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# **Implications of IFC's Systematic Failures to Adhere to the GHG Emissions Disclosure & Public Review Requirements of its Board Adopted Policies and its Due Diligence Obligations Under International Law**

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## Importance of Opportunity for Public Review of Environmental and Social Impact Assessments Prior IFC Financing Decisions

- As recognized by the IFC, the opportunity for public review of, and input on, environmental and social impact assessments before IFC project approval is critical to informed decision making, important to managing environmental, social, and governance risks, and “fundamental to fulfilling its development mandate.” Access to Info Policy at ¶¶ 3, 8, E&S Policy at ¶¶ 13, 14.
- It is a necessary check and step to best ensure a project meets the Performance Standards’ requirements and thus avoids or mitigates a project’s environmental and social impacts, including GHG emissions, as far as economically and technically feasible. *Id.*; Access to Info Policy at ¶¶ 3, 31(a)(vi). 29, 34

# Global Practice for Environmental and Social Impact Assessment Disclosure and Opportunity for Public Review



- ▶ As documented in the 2018 United Nations Environment Programme (UNEP) Report with examples from states around the world:

*There is a wide consensus that public participation constitutes a fundamental element of EIAs – or in fact even **that EIA is not an EIA without public participation**. It is also widely recognized that public participation is not only a goal in itself, but that it is a **key to accurate and effective environmental assessments**...Due to the fact that public participation is considered an integral part of the EIA process, all countries have enacted some kind of legal measure for public participation in EIAs.... The review stage of the EIA process, i.e. the review of the EIA report prior to the decision on whether a project can go ahead taking environmental considerations into account, is a key element of the EIA process. **The objective is to verify whether the information provided is sufficient and adequately presented so as to form a sound basis for decision-making. Public participation, comments from the public on the EIA report are an integral part of the review process in many countries.***

- ▶ While the UNEP Report documents that there is no general agreement in laws or the literature on what constitutes good practice in relation to public participation in EIAs, **it finds most legislation in Global North and South states around the world make it mandatory to publicly publish information on disclosing a project when an application is submitted or the project is being considered, to make the draft EIA reports publicly available, and to provide the opportunity to submit comments on the EIA reports and project well prior to project approval** (UNEP, *Assessing Environmental Impacts: A Global Review of Legislation* (2018) at Chapter 3 pages 50-51, 65-66)

# IFC's Obligations to Disclose & Provide Opportunity for Public Review of Environmental and Social Impact Assessments Prior IFC Financing Decisions



- **IFC Access to Info Policy (2012):**
  - **All Impacts:** Public disclosure of env. and social impact summaries & assessments 30-60 days before financing decisions; ongoing disclosure requirement; supplemental actions and mitigation measures ¶¶ 31(a)(iii-vi), 29, 34, 8
  - **GHG's:** For IFC direct investments, IFC publicly discloses expected GHG emissions of the project greater than 25,000 MT CO<sub>2</sub> equivalent over a project's lifecycle (not per year) in the Env. and Social Review Summary. IFC Access to Info Policy at ¶ 31 (a)(v).
- **PS 1: Good International Industry Practice for Env. & Social Impact Assessments**
- **E&S Policy (2012) & PS 1 (2012):** Require IFC ensure FI clients adhere to PS 1
- **IFC & Its Member States International Due Diligence Legal Obligations Pertaining to Harm Prevention, Precaution, and Human Rights:** Requires Use of Best Commonly Practiced Methods → includes opportunity for public review and assessment and mitigation



# IFC's Systematic Failures to Adhere to its GHG Info Disclosure Policies Before Project Financing

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- Failure to disclose any GHG emissions amounts
- Failure to disclose readily identifiable GHG emissions
- Failure to disclose and make publicly available full GHG impact, and Env. Social Impact Assessment Studies and Documents
- Failure to disclose supplemental GHG emissions, alternatives analysis, and avoidance/mitigation measures after initial public disclosure
  - Falsely Hiding Behind Access to Info Policy Commercial & Client Confidentiality Provisions; Deliberative Info Disclosure Exception
  - Other MDB Practices Excuse
- Failure to Require FIs to Commit to and Implement PS 1's Requirements to Disclose Projects and Env. And Social Impact Assessments

# IFC's Systematic Failures to Adhere to its GHG Info Disclosure Policies Before Project Financing



Categories			Total Select IFC Category A & B Projects IFC Approved for Financing with EIA Documents and or only ESRS Available (2012 - November 25, 2023)		
Applicable IFC Adopted Policy	General Category	<u>Prior to IFC Approval of Financing for a Project</u>	Total Projects	Applicable Projects	% Projects
IFC Performance Standards	Affected Communities	Acknowledgement / Identification that project's GHG emissions' contribute to global warming impacts on biodiversity or on ecosystem services upon which Affected Communities' livelihoods are dependent	6	340	2%
		Consultation with Affected Communities for Indirect Climate Change Impacts, and mitigation for those impacts, from Project's GHG emissions as required by PS 1 and PS 4	0	50	0%
IFC Policy on Environmental and Social Sustainability & IFC Access to Information Policy		IFC Publicly Provided the Environmental and Social Impact Assessments and Documents allowing for verification of the extent of GHG Emissions and Mitigation Analysis and Calculations for the Project	77	347	22%
		IFC Publicly Provided all of the Project's expected GHG emissions amounts when these amounts will exceed a total 25,000 tCO <sub>2</sub> -eq throughout a project's life cycle	1	347	0%
		IFC Publicly Provided a portion of the Project's expected GHG emissions amounts when these amounts will exceed a total 25,000 tCO <sub>2</sub> -eq throughout a project's life cycle	264	347	76%
		IFC Publicly disclosed the supplemental actions Performance Standard 1 requires to be implemented to mitigate the GHG emissions risks and impacts of the project, including if the project is expected to emit over 25,000 MT CO <sub>2</sub> -equivalent over its life cycle or on an annual basis	0	340	0%

## **Actions IFC Can Take to Remedy its Systematic Failures to Adhere to its Obligations to Disclose and Provide Opportunity for Public Review of GHG and Environmental & Social impacts Assessments and Mitigation Before Project Financing**

- Full Quantify and Disclose GHG Emissions, Env. and Social Impacts and Mitigation
- Disclose all Supporting Environmental and Social Impact Assessment Documents with full analysis
- Disclose supplemental Project Information & Restart the 30-60 Day Clock
- Extend the disclosure and review period
- Explicitly require and guide FIs to ensure that FI's disclose env. and social impact assessments for public comment prior to FI financing decisions + post to IFC Public Data portal
- Don't abuse and misuse confidentiality provisions - GHG emissions analysis and mitigation are not confidential



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- **Concluding Remarks:** IFC adhering to its obligations under its Board adopted policies and international law to disclose projects and their full Environmental and Social Impact Assessments and mitigation measures prior to financing approvals is critical to preventing and reducing harms from IFC financed projects.
- **Questions / Discussion**
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