Policy Statement. That report, which is contained within OPIC's Annual Policy Report, is made public on the OPIC web site.

**5.13** OPIC is committed to disseminating information that meets its standards for objectivity, integrity and utility in accordance with its Information Quality Guidelines  
<https://www.opic.gov/who-we-are/information-quality-guidelines>

**5.14** OPIC has established an Office of Accountability to assess and review complaints about OPIC-supported projects. The Office of Accountability gives local communities, which may be materially, directly and adversely affected by OPIC-supported projects a means through which complaints may be raised. The Office of Accountability's mandate is to deliver problem-solving and compliance review services in a manner that is fair, objective and transparent, thereby enhancing OPIC's mission effectiveness. Requests for assistance should be directed to:

Director, Office of Accountability  
Overseas Private Investment Corporation  
1100 New York Ave., NW  
Washington DC 20527  
Tel. 1-202-357-3910  
Fax 1-202-408-5133  
E-mail: [accountability@opic.gov](mailto:accountability@opic.gov)

### **Applicant Roles and Responsibilities**

**5.15 Applicants** must meet the requirements of the **Performance Standards**, and host country laws, regulations and standards related to public consultation and disclosure of information. In order to more effectively manage risks and impacts of projects, all **Applicants** are required to engage **Project Affected People** through (1) disclosure of information, (2) **Meaningful Consultation** and (3) the development and implementation of systems for responding to complaints and grievances. The nature, frequency and level of effort of this engagement will be commensurate with the project's risks and impacts and the project's phase of development. Costs associated with translation, dissemination of information and consultation are the responsibility of the **Applicant**.

**5.16 Applicants** are required to disclose to **Project Affected People** OPIC's potential participation in a proposed investment.

**5.17** For projects with the potential for significant adverse impacts on **Project Affected People**, **Applicants** are required to (1) engage the affected groups and communities as required under **Performance Standard 1** and (2) demonstrate that there is **Broad Community Support** for the **Project**.

**5.18** If the **Project** is screened as Category A, **Applicants** are required to submit an **ESIA** (and for existing projects a **Baseline Audit**) for public disclosure on the OPIC web site. **ESIAs** and **Baseline Audits** submitted for public disclosure must be in English or accompanied by an English-language translation. The **ESIAs** and **Baseline Audits** must adequately describe potential risks and proposed mitigation measures and include a draft **ESAP**, draft **Remediation Plan** (if required) and **Stakeholder** engagement plan (See paragraph 5.19). At a minimum, the **Applicant** is required to provide a local language translation of the executive summary of the **ESIA** (and **Baseline Audit**) and make the summary available to **Project Affected People** in a format that is readily understandable and tailored to meet the information needs of **Project Affected People**. The translated summary should be distributed by means that take into account the ability of **Project Affected People** to receive, address and effectively comment on the content. OPIC also discloses this summary on its web site.

**5.19** Projects are required to develop and implement a **Stakeholder** engagement plan tailored to project risks and impacts in accordance with the requirements of **Performance Standard 1**. The **Stakeholder** engagement plan is required to be included as part of the document(s) submitted to OPIC for disclosure under Paragraph 5.5 of this policy.

**5.20** Applicants are required to provide periodic reports (at a frequency of not less than annually) to **Project Affected People** on (1) implementation of any **ESAP** and **Remediation Plan** and (2) issues that have been identified as of concern to those **Project Affected People**. Any material changes to the project design, management systems or mitigation measures will also be communicated to **Project Affected People**. All reports must be in a language and format accessible to the **Project Affected People**.

**5.21** Prior to OPC's issuance of approval for a project that significantly involves an **Extractive Industry** and OPIC's support to the project is valued at \$10 million or more (including contingent liability) (1) **Applicants** must agree to implement Extractive Industry Transparency Initiative (EITI) principles and criteria, or substantially similar principles and criteria related to the **Project**; and (2) the host country where the project is to be carried out must have committed to EITI principles and criteria or substantially similar principles and criteria or be taking the necessary steps to establish functioning systems. OPIC may approve an **Extractive Industry** project if the host country does not meet the requirements of this paragraph only if OPIC determines that it is in the foreign policy interest of the United States to provide support to the **Project** and the host country does not prevent the **Applicant** from meeting the disclosure requirements of (1) above.

## 6. CONDITIONS AND COMPLIANCE

**6.0 Objectives:** (1) to establish specific requirements for environmental and social performance in **OPIC Agreements**; (2) to define remedies in the event performance requirements are not met.

**6.1 Scope of Application:** The requirements contained within this section apply to all projects supported through OPIC insurance, reinsurance, direct loans, or investment guaranties, including support through **Financial Intermediaries**.

### **OPIC Roles and Responsibilities**

**6.2** OPIC reviews information provided by the **Applicant** with respect to baseline environmental and social conditions, technical design, operating performance, mitigation measures and net impacts of projects. Based on this information, OPIC develops appropriate undertakings (covenants) required of the **Applicant** which are included in the **OPIC Agreement**. The terms of the covenants take into account, among other things, the level of project control which the **Applicant** will have regarding compliance with OPIC standards and the **Applicant's** role in the **Project**. The covenants remain in effect during the term of the **OPIC Agreement**. The coverage of the covenants includes (1) compliance with all applicable **Performance Standards, Industry Sector Guidelines, Internationally Recognized Worker Rights**, host country laws, regulations, and standards, including host country obligations under international law, and any supplemental standards identified by OPIC; (2) mitigation commitments, including those contained within any required **ESAP** or **Remediation Plan**; (3) notification and reporting requirements, including the format for annual reports based on OPIC-approved monitoring methodology; and (4) on-going **Stakeholder** engagement and reporting requirements.

**6.3** All **OPIC Agreements** include contractual language that addresses **Internationally Recognized Worker Rights** in substantially the following form (as outlined in Section 231A of the **Foreign Assistance Act**):

"The investor agrees not to take actions to prevent employees of the foreign enterprise from lawfully exercising their right of association and their right to organize and bargain collectively. The investor further agrees to observe applicable laws relating to a minimum age for the employment of children, acceptable conditions of work with respect to minimum wages, hours of work, and occupational health and safety, and not to use forced labor. The investor is not responsible under this paragraph for the actions of a foreign government."

**6.4** In addition to the environmental and social performance requirements that are included in all covenants contained in **OPIC Agreements**, in the case of all Category A projects **OPIC Agreements** include, at a minimum, the following requirements:

- Develop and implement an **ESAP**;
- Prepare and submit to OPIC an annual environmental and social report summarizing the environmental and social performance based on monitoring of the **Project** over the preceding year to demonstrate compliance with **OPIC Agreement** covenants and conditions;

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- Timely notification to OPIC of the occurrence of any accident that has resulted in a disability or loss of human life, or that has, or that could be foreseen to have, a material adverse impact on the environment or local communities; and
- Conduct at least one third-party audit. The timing of the third-party audit is specified in the **OPIC Agreement** covenants and is reflective of the nature and magnitude of the risks in the **Project** lifecycle (e.g., if the major risks are expected to occur during construction, the audit is required to take place during construction).

**6.5** In addition to the environmental and social performance requirements that are included in all covenants contained in **OPIC Agreements**, in the case of all **Special Consideration** projects **OPIC Agreements** include, at a minimum, the following requirements:

- Prepare and submit to OPIC an annual report summarizing the project's performance over the preceding year, based on monitoring of identified social risks and impacts, to demonstrate compliance with **OPIC Agreement**; and
- Conduct at least one third-party audit. The timing of the third-party audit is specified in the **OPIC Agreement** covenants and is reflective of the nature and magnitude of the risks in the **Project** lifecycle (e.g., if the major risks are expected to occur during construction, the audit is required to take place during construction).

**6.6** For all projects, material misrepresentations or material non-compliance with contractual environmental and social provisions, including reporting requirements, may constitute an event of default under the terms of the applicable **OPIC Agreement**. OPIC determines what is material and whether a default is curable or incurable. OPIC makes determinations as to materiality based, for example, on the severity of the environmental, health, safety or social, including labor, impacts or other result caused by the non-compliance and the nature and degree of such non-compliance by the **Applicant**.

**6.7** In the case of a curable default, remediation generally is required by OPIC to cure the default. In the case of an incurable default, OPIC may exercise contractual remedies including insurance contract termination, acceleration of loan repayment, or divestiture of an investment of an OPIC-supported investment fund.

### **Applicant Roles and Responsibilities**

**6.8 Applicants** are required to comply with all contractual conditions, covenants, and representations whether or not the **Applicant** has a controlling interest in the **Project**. The terms of the applicable covenants, as well as OPIC's remedies for breach thereof, will appropriately reflect the nature of the **Applicant's** role and interest in the project.

**6.9 Applicants** investing in Category A projects or **Special Consideration** projects are required to conduct additional certified third-party audits if: (1) the **Applicant** fails to submit contractually required annual self-monitoring reports in a timely manner, (2) OPIC monitoring or other information indicates a need for additional independent audits, or (3) when project risks are expected to change over time.

**6.10** If OPIC requires the preparation of a **Remediation Plan** for a **Subproject**, **Financial Intermediaries** are required to enter into an agreement with the applicable **Subproject** to adopt and to implement the required plan to the satisfaction of OPIC. OPIC will work with **Financial**

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**Intermediaries** to review and modify the plan as required. Following acceptance of the plan, the **Financial Intermediary** shall use all reasonable efforts, including the enforcement of related rights, to cause the **Subproject** to implement the plan as promptly as possible. Final **Remediation Plans** for Category A projects are made public on the OPIC web site.

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## 7. MONITORING

**7.0 Objectives:** (1) to review and evaluate OPIC-supported projects' compliance with the environmental and social performance requirements; (2) to evaluate the effectiveness of mitigation measures, action plans, and corrective actions.

**7.1 Scope of Application:** The requirements contained within this section apply to all projects supported through OPIC insurance, reinsurance, direct loans, or investment guaranties, including support through **Financial Intermediaries**,

### **OPIC Roles and Responsibilities**

**7.2** OPIC monitors project compliance with all environmental and social requirements (and underlying representations) that are reflected in conditions and covenants in **OPIC Agreements** throughout the term of the contract.

**7.3** OPIC or its consultants conduct periodic site visits to OPIC-supported projects to review their environmental and social performance and to ensure that they meet the environmental and social requirements in the **OPIC Agreements**. OPIC site visits are determined through a risk-based prioritization process. The scope, timing and periodicity of the visits are commensurate with the environmental and social risks and impacts of a project. OPIC endeavors to conduct at least one site visit to all Category A projects and **Special Consideration** projects within three years of execution of the **OPIC Agreement**. A summary of the site visit findings will be made public on OPIC's web site.

**7.4** OPIC reviews periodic monitoring reports submitted by **Applicants** to ensure that adverse risks and impacts are mitigated as required in **OPIC Agreements**.

**7.5** OPIC works with **Applicants** to rectify any failures to comply with the environmental and social requirements in the **OPIC Agreements** and exercises remedies to either reestablish compliance or pursue termination of OPIC support.

### **Applicant Roles and Responsibilities**

**7.6** All OPIC-supported projects that have been operational for at least 12 months are required to submit an Annual Self-Monitoring Questionnaire. The questionnaire is one of the tools used by OPIC to indicate compliance with OPIC's policy requirements, including environmental and social requirements.

**7.7** Annual environmental and social reports are required for all Category A projects and some Category B projects. Annual environmental and social reports enable OPIC to monitor the performance of the project with respect to environmental, occupational and community health, safety and social issues. At a minimum, the reports include information on the following:

- Results of environmental and social monitoring or sampling activity.
- Compliance with all conditions and covenants in **OPIC Agreements**.
- Project-related accidents impacting the environment or **Project Affected People** or resulting in a disability or loss of life.
- Summary of training provided on environment, health, and safety issues.

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- Environmental and safety deficiencies identified by the local regulatory authorities as well as any remedial actions taken.
- Community engagement activities.
- Complaints or grievances received from **Project Affected People** or **Stakeholders** and actions taken to resolve the issues.

**7.8** Annual reports are required for all **Special Consideration** projects. Annual reports enable OPIC to monitor the performance of the project with respect to heightened social risks. The annual report for **Special Consideration** projects will summarize the social performance based on monitoring of the **Project** over the preceding year to demonstrate compliance with **OPIC Agreement** covenants and conditions. At a minimum, the reports should contain the following:

- Results of social impact monitoring and/or stakeholder engagement activities pertaining to **Special Consideration** status.
- Compliance with all conditions and covenants in OPIC Agreements pertaining to **Special Consideration** status.
- Summary of compliance issues identified by regulatory authorities pertaining to **Special Consideration** status and any remedial actions taken.
- Summary of complaints or grievances received from **Project Affected People**, including **Workers**, or **Stakeholders** and actions taken in response to complaints or grievances.

**7.9** OPIC requires **Applicants** to conduct and certify that third-party audits for all Category A projects and **Special Consideration** projects have been completed. OPIC may require third-party audits of some Category B projects. The purpose of the audit is to (1) evaluate a project's compliance with all environmental and social requirements (and underlying representations) that are reflected in **OPIC Agreements**; and (2) validate the methodology used in Annual Environmental and Social Reports required under **OPIC Agreements**.

**7.10** At least one third-party audit is required for all Category A projects and **Special Consideration** projects. The audit should be performed at a time specified in the OPIC agreement, and usually within the first three years of receiving OPIC support. For certain projects, third-party audits may be required during the construction phase. **Applicants** are required to obtain OPIC approval of the audit scope of work and the selection of third-party auditors. The **Applicant** is responsible for all costs associated with conducting the audit(s).

**7.11** OPIC requires submission of certification from the third-party auditor that the audit has been conducted in accordance with the agreed scope of work and that the **Project** is in compliance with all environmental and social conditions and covenants (and underlying representations) contained within the **OPIC Agreement**. The auditor certification for Category A projects and **Special Consideration** projects is made public on the OPIC web site. The third-party audit certification for Category A projects and **Special Consideration** projects also must include a summary of the audit findings which can be made public on OPIC's web site.

**7.12** **Applicants** are required to retain the rights afforded under each investment structure, to ensure that OPIC has the rights to (1) visit and inspect projects and **Subprojects**; (2) access project and **Subproject** environmental and social performance monitoring records, including human resources records; and (3) meet with project and **Subproject** management and **Project Affected People**.

### 8. CLIMATE CHANGE AND RENEWABLE ENERGY

**8.0 Objectives:** (1) to support the reduction of **Greenhouse Gas** emissions associated with projects supported by OPIC; (2) to promote energy efficiency and conservation; (3) to promote low and no-carbon fuels and technologies; and (3) to encourage carbon sequestration in land use and forestry practices.

**8.1 Scope of Application.** The requirements contained within this section apply to all projects supported through OPIC insurance, reinsurance, direct loans, or investment guaranties, including support through **Financial Intermediaries**.

#### **OPIC Roles and Responsibilities**

**8.2** OPIC is required to screen new investments for **Climate-related Risks** and **Climate-related Vulnerability**<sup>4</sup>. A desk based climate vulnerability/impact assessment will utilize publically available tools and databases such as the World Bank Climate Change Knowledge Portal.

**8.3** OPIC has committed to reduce the **Direct Greenhouse Gas Emissions** associated with projects in OPIC's active portfolio by 30 percent over a ten year period (June 30, 2008 – September 30, 2018) and by 50 percent over a fifteen year period (June 30, 2008 – September 30, 2023). "Active portfolio" is defined as all insurance contracts in force and all guaranty and direct loans with an outstanding principal balance.

**8.4** The baseline that is used to assess progress toward the commitment identified in Paragraph 8.2 is the sum of **Direct Emissions** from projects with **Greenhouse Gas** emissions exceeding 25,000 metric tonnes of **CO<sub>2eq</sub>** (See Glossary) per year to which OPIC provided a commitment between 1974 and 2008 and which were in OPIC's active portfolio on June 30, 2008. The third party baseline accounting reports<sup>5</sup> may be found at <http://www.opic.gov/doing-business/investment/environment>.

**8.5** In order to achieve the 30 and 50 percent reduction goals (Paragraph 8.2) OPIC establishes an annual transactional cap for all new projects within a given year with significant **Direct Greenhouse Gas Emissions**. For the purposes of allocation of the annual cap, new projects are defined as those projects that receive OPIC support within a given year. In cases where an **Applicant** requests OPIC support for a portfolio of projects, OPIC will allocate cap individually, as necessary, to each **Project** within the **Applicant's** portfolio. For years in which the annual emissions associated with OPIC committed projects are less than the annual cap for that year, the remaining capacity may be allocated to subsequent years. Annual cap may not be allocated prior to the year in which such cap becomes available. Allocation of the annual transactional cap is at OPIC's discretion. With respect to projects that involve the construction of coal-fired power plants, OPIC will give strong preference to projects that capture and sequester 85 percent of **Greenhouse Gas** emissions.

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<sup>4</sup> Executive Order 13677 (September 23, 2014) requires the integration of climate-resilience considerations into all United States international development work.

<sup>5</sup> OPIC's 2008 and 2009 GHG accounting and reporting threshold was established at 100,000 tons CO<sub>2eq</sub> per year. Future reports will be adjusted to reflect the new reporting threshold.

**8.6** Extension of financing, insurance and reinsurance terms shall be treated as new commitments for the purpose of this policy.

**8.7** Projects involving **Renewable Energy** (See Glossary) are assigned a **Greenhouse Gas** emission level of zero (provided there are no fossil fuel components of the **Project**) for the purpose of this policy.

8.8 Recognizing that meaningful reductions in **Greenhouse Gas** emissions can be achieved either through: (a) modest percent energy efficiency improvements in large projects; (b) large percent energy efficiency improvements in small projects; or (c) significant reduction in direct **Greenhouse Gas** emissions in any project. Projects that achieve either energy efficiency improvement of 15 percent or more or significant **Direct Greenhouse Gas Emissions** reductions of greater than 100,000 tons CO<sub>2e</sub>/year are assigned a **Greenhouse Gas** emission level of zero for the purposes of this policy, provided **Life Cycle Accounting** (See Glossary) demonstrates that the project will not result in a net increase in emissions over the projected life of the project when compared to the “no project” alternative. Projects that fail to meet either the 15 percent efficiency threshold or the absolute aggregate emissions reduction target will have their entire net emissions counted.

**8.9** OPIC tracks and annually reports direct and indirect **Greenhouse Gas** emissions associated with OPIC office operations in accordance with accounting and reporting methods of the Greenhouse Gas Protocol (<http://www.ghgprotocol.org>) and Executive Order 13514.

**8.10** OPIC tracks and reports on an individual project basis the annual **Greenhouse Gas** emissions associated with projects within OPIC’s active portfolio with **Direct Emissions** that exceed 25,000 metric tonnes CO<sub>2eq</sub> per year. OPIC calculates **Greenhouse Gas** emissions using internationally accepted GHG accounting protocols, including those from the U.S. Environmental Protection Agency and methodologies approved by the Climate Registry <http://www.theclimateregistry.org>.

**8.11** OPIC reports on an annual basis the projected **Greenhouse Gas** emissions associated with each newly committed project with **Direct Emissions** that exceed 25,000 metric tonnes of CO<sub>2eq</sub> per year. OPIC also annually reports on investments in **Renewable Energy** and environmentally beneficial projects and services, including investments to improve energy efficiency. Annual **Greenhouse Gas** emission estimates are subject to third party verification.

### **Applicant Roles and Responsibilities**

**8.12** For new projects, **Applicants** must meet the requirements of the **Performance Standards**, including resource efficiency requirements of **Performance Standard 3**, which require identification and implementation of technically and financially feasible and cost effective measures for improving efficiencies in consumption of energy, water and other resources and material inputs. Rehabilitation and other modifications of existing projects should plan to meet the requirements of the **Performance Standards**, including resource efficiency requirements of **Performance Standard 3**, within a feasible period of time.

**8.13** Consistent with the requirements of **Performance Standard 3**, **Applicants** must demonstrate that measures to reduce significant, **Project-related Greenhouse Gas** emissions

were evaluated and that technically and financially feasible and cost effective measures were incorporated into the final design of their **Project**.

**8.14** As a condition of OPIC support, all projects that are expected to produce or currently produce **Direct Emissions** exceeding 25,000 metric tonnes of **CO<sub>2eq</sub>** per year must quantify and annually report to OPIC the **Direct Emissions** from their **Project**. As a condition of OPIC support and consistent with the requirements of **Performance Standard 3**, **Applicants** also shall quantify the significant indirect emissions associated with off-site production of electricity used by the **Project**.

**8.15** As a condition of OPIC support, projects in **Energy Intensive Sectors** (See Glossary) must meet energy efficiency guidelines and benchmarks established by international organizations, or develop and implement an energy management program to achieve these guidelines and benchmarks within a feasible period of time. Energy management programs should be appropriate to the nature and scale of project operations. The program shall document methods to reduce overall energy usage patterns through reduction in energy losses and improvements in energy conversion efficiency. In some projects, process modifications will be required to achieve guidelines and benchmarks. Industry specific resources on energy efficiency may be obtained from the Energy Star program [http://www.energystar.gov/index.cfm?c=industry.bus\\_industry\\_info\\_center](http://www.energystar.gov/index.cfm?c=industry.bus_industry_info_center).

## 9. COUNTRY ELIGIBILITY - LABOR

### U.S. Law Requirements and Waivers

**9.0** Section 231A of the **Foreign Assistance Act** contains the following provision:

"The Corporation [OPIC] may insure, reinsure, guarantee, or finance a project only if the country in which the project is to be undertaken is taking steps to adopt and implement laws that extend **Internationally Recognized Worker Rights**, as defined in section 507(4) of the Trade Act of 1974, to workers in that country (including any designated zone in that country)."

**9.1** Section 231A contains a waiver provision that permits OPIC to support projects in a country, notwithstanding its failure to meet the statutory standard, if the President of the United States determines that such activities would be in the national economic interests of the United States. Any such determination must be reported in writing to the Congress, together with the reasons for the determination.

### Determining Country Eligibility: The USTR Process

**9.2** The statute establishing the **Generalized System of Preferences** ("**GSP**," See Glossary) program provides that the President of the United States shall not designate a country as a **GSP** beneficiary if it "has not or is not taking steps to afford **Internationally Recognized Worker Rights** to workers in that country" (See 19 U.S.C. 2462). In addition, the President must consider "whether or not such country has taken or is taking steps to afford . . . **Internationally Recognized Worker Rights**" in determining whether to designate a country as a beneficiary. For consistency of worker rights country-level determinations across the U.S. Government, OPIC accepts the determinations made by the President for the purpose of the **GSP** program.

**9.3** Through the **Office of the U.S. Trade Representative** ("**USTR**," See Glossary), the Trade Policy Staff Committee ("**TPSC**"), chaired by the **USTR** and made up of representatives from the **U.S. Department of State**, **U.S. Department of Labor** (See Glossary), and other U.S. Government agencies, advises the President as to which countries should be designated as **GSP** beneficiaries. Any person may request to have the **GSP** status of any beneficiary country reviewed with respect to any of the eligibility criteria, including the "taking steps" country standard for worker rights.

**9.4** If a petition is accepted for review, the TPSC review typically includes examination of the issues raised in the petition and encouragement of the foreign government to implement worker rights reforms. USTR also solicits comments through the **Federal Register** (See Glossary) and holds a public hearing.

**9.5** Upon completion of a country review, a country's eligibility status may remain unchanged, or be withdrawn, suspended, or limited. Based on the country review, should the President determine that a country's **GSP** beneficiary status be withdrawn, suspended, or limited, OPIC implements the determination with respect to its own programs. If a country's **GSP** beneficiary status is withdrawn for failure to meet the statutory worker rights standard, the country becomes ineligible for OPIC programs from the effective date of that country's ineligibility under

the **GSP** program. However, if a country becomes ineligible for **GSP** benefits on grounds other than worker rights, that country remains eligible for OPIC programs.

**9.6** Modifications to countries' **GSP** eligibility are implemented by **Executive Order** or **Presidential Proclamation**, and are published in the **Federal Register**. If a country's **GSP** beneficiary status is withdrawn or suspended for failure to meet the worker rights standard, the country list on OPIC's website is updated to remove the country as of the effective date of the withdrawal or suspension of **GSP** benefits, and OPIC staff are notified of the change of country status. If the determination is that **GSP** eligibility should be limited, OPIC staff are instructed to follow the same limitations in the conduct of OPIC's programs

### **Reviewing Country Eligibility: The OPIC Process**

**9.7** In making its determinations as to whether non-**GSP**-eligible countries where OPIC programs are being offered are taking steps to afford workers **Internationally Recognized Worker Rights**, OPIC utilizes a similar petition and review process. Petitions can be submitted to OPIC at its annual public hearing conducted pursuant to Section 231A of the **FAA** to reexamine whether the status of any such country should be changed on worker rights grounds. OPIC provides notice of such hearings through the **Federal Register** at least 40 days in advance of such hearings.

**9.8** Upon an initial petition review, if OPIC makes the determination that the petition merits a formal review, OPIC will consult with, at a minimum, the **U.S. Department of State**, **U.S. Department of Labor**, and the **USTR** to carry out such a review. OPIC may use multiple instruments to inform its country practices review, including:

- The **U.S. Department of State's** (See Glossary) **Annual Country Reports on Human Rights Practices** (See Glossary);
- Reports, observations and recommendations of the **International Labor Organization** (See Glossary, "ILO")
- Independent consultants' country practice reviews;
- Information received through OPIC's public hearings; and
- Consultations with labor organizations.

**9.9** The "taking steps" standard is a purposely flexible standard to reflect the varying levels of economic and social development in developing countries. In its country reviews, OPIC takes into account the totality of circumstances and facts available relevant to **Internationally Recognized Worker Rights**, and uses certain general criteria to assess whether countries meet the statutory standard, including:

- 1) Progress towards ratification of the relevant **ILO** eight fundamental conventions; and
- 2) The progress the country has taken or is taking to adopt and implement laws and practices that extend **Internationally Recognized Workers Rights** in areas where national law and practice have not met the international standard.

### **Granting Country Eligibility on Worker Rights Grounds**

**9.10** For non-**GSP**-eligible countries that are deemed particularly sensitive on worker rights grounds due to a documented history of issues relating to **Internationally Recognized Worker**

**Rights**, and where OPIC seeks to implement its programs for the first time or to lift suspension of OPIC programs due to foreign policy or other priorities, OPIC will consult with, at a minimum, the **U.S. Department of State**, **U.S. Department of Labor**, and the **USTR** in making its “taking steps” determination.

### **Country Status Effect on OPIC-Supported Projects**

**9.11** If a country becomes ineligible for OPIC support on worker rights grounds, the change of status does not affect projects to which OPIC made a legally binding commitment prior to the date on which the country status changed. All other projects that have not been formally committed to by OPIC prior to the official ineligibility date will not be eligible for OPIC support during the term of the country’s ineligibility. If a country is under a formal review on worker rights grounds (by either the TPSC or OPIC), projects that are in the application process are subject to a review that is sensitive to the labor issues highlighted in the GSP or OPIC petition.

## APPENDIX A – Illustrative List of Category A Projects

Although decisions on categorization are made on a case-by-case basis, the following list is indicative of the types of projects that are screened by OPIC as Category A.

1. Large-scale industrial plants.
2. Large-scale industrial estates.
3. Crude oil refineries and installations for the gasification and liquefaction of 500 tonnes or more of coal or bituminous shale per day.
4. Major **Greenhouse Gas** emitting projects, defined as projects with **Direct Greenhouse Gas Emissions** of more than 100,000 (short) tons (91,000 metric tonnes) of **CO<sub>2eq</sub>** per year.
5. Cement manufacturing with an annual production rate of greater than one million dry weight tons.
6. Integrated works for the initial smelting of cast iron and steel; installations for the production of non-ferrous crude metals from ore, concentrates, or secondary raw materials by metallurgical, chemical or electrolytic processes.
7. Installations for the extraction of asbestos and for the processing and transformation of asbestos and products containing asbestos; for asbestos-cement products with an annual production of more than 20,000 tonnes of finished product; for friction material with an annual production of more than 50 tonnes of finished product; and for other asbestos utilization of more than 200 tonnes per year.
8. Integrated chemical installations, i.e. those installations that manufacture, on an industrial scale, substances using chemical conversion processes in which several units are juxtaposed and are functionally linked to one another and which produce: basic organic chemicals; basic inorganic chemicals; phosphorous, nitrogen or potassium based fertilizers (simple or compound fertilizers); basic plant health products and biocides; basic pharmaceutical products using a chemical or biological process; explosives.
9. Projects that manufacture, store, transport or dispose hazardous or toxic materials.
10. All projects that pose potentially serious occupational or health risks.
11. Construction of motorways, express roads, lines for long-distance railway traffic, and airports with a basic runway length of 2,100 meters or more. Construction of new roads with four or more lanes or realignment and/or widening of an existing road so as to provide four or more lanes where such new road, or realigned and/or widened section of road, would be 10 km or more in a continuous length.

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12. Pipelines, terminals, and associated facilities for the large-scale transport of gas, oil, and chemicals.
13. Large-scale seaports and also inland waterways and ports for inland waterway traffic; trading ports, piers for loading and unloading connected to land and outside ports (excluding ferry piers).
14. Waste-processing and disposal installations for the incineration, chemical treatment or landfill of hazardous, toxic or dangerous wastes.
15. Construction or significant expansion of dams and reservoirs not otherwise prohibited.
16. Groundwater abstraction activities or artificial groundwater recharge schemes in cases where the annual volume of water to be abstracted or recharged amounts to 10 million cubic meters or more.
17. Industrial plants for the (a) production of pulp from timber or similar fibrous materials; or (b) production of paper and board with a production capacity exceeding 200 air-dried metric tonnes per day.
18. Large-scale peat extraction.
19. Large-scale quarries, mining, or processing of metal ores or coal.
20. Major exploration and development of on-shore oil and gas reserves.
21. Exploration and development of off-shore oil and gas reserves.
22. Installations for storage of petroleum, petrochemical, or chemical products with a capacity of 200,000 tonnes or more.
23. Large-scale logging.
24. Large-scale power transmission.
25. Municipal wastewater treatment plants servicing more than 150,000 people.
26. Municipal solid waste-processing and disposal facilities.
27. Large-scale tourism and retail development.
28. Large-scale land reclamation.
29. Large-scale primary agriculture/plantations involving intensification or conversion of previously undisturbed land.
30. Plants for the tanning of hides and skins where the treatment capacity exceeds 12 tonnes of finished products per day.

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31. Installations for the intensive rearing of poultry or pigs with more than: 85,000 places for broilers and 60,000 places for hens; 3,000 places for production pigs (over 30 kg); or 900 places for sows.
32. All projects with potentially major impacts on people or which pose serious socio-economic risk, including **Physical and Economic Displacement**, impacts on Indigenous Peoples and adverse impacts on **Cultural Heritage**.
33. Greenfield housing developments that contain more than 2,500 residential units.
34. Projects, not categorically prohibited, but located in or sufficiently near sensitive locations of national or regional importance which may have apparent environmental impacts on:
  - Wetlands;
  - Areas of archeological significance;
  - Areas prone to erosion and/or desertification;
  - Areas of importance to ethnic groups/indigenous peoples;
  - Primary temperate/boreal **Forests**;
  - Coral reefs;
  - Mangrove swamps;
  - Nationally-designated seashore areas; and
  - Managed resource protected areas, protected landscape/seascape (International Union for the Conservation of Nature (IUCN) categories V and VI) as defined by IUCN's Guidelines for Protected Area Management Categories. Additionally, these projects must meet IUCN's management objectives and follow the spirit of IUCN definitions.

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## APPENDIX B – Categorical Prohibitions

No portion of the OPIC facility investment shall be used to support any of the following:

1. Conversion or degradation of Critical Forest Areas<sup>6</sup> or forest-related Critical Natural Habitats.<sup>7</sup>
2. Leasing or financing of logging equipment, unless an environmental and social impact assessment indicates that: (i) all timber harvesting operations involved will be conducted in an environmentally sound manner which minimizes forest destruction; and (ii) the timber harvesting operations will produce positive economic benefits and sustainable forest management systems.
3. Construction of dams that significantly and irreversibly: (a) disrupt natural ecosystems upstream or downstream of the dam; or (b) alter natural hydrology; or (c) inundate large land areas; or (d) impact biodiversity; or (e) displace large numbers of inhabitants (5,000 persons or more); or (f) impact local inhabitants' ability to earn a livelihood.
4. Production or trade in any product or activity deemed illegal under host country laws or regulations or international conventions and agreements or subject to international phase-outs or bans such as pharmaceuticals,<sup>8</sup> pesticides/herbicides,<sup>9</sup> ozone depleting substances,<sup>10</sup> polychlorinated biphenyls<sup>11</sup> and other hazardous substances,<sup>12</sup> wildlife or wildlife products regulated under the Convention on International Trade and Endangered Species of Wild Fauna and Flora,<sup>13</sup> and trans-boundary trade in waste or waste products<sup>14</sup>.
5. Resettlement of 5,000 or more persons.
6. Any impact on natural World Heritage Sites [http://www.unep-wcmc.org/protected\\_areas/world\\_heritage/index.htm](http://www.unep-wcmc.org/protected_areas/world_heritage/index.htm) unless it can be demonstrated through an environmental assessment that the project (i) will not result in the degradation of the protected area and (ii) will produce positive environmental and social benefits.
7. Any impact on areas on the United Nations List of National Parks and Protected Areas [http://www.unep-wcmc.org/protected\\_areas/UN\\_list/index.htm](http://www.unep-wcmc.org/protected_areas/UN_list/index.htm) unless it can be demonstrated

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<sup>6</sup> A type of natural forest that qualifies as Critical Natural Habitat. Critical Forest Areas include primary Forests and old growth Forests that may serve as critical carbon sinks.

<sup>7</sup> 1) Existing internationally recognized protected areas, areas initially recognized as protected by traditional local communities (e.g., sacred groves), and sites that maintain conditions vital to the viability of protected areas (as determined by the environmental assessment procedure); and (2) Sites identified on supplementary lists by authoritative sources identified by OPIC. Such sites may include areas recognized by traditional local communities (e.g., sacred groves), areas with known high suitability for biodiversity conservation and sites that are critical for vulnerable, migratory or endangered species. Listings are based on systematic evaluations of such factors as species richness, the degree of endemism, rarity, and vulnerability of component species, representativeness and the integrity of ecosystem processes.

<sup>8</sup> A list of pharmaceutical products subject to phase-outs or bans is available at <http://www.who.int>

<sup>9</sup> A list of pesticides and herbicides subject to phase-outs or bans is available at <http://www.pic.int>

<sup>10</sup> A list of the chemical compounds that react with and deplete stratospheric ozone together with target reduction and phase-out dates is available at <http://www.unep.org/ozone/montreal/>

<sup>11</sup> Polychlorinated biphenyls are likely to be found in oil-filled electrical transformers, capacitors, and switchgear dating from 1950 to 1985.

<sup>12</sup> A list of hazardous chemicals is available at <http://www.pic.int>

<sup>13</sup> A list is of CITES species is available at <http://www.cites.org>

<sup>14</sup> As defined by the Basel Convention; see <http://www.basel.int>

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through an environmental assessment that the project (i) will not result in the degradation of the protected area and (ii) will produce positive environmental and social benefits.

8. Extraction or infrastructure in or impacting: protected area Categories I, II, III, and IV (Strict Nature Reserve/Wilderness Areas and National Parks, Natural Monuments and Habitat/ Species Management Areas), as defined by the International Union for the Conservation of Nature (IUCN). Projects in IUCN Categories V (Protected Landscape/Seascape) and VI (Managed Resource Protected Area) must be consistent with IUCN management objectives [http://www.unep-wcmc.org/protected\\_areas/categories/eng/index.htm](http://www.unep-wcmc.org/protected_areas/categories/eng/index.htm) unless it can be demonstrated through an environmental assessment (i) there is no degradation of the protected area and (ii) there are positive environmental and social benefits.
9. Production of or trade in radioactive materials,<sup>15</sup> including nuclear reactors and components thereof.
10. Production of, trade in or use of un-bonded asbestos fibers.<sup>16</sup>
11. Marine and coastal fishing practices, such as large-scale pelagic drift net fishing and fine mesh net fishing, harmful to vulnerable and protected species in large numbers and damaging to biodiversity and habitats.
12. Use of forced labor<sup>17</sup> or child labor.<sup>18</sup>
13. Projects or companies known to be in violation of local applicable law related to environment, health, safety, labor, and public disclosure.
14. Projects or companies where the primary business activities are in the following prohibited sectors: gambling; media communications of an adult or political nature; military production or sales; alcoholic beverages (if contrary to local religious or cultural norms); or tobacco and related products.
15. Projects or companies that replace U.S. production or are likely to cause a significant reduction in the number of employees in the U.S. including “runaway plants” and outsourcing the provision of goods and services (e.g., Business Process Outsourcing) from the U.S.
16. Projects or companies subject to performance requirements that are likely to reduce substantially the positive trade benefits to the U.S.
17. Projects or companies in which host country governments have majority ownership or effective management control (except for investments in privatizing companies made in accordance with the Finance Agreement).

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<sup>15</sup> This does not apply to the purchase of medical equipment, quality control (measurement) equipment, and any equipment for which OPIC considers the radioactive source to be trivial and adequately shielded.

<sup>16</sup> This does not apply to the purchase and use of bonded asbestos cement sheeting where the asbestos content is less than 20%.

<sup>17</sup> Forced labor means all work or service, not voluntarily performed, that is exacted from an individual under threat of force or penalty, such as indentured labor, bonded labor, or similar labor-contracting arrangements.

<sup>18</sup> Child labor means the employment of children (persons below the age of 18) that is economically exploitative, or is likely to be hazardous to or interfere with the child’s education, or be harmful to the child’s health or physical, mental, spiritual, moral, or social development.

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18. Companies found by a court or administrative body of competent jurisdiction engaging in unlawful monopolistic practices.
19. Projects or companies that provide significant, direct support to a government that engages in a consistent pattern of gross violations of internationally recognized **Human Rights**, as determined by the U.S. Department of State.
20. Projects or companies that perform abortions as a method of family planning; motivate or coerce any person to practice abortions; perform involuntary sterilizations as a method of family planning; coerce or provide any financial incentive to any person to undergo sterilizations; or perform any biomedical research which relates in whole or in part, to methods of, or in the performance of, abortions or involuntary sterilization as a means of family planning.
21. Companies which are treated as inverted corporations under 6 U.S.C. 395(b).

## **APPENDIX C – World Bank Group Environmental, Health and Safety (EHS) Guidelines**

[http://www.ifc.org/wps/wcm/connect/topics\\_ext\\_content/ifc\\_external\\_corporate\\_site/ifc+sustainability/our+approach/risk+management/ehsguidelines](http://www.ifc.org/wps/wcm/connect/topics_ext_content/ifc_external_corporate_site/ifc+sustainability/our+approach/risk+management/ehsguidelines)

### **General EHS Guidelines**

### **Industry Sector Guidelines**

#### **Forestry**

- Board and Particle-based Products
- Sawmilling and Wood-based Products
- Forest Harvesting Operations
- Pulp and Paper Mills

#### **Agribusiness/Food Production**

- Mammalian Livestock Production
- Poultry Production
- Perennial Crop Production
- Annual Crop Production
- Aquaculture
- Sugar Manufacturing
- Vegetable Oil Processing
- Dairy Processing
- Fish Processing
- Meat Processing
- Poultry Processing
- Breweries
- Food and Beverage Processing

#### **General Manufacturing**

- Cement and Lime Manufacturing
- Ceramic Tile and Sanitary Ware Manufacturing
- Glass Manufacturing
- Construction Materials Extraction
- Textiles Manufacturing
- Tanning and Leather Finishing
- Semiconductors and Electronics Manufacturing
- Printing
- Foundries
- Integrated Steel Mills
- Base Metal Smelting and Refining
- Metal, Plastic, Rubber Products Manufacturing

#### **Oil and Gas**

- Offshore Oil and Gas Development
- Onshore Oil and Gas Development
- Liquefied Natural Gas (LNG) Facilities

## **Infrastructure**

- Tourism and Hospitality Development
- Railways
- Ports, Harbors and Terminals
- Airports
- Airlines
- Shipping
- Gas Distribution Systems
- Toll Roads
- Telecommunications
- Crude Oil and Petroleum Product Terminals
- Retail Petroleum Networks
- Health Care Facilities
- Waste Management Facilities
- Water and Sanitation

## **Chemicals**

- Pharmaceuticals and Biotechnology Manufacturing
- Coal Processing
- Natural Gas Processing
- Oleochemicals Manufacturing
- Nitrogenous Fertilizer Manufacturing
- Phosphate Fertilizer Manufacturing
- Pesticides Formulation, Manufacturing and Packaging
- Petroleum-based Polymer Manufacturing
- Petroleum Refining
- Large Volume Petroleum-based Organic Chemicals Manufacturing
- Large Volume Inorganic Compounds Manufacturing and Coal Tar Distillation

## **Mining**

- Mining

## **Power**

- Wind Energy
- Geothermal Power Generation
- Electric Power Transmission and Distribution
- Thermal Power

### APPENDIX D – Glossary

**Advanced Biofuel** – means **Renewable Fuel**, other than ethanol derived from cornstarch, which has lifecycle **Greenhouse Gas** emissions that are at least 50 percent less than baseline **Greenhouse Gas** emissions.

**Annual Country Reports on Human Rights Practices** – Reports that are submitted annually by the U.S. Department of State to the U.S. Congress in compliance with sections 116(d) and 502B(b) of the Foreign Assistance Act of 1961 (FAA), as amended, and section 504 of the Trade Act of 1974, as amended.

**Applicants** – Investors, lenders, insurers or projects sponsors seeking OPIC support.

**Area of Influence** – Areas potentially affected by a project including (1) the primary project site(s) and related facilities that the **Applicant** develops or controls, such as power transmission corridors, pipelines, canals, tunnels, access roads, borrow and disposal areas and construction camps; (2) associated facilities that are not funded as part of the project (funding may be provided separately by the **Applicant** or by third parties including the government), and whose viability and existence depend exclusively on the project and whose goods and services are essential for the successful operation of the project; (3) areas and communities potentially affected by cumulative impacts that result from the incremental impact on areas or resources used or directly impacted by the project, and from any existing, planned or reasonably defined developments at the time the risks and impacts identification process is conducted; and (4) areas and communities potentially affected by impacts from unplanned but predictable developments caused by the project that may occur later or at a different location. The **Area of Influence** does not include potential impacts that might occur without the project or independently of the project. Any identifiable supply chain expansion of materials or resource development that is inherent to a project's success should be included within a project's **Area of Influence**.

**Baseline Audit** - An assessment of environmental and social impacts of pre-existing or ongoing activities that is required for all Category A projects that involve the acquisition of pre-existing facilities or new construction on a site where prior industrial activities have occurred.

**Broad Community Support** – The collective expression by **Project Affected People**, through individuals or their recognized representatives, in support of a project. **Broad Community Support** may exist even if some individuals or groups object to a project.

**Biomass-based Diesel** – A **Renewable Fuel** that has lifecycle **Greenhouse Gas** emissions that are at least 50 percent less than 2005 baseline lifecycle **Greenhouse Gas** emissions and (1) is a transportation fuel, fuel additive, heating oil or jet fuel; (2) meets the definition of either biodiesel or non-ester; and (3) is approved for use as a motor vehicle fuel or fuel additive. Renewable fuel that is co-processed with petroleum is not **Biomass-based Diesel**.

**Categorically Prohibited Project** – A project of the type listed in Appendix B where potential adverse environmental or social impacts of the project preclude OPIC support.

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**Cellulosic Biofuel** – A **Renewable Fuel** derived from any cellulose, hemi-cellulose or lignin that has lifecycle **Greenhouse Gas** emissions that are 60 percent less than the 2005 baseline lifecycle **Greenhouse Gas** emissions.

**Climate-related Risks** – Combination of the magnitude of the potential consequence(s) of climate change impacts) and the likelihood that the consequence(s) will occur.

**Climate-related Vulnerability** – The degree to which a system is susceptible to, or unable to cope with, adverse effects of climate change, including variability and extremes. Vulnerability is a function of the character, magnitude and rate of climate variation to which a system is exposed, its sensitivity and its adaptive capacity.

**CO<sub>2eq</sub>** – Carbon Dioxide Equivalents are a metric measure used to compare the emissions from various **Greenhouse Gases** based upon their global warming potential (GWP) over a given timeframe. The carbon dioxide equivalent for a gas is derived by multiplying the tonnes of the gas by the associated GWP. For example, the 100-year GWP for methane (CH<sub>4</sub>) is 28 and for nitrous oxide (N<sub>2</sub>O) 265. This means that the emissions of 1 million metric tonnes of methane and nitrous oxide respectively are equivalent to emissions of 28 and million metric tonnes of carbon dioxide<sup>19</sup>.

**Critical Forest Areas** - A type of **Natural Forest** that qualifies as **Critical Natural Habitat**. **Critical Forest Areas** include primary **Forests** and old growth **Forests** that may serve as critical carbon sinks.

**Critical Natural Habitats** - (1) Existing internationally recognized protected areas, areas initially recognized as protected by traditional local communities (e.g., sacred groves), and sites that maintain conditions vital to the viability of protected areas (as determined by the environmental assessment procedure); and (2) Sites identified on supplementary lists by authoritative sources identified by OPIC. Such sites may include areas recognized by traditional local communities (e.g., sacred groves), areas with known high suitability for biodiversity conservation and sites that are critical for vulnerable, migratory or endangered species. Listings are based on systematic evaluations of such factors as species richness, the degree of endemism, rarity, and vulnerability of component species, representativeness and the integrity of ecosystem processes.

**Cultural Heritage** – Tangible property or sites having archaeological (prehistoric), paleontological, historical, cultural, artistic and religious value, as well as unique environmental features that embody cultural values, such as sacred groves. **Cultural Heritage** also includes intangible forms of culture, such as cultural knowledge, innovations and practices of communities embodying traditional lifestyles.

**Direct Emissions** – Emissions from sources that are owned or controlled by a project, including stationary combustion emissions, mobile combustion emissions, process emissions and fugitive emissions.

**Economic Displacement** – Loss of assets or access to assets that leads to loss of income sources or means of livelihood.

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<sup>19</sup> GWP values from the IPCC Fifth Assessment Report, 2014.

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**Energy Intensive Sectors** – Projects in the following sectors: aluminum, brewing, cement, mining, corn refining, forest products, glass, metal casting, motor vehicle manufacturing, oil and natural gas production, petroleum refining, pharmaceuticals, pulp and paper, steel and iron, thermal power.

**Environmental and Social Action Plan (ESAP)** – A systematic program designed to prevent, mitigate and monitor anticipated environmental and social impacts of prospective and ongoing activities. Required on all Category A projects. The **ESAP** provides an implementation schedule for measures that must be carried out as part of the project showing phasing and coordination with overall implementation plans and the capital and recurrent costs estimates and sources of funds for implementing the **ESAP**.

**Environmental and Social Impact Assessment (ESIA)** – A comprehensive analytical body of work designed to evaluate environmental and social impacts of major projects having the potential to have significant, diverse and irreversible impacts on the natural environment and on humans dependent on that environment. Required for all Category A projects involving new (greenfield) developments or significant expansion of existing facilities.

**Environmental and Social Management System (ESMS)** – Part of a project's overall management system that includes the organizational structure, responsibilities, practices and resources necessary for implementing the project-specific management program developed through the environmental and social assessment of the project.

**Executive Order** – An order issued by the President, the head of the executive branch of the federal government.

**Extractive Industry** – An enterprise engaged in the exploration, development, or extraction of oil and gas reserves, metal ores, gemstones, industrial minerals (except rock used for construction purposes), or coal.

**Federal Register** – The official daily publication for rules, proposed rules, and notices of Federal agencies and organizations, as well as **Executive Orders** and other presidential documents.

**Financial Intermediary** – Investment funds, banks or other financial institutions, or other entities or vehicles that receive financing, guaranties or insurance from OPIC for **Financial Intermediary Transactions** (Also see **Subprojects**).

**Financial Intermediary Transactions** – Loans (corporate lending, microfinance, small and medium enterprise finance, loans from debt funds, including distressed debt, credit and mezzanine debt funds and retail banking); equity investments (active and passive investments from private equity funds into **Portfolio Companies**, and limited partner equity investments by fund-of-funds and secondary funds); and other financial services (leasing, factoring and insurance).

**Foreign Assistance Act (FAA)** – The Foreign Assistance Act of 1961, as amended.

**Forest** - An area of land not less than 1.0 hectare with a tree crown cover (or equivalent stocking level) of more than 10 percent that has trees with the potential to reach a minimum height of 2 meters at maturity *in situ*. A **Forest** may consist of either closed forest formations, where trees of various stories and undergrowth cover a high proportion of the ground, or open **Forest**. Young natural stands and all plantations that have yet to reach a crown density of 10 percent or tree height of 2 meters are included

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under **Forest**, as are areas normally forming part of the forest area that are temporarily unstocked as a result of human intervention such as harvesting or natural causes but that are expected to revert to **Forest**. The definition includes **Forests** dedicated to forest production, protection, multiple uses, or conservation, whether formally recognized or not. The definition excludes areas where other land uses not dependent on tree cover predominate, such as agriculture, grazing or settlements. In countries with low forest cover, the definition may be expanded to include areas covered by trees that fall below the 10 percent threshold for canopy density, but are considered **Forest** under local conditions.

**Generalized System of Preferences (GSP)** – A trade preferences program, overseen by the **USTR** that provides preferential duty-free entry for products from designated beneficiary countries and territories with the purpose of promoting economic growth in the developing world.

**Greenhouse Gases** – The following six gases or class of gases: carbon dioxide (CO<sub>2</sub>), nitrous oxide (N<sub>2</sub>O), methane (CH<sub>4</sub>), hydrofluorocarbons (HFCs), perfluorocarbons (PFCs), and sulfur hexafluoride (SF<sub>6</sub>).

**Host Country Notification** – A notification to government officials in the country where a Category A project is located that identifies international guidelines and standards and restrictions under U.S. law that would be applicable to the project.

**Human Rights** – The term refers to the principles captured in the Universal Declaration of Human Rights and in other global and regional human rights related treaties and conventions to which the United States has been or is Party.

**Industry Sector Guidelines** – Technical reference documents issued by the **International Finance Corporation** with general and industry specific performance levels and measures.

**International Finance Corporation (IFC)** – An affiliate of the World Bank group that makes loans to and investments in, private sector projects in developing countries and emerging markets.

**International Labour Organization (ILO)** – The tripartite United Nations agency that brings together governments, employers and workers of its member states in common action to promote decent work throughout the world.

**Internationally Recognized Worker Rights** – The term, as specified in the Trade Act of 1974 (as amended), includes: (1) the right of association; (2) the right to organize and collective bargaining; (3) prohibition on forced labor and the worst forms of child labor; (4) a minimum age for the employment of children; and (5) acceptable conditions of work with respect to minimum wages, hours of work, and occupational health and safety.

**Labor Rights** – Rights of **Workers**, which includes **Internationally Recognized Worker Rights**, and protection from discrimination with respect to employment and occupation on the basis of personal characteristics that are unrelated to inherent job requirements.

**Life Cycle Accounting** – An analytical method used for evaluating and comparing the climate change implications of a product or system. For the purposes of this policy, the boundary definition of the

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analysis for both the project and the “no project” alternative includes raw material input acquisition, raw material transport, energy conversion and product transport to consumers<sup>20</sup>.

**Meaningful Consultation** – A process that (1) begins early in the project preparation stage and is carried out on an on-going basis throughout the project life cycle; (2) provides timely disclosure of relevant and adequate information that is understandable and readily accessible to **Project Affected People**; (3) is undertaken in an atmosphere free of intimidation or coercion; (4) is gender inclusive and responsive, and tailored to the needs of disadvantaged and vulnerable groups; and (5) enables the incorporation of all relevant views of affected people and other **Stakeholders** into decision making, such as project design, mitigation measures, the sharing of development benefits and opportunities, and implementation issues.

**Natural Forests** - Forest lands and associated waterways where the ecosystem’s biological communities are formed largely by native plant and animal species and where human activity has not essentially modified the area’s primary ecological functions.

**Office of the U.S. Trade Representative (USTR)** – An agency of the U.S. Government that is responsible for developing and coordinating U.S. international trade, commodity, and direct investment policy, and overseeing negotiations with other countries.

**OPIC Agreement** – An OPIC loan agreement, guaranty agreement, project consent or insurance contract.

**Performance Standards** – Technical reference documents issued by the **International Finance Corporation** with environmental and social impact management performance criteria.

**Physical Displacement** – Relocation or loss of shelter.

**Presidential Proclamation** – An instrument that states a condition, declares a law and requires obedience, recognizes an event or triggers the implementation of a law (by recognizing that the circumstances in law have been realized).

**Project** – All facilities owned or controlled within a physical project boundary that constitute a commercially viable business unit eligible for OPIC support.

**Project Affected People** – Individuals, workers, groups or local communities which are or could be affected by the project's Area of Influence, directly or indirectly, including through cumulative impacts. Emphasis should be placed on those who are directly and adversely affected, disadvantaged or vulnerable.

**Remediation Plan** – A systematic program designed to reverse adverse environmental and social impacts of previous activities at a site. The **Remediation Plan** will provide an implementation schedule for the measures that must be carried out as part of the project, and capital and recurrent costs estimates and sources of funds for implementing the **Remediation Plan**

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<sup>20</sup> Additional information may be found at DOE/NETL-2014/1646.

<http://energy.gov/sites/prod/files/2014/05/f16/Life%20Cycle%20GHG%20Perspective%20Report.pdf>

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**Renewable Biomass** – Each of the following (including any incidental *de minimis* contaminants that are impractical to remove and are related to customary feedstock production and transport): (1) planted crops and crop residue harvested from existing agricultural land cleared or cultivated prior to December 19, 2007 and that was nonforested and either actively managed or fallow on December 19, 2007; (2) planted trees and tree residue from a tree plantation that was cleared at any time prior to December 19, 2007 and actively managed on December 19, 2007; (3) animal waste material and animal byproducts; (4) slash and pre-commercial thinning from forestland that is not ecologically sensitive; (5) biomass (organic matter that is available on a renewable or recurring basis) obtained from the immediate vicinity of buildings and other areas regularly occupied by people or public infrastructure, in an area at risk for wildfire; (6) algae; and (7) separated yard waste and food waste, including recycled cooking and trap grease and separated municipal solid waste.

**Renewable Energy** - Energy supplied from renewable energy sources, such as wind and solar power, geothermal, hydropower not otherwise categorically prohibited, and **Renewable Biomass**, but does not include nuclear power.

**Renewable Fuel** – A fuel that meets the following criteria: (1) a fuel produced from **Renewable Biomass**; (2) a fuel that is used to replace or reduce the quantity of fossil fuel present in a transportation fuel, heating oil or jet fuel; and (3) a fuel that has lifecycle **Greenhouse Gas** emissions that are at least 20 percent less than 2005 baseline lifecycle **Greenhouse Gas** emissions.

**Retrenchment** - The elimination of a significant number of **Workers** or the dismissal or layoff of a significant number of **Workers**, generally by reason of project closing or for cost savings. Retrenchment does not include isolated cases of termination of employment for cause or voluntary departure.

**Social Risk Due Diligence** – Process through which the Applicant identifies and manages heightened social risks, including project-related **Human Rights** impacts. Includes risk identification, consultation with **Project Affected People** and **Workers**, and resulting management and monitoring programs. Process can be integrated into the Applicant's **Environmental and Social Management System** provided it identifies, manages, and communicates risks to **Project Affected People** and **Workers**.

**Special Consideration** – A screening classification that is applied to a project when there are heightened social risks within a project. The decision to designate a project as **Special Consideration** will take into consideration the likelihood, severity, and relevance to a project of the social risks. The **Special Consideration** classification of a project indicates (1) a project's heightened potential for **Labor Rights** or **Human Rights** risks or impacts; and (2) a higher risk to **Workers** or **Project Affected People**.

**Stakeholder** – **Stakeholders** are persons or groups who are directly or indirectly affected by a project, as well as those who may have interests in a project and/or the ability to influence its outcome, either positively or negatively. **Stakeholders** may include **Project Affected People** and their formal and informal representatives, national or local government authorities, politicians, religious leaders, civil society organizations and groups with special interests, the academic community, or other businesses.

**Subproject** – A project or enterprise that receives financing or investment from an OPIC-supported **Financial Intermediary**.

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***U.S. Department of Labor*** – An agency of the U.S. Government that is responsible for administering labor laws on working conditions, unemployment insurance benefits and re-employment services, and tracks national economic measurements.

***U.S. Department of State*** – An agency of the U.S. Government that is responsible for the international relations of the United States.

***Workers*** – Individuals who are employed directly by the project or under a project contract, and who perform on-site work for a substantial duration of time on a project or are material to the primary operations of a project. Workers can be temporary or permanent.