

*Assessment of  
OPIC's Environmental and Social (E&S)  
Monitoring of Projects*

*February 7, 2018*



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## *EXECUTIVE SUMMARY*

This report presents the results of an assessment carried out at the request of the President and Chief Executive Officer (CEO) of the Overseas Private Investment Corporation (OPIC) in response to the U.S. Government Accountability Office (GAO) Report entitled “OPIC – Additional Actions Could Improve Monitoring Processes” (GAO 2015). The purpose of the assessment was to evaluate whether the use of client-reported data supplemented by selective site monitoring visits is acceptable for meeting OPIC program goals. It was based on a desk review conducted in February and March 2017 and in-country visits to five projects in Mexico conducted in May and June 2017 and five projects in India conducted in November 2017. The report aims to “recommend modifications and improvements to current monitoring processes that would relate various aspects of the monitoring process, including but not limited to: project selection, visit timing, visit planning, frequency and coverage as well as interfacing with clients and stakeholders.”

Before summarizing the recommendations that the OA has generated as a result of the assessment, it is important to note that OPIC, and specifically the Office of Investment Policy (OIP), has made significant improvements to its environmental and social monitoring policies and procedures in the last few years, including in response to the GAO Report. As a result, several of the OA’s recommendations have already been implemented or are in the process of being implemented. They are included as recommendations in this report because the implementation of the new policies and procedures was not reflected in the assessment of the sample projects, the loans for which were approved several years ago.

Recognizing the need to optimize OPIC’s use of resources, the OA has divided its recommendations into three tiers based on the difficulty and resource requirements of their implementation. The OA makes the following Tier 1 recommendations, which are those that could be implemented quickly and with few if any additional resources (i.e., short-term action items).

- Develop explicit criteria for determining whether a Category B project should be prioritized for a site visit. Document whether Category B projects are prioritized for a site visit in E&S clearance documents (according to OIP, this was implemented on September 28, 2017);
- Revise the “Internal Environmental Guidance – Site Monitoring” and “Environmental, Health & Safety Site Visit” report template to ensure that EHS Site Visit reports address alignment with each of the project’s applicable IFC Performance Standards (according to OIP, this has been adopted as of August 2017).

- Require the submission of site visit reports within a certain period of time after the site visits, per the recommendation in the GAO Report (according to OIP, this was adopted in September 2016).
- Revise the “Sample Monitoring Checklist” to address IFC Performance Standards 5 through 8 (according to OIP, this was adopted as of August 2017).
- Tie the annual submission of SMQs to disbursements. In other words, require a clearance certifying that the client is up to date on submission of SMQs prior to each disbursement.
- Require loan officers to explain environmental covenants to clients prior to financial closing.

The OA makes the following Tier 2 recommendations, which are those that would require more time and resources to implement (i.e., long-term action items to be implemented if and when resources become available).

- Develop project categories (similar to those used by IFC) for financial intermediary (FI) projects (i.e., FI-A, FI-B, and FI-C) based on the type of projects that the FIs intends to include within OPIC’s line of credit.
- Arrange where possible for project monitoring visits to include OIP environmental or social specialists along with OPIC investment staff. This will allow informal cross-training, which is likely to increase the quality of environmental and social information gathered by investment staff. An alternative is for OIP to provide the investment staff with a list of project-tailored E&S questions to ask during their monitoring visits.
- Develop a Site Visit Checklist that is focused on the FI’s ESMS and/or safeguards put in place by OPIC for the FI (e.g., E&S covenants). The purpose of this checklist will be to assess the extent to which the ESMS and E&S safeguards have been passed on to borrowers and their compliance monitored.
- Include a visit to a representative customer within OPIC’s line of credit for all monitoring site visits for FI loans.
- Change the timing of site visits so that they are more likely to coincide with construction activities (e.g., one year after instead of within three years of closing).
- Develop a SMQ that is specifically designed for FIs (and going beyond the scope of Part B in the current SMQ template), which considers the existence and implementation of an ESMS within the organization and its implementation on projects within OPIC’s line of credit.

- Conduct a site visit to any facility where there is a fatality, notice from a government official, significant community protest, or significant emergency event (e.g., fire) (according to OIP, this was adopted on September 28, 2017).
- Require OPIC clients to establish a Single Point of Contact (SPOC) within their respective organizations. The SPOC should either be a site-level staff member or have visibility of site components through regular internal audits. The SPOC should undersign all documented communications with OPIC and have a succession plan in place prior to leaving the company.

Finally, the OA makes the following Tier 3 recommendations, which are those that would require more time and significantly more resources to implement (i.e., aspirational action items to be implemented if and when the U.S. government commits significantly more resources and personnel to OPIC's environmental and social oversight programs).

- Require site visits for all Category B projects.
- Require annual site visits during construction activities.
- Provide training to clients in the proper completion of SMQs.

## **1.0 INTRODUCTION**

### **1.1 BACKGROUND**

This assessment was carried out at the request of OPIC’s President and CEO in response to the U.S. Government Accountability Office (GAO) Report entitled “OPIC – Additional Actions Could Improve Monitoring Processes” (GAO 2015). The purpose is to assess whether the use of client-reported data supplemented by selective site monitoring visits is acceptable for meeting OPIC program goals. It is based on a desk review conducted in February and March 2017 and in-country visits to five projects in Mexico conducted in May and June 2017 and five projects in India conducted in November 2017.<sup>1</sup>

### **1.2 INDIA CASE STUDY PROJECTS**

The Indian projects reviewed for this assessment fall into two categories: Renewable Energy Projects, and Financial Intermediaries (FIs). The projects in each of these categories are described below.

#### **1.2.1 Renewable Energy Projects**

##### **1.2.1.1 Azure Power Gujarat**

MEMC Electronic Materials, Inc. (MEMC) obtained a \$14.7 million direct loan from OPIC to develop and operate a greenfield 5 megawatt (MW) photovoltaic (PV) power generation facility in the village of Dhama, located in the District of Surendranagar in Gujarat, India. The project includes a 14 km, 66 kilovolt (kV) transmission line constructed by GETCO, the state transmission authority. The total project costs were estimated to be \$22,115,126.

The project is part of India’s National Action Plan on Climate Change, under which the Government of India planned to contract 1.3 gigawatts (GW) of solar generation within three years, of which 1.1 GW was to be grid-connected.

In November 2009, MEMC acquired SunEdison Energy India Private Ltd., which wholly owns Azure Power Gujarat Private Ltd., the entity undertaking the project. MEMC changed its name to SunEdison, Inc. in May 2013. SunEdison, Inc. was acquired by Terraform Global in 2016-2017. As a result, Terraform Global is the present owner of Azure Power Gujarat Private Ltd.

##### **1.2.1.2 Southern Energy Partners (SEP)**

Southern Energy Partners, LLC (SEP) obtained \$1.935 million in OPIC political violence and expropriation insurance for an investment in SEP Energy Pvt. Ltd. to rehabilitate and

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<sup>1</sup> This work was carried out by the Office of Accountability with the assistance of the environmental consultancy firm, Environmental Resources Management (ERM).

maintain five 300 kW wind turbines on an existing wind farm in Maharashtra, India. The project is currently operational and the electricity produced by the wind turbines is being sold to the local government owned utility, Maharashtra State Electricity Distribution Company. Total project costs were \$1.2 million.

## **1.2.2 Financial Intermediaries**

### **1.2.2.1 Janalakshmi Financial Services (JFS)**

Janalakshmi Financial Services (JFS) obtained a \$20 million loan to expand its microfinance loan portfolio in India. JFS, based in Bangalore, is a premier microfinance institution in India providing group, individual, housing, and small and medium enterprise loans targeting the urban poor. It is a private, non-banking financial company microfinance institution in operation since 2008. Its microloans average \$200 and approximately 95% of the loans go to small, women-led groups for training, service provision, and small-scale vendors. Total project costs were estimated at \$56 million. The International Finance Corporation (IFC) is also an investor in JFS.

### **1.2.2.2 YES Bank**

This project involves on-lending under the Wachovia Bank (Wells Fargo) Global Framework Agreement 3 to YES Bank Limited, an Indian commercial bank. YES Bank was established in 2004 and is focused on consumer and investment banking. Proceeds from the five-year loan were used by the bank to expand its small to medium enterprise (SME) portfolio. Wachovia (Wells Fargo) loaned \$25 million to the project, of which \$17.5 million was guaranteed by OPIC.

YES Bank has received on-lending from other development finance institutions (DFIs) as well, including the IFC and the German Investment Corporation (*Deutsche Investitions und Entwicklungsgesellschaft*, or DEG).

### **1.2.2.3 Infrastructure Development Finance Company (IDFC)**

The Infrastructure Development Finance Company Limited (IDFC) obtained an OPIC guaranty of \$250 million to facilitate and expand IDFC's lending for renewable energy and energy efficiency projects in India. IDFC, based in Mumbai, is an integrated finance player providing infrastructure financing and project implementation services. IDFC was formed in 1997 with the specific mandate to build the nation. Its businesses include corporate investment banking, alternative asset management, and public market asset management. The scope of the project involves on-lending to: projects in commercial, industrial, institutional, and residential facilities that apply technologies, processes, or practices to result in reducing the energy consumption and/or energy demand for a given service or level of activity; solar power generation projects not to exceed 50 MW and associated facilities; and wind power generation projects and associated facilities.



It should be noted that at the time of this assessment, IDFC had paid off its OPIC guaranty.

### **1.3 MEXCO CASE STUDY PROJECTS**

The Mexican projects reviewed for this assessment fall into three general categories: Renewable Energy Projects, Housing Projects and Financial Intermediaries (FIs). The projects in each of these categories are described below.

#### **1.3.1 Renewable Energy Projects**

##### **1.3.1.1 Santa Catarina**

Latin Power Trust III L.P. (Fund) obtained OPIC consent for a \$17 million investment (of which \$7.5 million is subject to OPIC guaranty) in Eólica Santa Catarina S.A. de C.V. to develop the Santa Catarina Wind Project. The project is a 20 megawatt (MW) wind farm located in the Municipality of Santa Catarina, State of Nuevo Leon, Mexico. The Fund's investment of up to \$17.2 million is accompanied by project level debt of up to \$29.6 million, for a total investment of \$46.8 million. The Fund's local developer, Next Energy de Mexico S.A. de C.V. (the Sponsor), will be providing in-kind services to the project.

#### **1.3.2 Housing Projects**

##### **1.3.2.1 GDN Inversiones II**

Alsis Mexico Opportunities Fund obtained OPIC consent to provide a \$25.5 million loan (of which \$12.75 million is subject to OPIC guaranty) to Grupo Desarrollador de Noroeste (GDN) to finance the purchase of a portfolio of 4,809 distressed properties from a Mexico commercial bank. The properties had \$173 million value and were purchased for \$51 million. No remodeling of the properties prior to reselling them was planned. Within six months of OPIC's approval, and before GDN had begun reviewing the properties for categorization or begun implementation of the acquisition process, the portfolio was purchased from Alsis by a third party, and the repayment to OPIC, including all relevant charges, was completed.

##### **1.3.2.2 Gori y Asociados**

Alsis Mexico Opportunities Fund Holdings, L.P. obtained OPIC consent for a \$3.45 million investment (of which \$1.725 million is subject to OPIC guaranty) in Grupo Constructor Gori y Asociados to construct Tercer Milenio, a low income housing project in Villahermosa, Tabasco. The project involved the construction of 2,163 units, with an average price of \$23,190. The construction includes 73 buildings with 16 apartments each, as well as 119 single family homes. The project site is 160,000 m<sup>2</sup> (39.53 acres). OPIC's investment was used to support Phase I of the project, which involved the construction of 539 units.

### **1.3.3 Financial Intermediaries**

#### **1.3.3.1 WBC Sefia**

World Business Capital (WBC) obtained OPIC consent for a \$5.15 million loan (of which \$5 million is subject to OPIC guaranty) for Sefia, a non-regulated commercial finance company, to expand lending for the purchase of agricultural equipment to small and medium enterprises in Mexico (usually in the US \$25K to US \$50K range). Established in 2005, Sefia acts as the financing arm for three affiliated companies. Sefia has offices in each branch and has a total of 56 employees.

#### **1.3.3.2 WBC Lingo**

WBC obtained OPIC consent for a \$5.15 million investment (of which \$4.875 million is subject to OPIC guaranty) for the expansion of an existing Mexican leasing company, Arrendadora y Comercializadora Lingo S.A. de C.V. (Lingo). Established in 2003, Lingo specializes in loans and leases related to transportation, production equipment, tractors, agricultural equipment, and value-added services to Mexican small and mid-size enterprises. A large portion of Lingo's clients are involved in the agribusiness (specifically dairy, meat, and poultry) sector. Lingo buys the equipment directly from the manufacturer to the client's specification, for delivery directly to the client. Lingo never takes possession of the equipment.

## **1.4 SCOPE OF WORK**

The scope of work for this assessment included the following three tasks: 1) review of documents provided by OIP, including documents on the five India and five Mexico projects; 2) site visits to the projects and management meetings with the financial intermediaries; and 3) report preparation.

### **1.4.1 Document Review**

The first task consisted of a review of OPIC's policies and procedures regarding monitoring, as well as documentation related to the ten projects. This effort included meetings with key OIP staff to understand how projects are selected for monitoring, how Self-Monitoring Questionnaires (SMQs) are used, and to hear what the OIP staff involved in the process is doing to improve both the site monitoring process and the use of the SMQ to support selection and monitoring.

The following is a list of the most relevant OPIC policies and procedures which were identified and reviewed:

- OPIC's "Environmental and Social Policy Statement" (2010, revised Jan 2017);
- OIP's "Procedures Manual" (2012);
- OIP's "Internal Environmental Guidance – Site Monitoring" (2007);

- EIAG’s “Project Monitoring Handbook” (2009);
- Site Monitoring Handbook;
- OPIC’s “Self-Monitoring Questionnaire” (several versions, the most recent of which has an expiration date of 30-Jun-2019);
- “Guidelines for Completing the Self-Monitoring Questionnaire (SMQ)”;
- OIP’s “Site Visit Summary, Environmental, Health & Safety Site Visit” report template;
- OIP’s “Environmental, Health & Safety Site Visit” report template;
- OIP’s “Sample Monitoring Checklist”;
- Labor and Human Rights Monitoring Checklist; and
- “Internal OPIC Guidance for Mapping International Bill of Rights to the Relevant Sections of the IFC Performance Standards”.

Documentation related to the projects included:

- Client reported data, including annual self-monitoring questionnaires (SMQs);
- Loan agreements;
- Environmental and social assessments;
- OIP clearance documents;
- ALRs and QLRs;
- Structured site visit trip reports by OPIC staff;
- Sample site visit and monitoring reports; and
- Monitoring and audit reports from third parties, such as specialized consultants retained by or accountable to OPIC and/or independent engineers accountable to OPIC.

#### **1.4.2 Site Visits and Management Meetings**

The second task involved conducting site visits and management meetings. The scope of work for the site visits included tours of the project sites, interviews with project personnel in charge of managing E&S issues, and interviews with affected people and other stakeholders. The objective of the site visits was to assess whether there were any E&S non-compliances and/or risks that were not identified in OPIC’s screening and monitoring of the projects. When possible for financial intermediaries the OA also visited a portfolio company that was a recipient of OPIC’s credit line.

The site visits and management meetings were attended by environmental and social specialists from the consultant firm, ERM, who accompanied OPIC’s OA Director.

#### **1.4.3 Report Preparation**

The third task was the preparation of this report. The report is designed to “recommend modifications and improvements to current monitoring processes that would relate various aspects of the monitoring process, including but not limited to: project selection, visit timing, visit planning, frequency and coverage as well as interfacing with clients and stakeholders.”

## **1.5 REPORT CONTENTS**

Chapter 2 of this report is an overview of the policies, procedures, and documentation utilized by the OIP during the various stages of OPIC's investment cycle, with a focus on monitoring. Chapter 3 presents the results of the Indian and Mexican project reviews for the renewable energy projects. The discussion of each Project includes subsections on project screening, review, and clearance (i.e., pre-closing) documents, monitoring documents, and the results of the site visits. Chapter 4 presents the results of the Mexican project reviews for housing projects. The discussion of each Project summarizes the review process and documentation based on information submitted, as well as insights from discussions with management. Chapter 5 presents the results of the Mexican and Indian reviews of the financial intermediaries projects. Chapter 6 presents information on the E&S Monitoring Policies at other Development Finance Institutions and Chapter 7 presents OA's conclusions and recommendations.

## **2.0 REVIEW OF OPIC POLICIES AND PROCEDURES**

According to the “Procedures Manual” (2012) of OPIC’s Office of Investment Policy’s Environmental and Social/Labor and Human Rights Groups (Procedures Manual), the investment cycle is divided into the following four technical procedures: 1) screening and categorization; 2) project review; 3) summary of clearance process; and 4) disbursement and monitoring. Brief descriptions of the first three technical procedures and disbursement are presented in Sections 2.1 through Section 2.4. A more detailed discussion of monitoring is provided in Section 2.5.

### **2.1 SCREENING AND CATEGORIZATION**

According to the Procedures Manual, “environmental and social” and “labor and human rights” analysts (Analysts) screen potential projects against OPIC’s Categorical Prohibitions, which are listed in Appendix B of OPIC’s Environmental and Social Policy Statement (ESPS) (2010). The Analysts give the project a provisional categorization based on the definitions provided in Section 2.6 of the ESPS, as well as the Illustrative List of Category A Projects, which is presented as Appendix A of the ESPS.

The Analysts begin three types of review: 1) environmental and social risks and impacts; 2) labor rights; and 3) human rights. The Analysts also conduct a greenhouse gas (GHG) emissions calculation.

### **2.2 PROJECT REVIEW**

According to the Procedures Manual, the documents required for review depend on project categorization. The following is a list of the documents considered (if available) during review, per category:

- Environmental and social impact assessments – Category A and B projects;
- Baseline audits – Category A and B existing facilities;
- Other audits, analysis, and monitoring or compliance results – Category A and B projects;
- GHG emission reports – Category A, B, and C projects;
- Documented community consultation activities and outcomes – Category A, B, and C projects;
- Documentation related to management systems (including human resources management) – Environmental and Social Management System (ESMS) for Category A and B projects, and Policy Statement and Grievance Mechanism for Category C projects; and
- National regulatory requirements – Category A, B, and C projects.

Based on the review of project documents, the Analysts determine the applicable standards for the project. This includes determining which of the World Bank Group Environmental, Health, and Safety (EHS) Guidelines and International Finance Corporation (IFC)

Performance Standards on Environmental and Social Sustainability (2012) apply. Site visits are conducted for all Category A projects and some Category B and Special Consideration projects. The project review technical procedure concludes with public consultation and disclosure. For Category A projects, the Analysts post ESIA's or baseline audits on OPIC's website at least 60 days before financial closing. The Analysts also prepare an Initial Project Summary for posting on the website. For non-Category A and board reviewed projects, the Analysts provide a detailed project summary for posting on the website.

### 2.3 CLEARANCE PROCESS

According to the Procedures Manual and procedures in force at the time that the projects assessed herein were cleared, Analysts prepare three clearance documents. The environmental clearance should include the following sections:

- Project description;
- Screening (including categorization);
- Scope of review;
- Applicable standards (i.e., WBG EHS Guidelines and IFC Performance Standards);
- Key E&S issues and mitigation (including recommendations for covenants and an Action Plan); and
- Public project summary.

The worker rights clearance should include the following sections:

- Project description;
- Scope of review;
- Recommendations (for covenants and an Action Plan); and
- Public project summary.

Finally, the human rights clearance should include the following sections:

- Date of clearance;
- OPIC/State Department consultation (i.e., a description of how the project was cleared); and
- Public project summary.

The clearance process ends with the transmittal of clearance and the finalization of contract provisions.

It should be noted that this process has been updated in the last few years. For example, there are now two clearances covering environmental and social assessments, rather than the three described above.

## 2.4 *DISBURSEMENT*

According to the Procedures Manual, Analysts review project requirements and documents and prepare a Corrective Action or Remediation Plan to address any non-compliances prior to a disbursement.

## 2.5 *MONITORING*

The OA was provided with several documents that address OPIC's monitoring program. Each of these is briefly described in Section 2.5.1 through Section 2.5.4, focusing on those aspects most relevant to the present assessment. In addition, the OA was provided with forms and templates utilized by OPIC for monitoring. Among these are the Self-Monitoring Questionnaire (SMQ) and trip report templates. SMQs and trip reports were central to the findings and recommendations in the GAO Report. As a result, the OA conducted an assessment of both documents, which are described in Section 2.5.5 and Section 2.5.6, respectively. Finally, Section 2.5.7 describes OPIC's monitoring program and procedures.

### 2.5.1 *Environmental and Social Policy Statement*

According to OPIC's Environmental and Social Policy Statement (2010, revised in January 2017), "endeavors to conduct at least one site visit to all Category A and Special Consideration projects within three years of execution of the OPIC Agreement" (Section 7.3). Filling out an annual Self-Monitoring Questionnaire is required for all projects regardless of category (Section 7.6). Annual E&S reports are required for Category A and some Category B projects (Section 7.7). These reports should cover the following topics:

- Results of environmental monitoring and sampling;
- Compliance with conditions and covenants;
- Project related accidents impacting the environment or project affected people, or resulting in disability or loss of life;
- Summary of EHS training;
- EHS deficiencies identified by local regulators or complaints received by project affected people;
- Community engagement activities; and
- Complaints and grievances.

Annual labor reports are required for all Special Consideration projects (Section 7.8). These reports should cover the following topics:

- 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; and
- Summary of complaints or grievances received from project affected people, including workers or stakeholders, and actions taken in response to complaints or grievances.

Finally, third party audits are required for all Category A and Special Consideration projects within three years of the project beginning operations (Section 7.10).

It should be noted that none of the India or Mexico projects that were reviewed as part of this assessment were Category A or Special Consideration projects.

### *2.5.2 Internal Environmental Guidance – Site Monitoring*

According to OIP’s “Internal Environmental Guidance – Site Monitoring” (2007), projects are selected for site visits based on E&S risk ratings assessed at the time of clearance. The risk rating is based on project sensitivity, host country regulatory capacity, investor experience in implementing projects of similar complexity, and project-level environmental and social management systems. The guidance document includes a document entitled “Factors for Risk Rating System” as an attachment.

This document includes a scoring system for rating a project’s risk according to the following factors:

- Factor 1 – Recent monitoring;
- Factor 2 – Project sensitivity;
- Factor 3 – Host country regulatory capacity;
- Factor 4 – Investor capacity; and
- Factor 5 – Management systems.

The guidance document indicates that OPIC “will endeavor to monitor” all projects with a high E&S risk rating within the first three years of the execution of the loan agreement. Projects are also selected for monitoring in a given year on a random basis, chosen in cooperation with other groups within OIP who monitor against non-social/environmental criteria.

According to the guidance document, staff should review a project’s environmental and social clearance, contract conditions, deliverables (e.g., environmental and social monitoring reports, SMQs), and the Sample Monitoring Checklist attached to the guidance document before conducting a site visit. During the site visit, staff should monitor the project against the contract conditions and monitoring checklist. Site visits should address the issues in the monitoring checklist, including:

- Air emissions;
- Water supply;
- Liquid effluents;



- Hazardous materials;
- On-site fuel storage;
- Solid waste disposal;
- Soil and erosion control measures;
- Noise;
- Health and safety;
- Pollution prevention and abatement; and
- Community impacts.

Staff should discuss opportunities for energy efficiency during each site visit. They should conduct interviews with members of affected communities if the project includes resettlement. Interviews with non-governmental organizations (NGOs) and/or government officials are strongly recommended for Category A projects.

The guidance document identifies two types of non-compliances that can be identified during site visits. A “material” non-compliance is one that “may pose an immediate adverse risk to the environment, human health or safety or which has already resulted in adverse impact on the environment, human health or safety (both in terms of community and employees).” Material non-compliances should be immediately reported to the Vice President of OIP. Other (i.e., non-material) non-compliances should be immediately reported to the Project Manager and discussed in trip reports.

Trip reports are prepared by staff after returning from a site visit. According to the guidance document, two trip reports should be prepared for each site visit. The first is a one-page “Site Visit Summary” report, and the second is a comprehensive “Environmental, Health & Safety Site Visit” report. According to the guidance document, the latter report should include the following sections: project description; observations; compliance assessment; follow up actions; and update to risk rating. The guidance document includes templates for both of these reports as attachments.

Trip reports were available for the Financial Intermediaries reviewed as part of this assessment. In addition, a site visit report was provided for the solar project under Azure Power Global Limited.

### ***2.5.3 Project Monitoring Handbook***

The Project Monitoring Handbook (March 2009) is specific to the Economic Impact Analysis Group (EIAG). The first section of the handbook addresses self-monitoring. It states that “[e]ach active OPIC project is required to complete a SMQ annually.” SMQs are due by June 30 for the previous fiscal year’s activities, provided there are at least six months of activity in the previous fiscal year. A list of projects that require SMQs is generated and the SMQ requests sent out to clients between January and March of each year. EIAG staff track down delinquents in July and August. On or around September 1, a list of delinquents is generated and submitted to the

OIP Vice President. The line departments thereafter take over the process of tracking down delinquents, which occurs between September and December.

The second major section of the handbook deals with site monitoring. It states that the OIP site monitoring program is managed by the Monitoring Steering Committee (MSC) with oversight and input from the OIP Vice President and the OIP Directors. An officer is tasked with managing the site monitoring process for the EIAG. The EIAG officer is responsible for “generating the random sample, providing the project lists, and shepherding the process with the MSC that ultimately results in the project list for each fiscal year.” The EIAG officer is also responsible for “completing the end of monitoring round analyses, policy report inputs, reviews of trip reports, drafting of trip report summaries, and other functions as needed and required.”

#### **2.5.4 Site Monitoring Guidance**

The OIP document, “Site Monitoring Guidance” indicates that the following three groups conduct monitoring: 1) Economic Impact Analysis; 2) Environment; and 3) Labor and Human Rights. According to the document, the purpose of monitoring is to ensure a project is:

- Not having a negative impact on the U.S. economy;
- Creating positive host country development impact;
- Adhering to sound environmental and worker rights standards;
- Respecting human rights; and
- Complying with OPIC’s conditions and covenants.

Due diligence is required for some Category A and Special Consideration projects. Site visits should include:

- A briefing with the U.S. embassy;
- A management meeting to confirm information in the Project Information Report (PIR)/SMQ;
- A tour of project facilities;
- Wrap-up meetings; and
- A visit to sub-borrowers.

#### **2.5.5 Self-Monitoring Questionnaire**

One of the key findings of the GAO Report centers on the adequacy of the SMQ for OPIC obtaining sufficient environmental and social information from their clients. As a result, the OA conducted a review of the environmental and social sections of the most recent SMQ template, which lists an expiration date of June 30, 2019. The template includes two questionnaires, one for non-financial intermediary (non-FI) projects (Part A) and one for financial intermediary (FI) projects (Part B). OPIC’s ESPS “adopts, as a standard for the environmental and social review process, the International Finance Corporation’s... Performance Standards on Social

and Environmental Sustainability... and any subsequent revisions to those standards” (ESPS, page 3). It is therefore standard practice for OPIC clearance documents and/or loan agreements to indicate which of the eight performance standards are triggered for a project (see Chapter 3). As a result, the OA assessed the environmental and social sections of the SMQ against the IFC Performance Standards. The results of the assessment are presented in Table 2-1. The table lists all of the requirements for each Performance Standard. Sub-requirements are only listed when there is relevant data (e.g., PS 2). The table indicates which if any sections of the Part A and Part B templates address the requirements and sub-requirements. As can be seen from the table, the SMQ addresses about half of the PS 1 requirements, most of the PS 2 requirements, some of the PS 3 and PS 4 requirements, and none of the PS 5 through PS 8 requirements.

**Table 2-1: Assessment of the IFC Performance Standard Coverage of OPIC’s SMQ**

Performance Standard/Section/Subsection	Part A	Part B	Notes
PS 1: Assessment and Management of Environmental and Social Risks and Impacts	Section 10	Section 8	
Environmental and Social Assessment and Management System	Section 9C	Section 7C	
Policy			
Identification of Risks and Impacts			
Management Programs			
Organizational Capacity and Competency	Section 6D	Section 4D	Only relates to labor
Emergency Preparedness and Response			
Monitoring and Review	Section 10C	Section 8C	
Stakeholder Engagement	Section 9B	Section 7B	Question on social investment
External Communications and Grievance Mechanisms			
Ongoing Reporting to Affected Communities			
<b>PS 2: Labor and Working Conditions</b>			
Working Conditions and Management of Worker Relationship	Sections 3-7	Sections 3-5	
Human Resources Policies and Procedures	Section 6A	Section 4A	
Working Conditions and Terms of Employment	Section 6C		
Workers' Organizations	Section 7F-I	Section 5F-G	
Non-Discrimination and Equal Opportunity	Section 7A-B	Section 5A	Only gender and nationality
Retrenchment	Section 7D	Section 5C	
Grievance Mechanism	Section 6B	Section 4B	
Protecting the Workforce			
Child Labor	Section 7C	Section 5B	
Forced Labor			
Occupational Health and Safety	Section 10	Section 8	
Workers Engaged by Third Parties	Section 3B	Section 3B	
Supply Chain			
<b>PS 3: Resource Efficiency and Pollution Prevention</b>			
Resource Efficiency			
Pollution Prevention			

Performance Standard/Section/Subsection	Part A	Part B	Notes
PS 4: Community, Health, Safety, and Security			
Community Health and Safety			
Security Personnel	Section 7I		
PS 5: Land Acquisition and Involuntary			
General			
Displacement			
Private Sector Responsibilities Under			
PS 6: Biodiversity Conservation and Sustainable			
General			
Protection and Conservation of Biodiversity			
Management of Ecosystem Services			
Sustainable Management of Living Natural			
Supply Chain			
PS 7: Indigenous Peoples			
General			
Circumstances Requiring Free, Prior, and			
Mitigation and Development Benefits			
Private Sector Responsibilities Under			
PS 8: Cultural Heritage			
Protection of Cultural Heritage in Project Design			
Project's Use of Cultural Heritage			

### **2.5.6 Trip Report Templates**

Two of the key findings of the GAO Report deal with site visits and site visit reporting. As a result, the OA reviewed OPIC's policies and procedures regarding trip reports. According to the OIP's "Internal Environmental Guidance – Site Monitoring," projects are monitored against contract conditions and a monitoring checklist during site visits. The "Sample Monitoring Checklist," provided as an attachment, is much more comprehensive in regards to environmental and social risks than the SMQs, but still only covers the requirements of IFC Performance Standards 1 through 4. The guidance document includes as attachments templates for the "Site Visit Summary" report and the "Environmental, Health & Safety Site Visit" report. The templates include the main headings to be included in each report, as well as some guidance for what information should be included under these headings. The headings for the Site Visit Summary report are: 1) OPIC Project Description; and 2) Site Visit Conclusions. The headings for the EHS Site Visit report are: 1) OPIC Project Description; 2) Observations; 3) Compliance with Contract (Consent) Conditions; 4) Other Issues; 5) Follow-up Actions; 6) Reports Reviewed; and 7) List of Contacts. The templates do not specify that the reports should describe the project's alignment with applicable IFC Performance Standards, although this should fall under "Compliance with Contract (Consent) Conditions."

### **2.5.7 Monitoring Visits by OIP staff**

OPIC staff is divided into four groups: Environment, Social Assessment, Economic Impact and Development Outcomes. The Economic Impact Group attempts to visit every project at least once. OIP as a group begins to develop the list of projects to be monitored in October of each year, after an active project list is generated. A random sample of countries is then pulled from this list. The group sends a request to the Environment and Social Assessment groups requesting a list of projects to visit based on risk, since the Economic Impact Group doesn't have a risk rating. The Economic Impact Group then checks the list against projected scores during clearance. They then merge the random sample and risky project lists together. Some site visits are conducted by a single group, some are conducted by the Environment and Social Assessment groups, and some are conducted by all three groups together. The Economic Impact Group is supposed to wait three to five years to conduct a site visit, but there is some opportunism involved (e.g., projects may be visited soon if staff are conducting a site visit for a nearby project).

The Social Assessment Group selects projects for a site visit based on country sensitivities and project-level risks at the time of clearance, taking into account changes in the risk profiles of the country or sector or reporting of a specific issue having occurred at the project (e.g., a labor strike or significant protest). Special Consideration and sensitive projects are

always reviewed during the monitoring selection process to determine suitability for monitoring in that year.

For the Environment Group, site visits are carried out on all Category A projects and higher risk Category B projects. There are no specific criteria, however, for determining which Category B projects are higher risk and should therefore be selected for a site visit.

The Development Outcomes Group is separate from but works with the Economic Impact Group. The list of active projects, which at the time was between 400 and 500 projects, used to be maintained in an Excel spreadsheet, but has recently been moved to an application called "Insight."

There is a Monitoring Working Group, which includes staff outside of OIP. This group used to meet quarterly, but now meets monthly or bimonthly. A document describing the procedures of the Monitoring Working Group is currently under development. A third party consultant has been contracted to revise OPIC's SMQ frequently asked questions (FAQ) page and handbook. They are also tasked with highlighting areas of the SMQ that need to be updated or revised, and developing a 30 minute WebEx to provide guidance for clients in filling out their SMQs. In addition, they are currently assessing if SMQ data can be verified by site visits, as well as what percentage of responses are valid and which questions tend to provide valid answers.

OIP has also developed a list of "Red Flags during Project Operations." It includes issues related to working conditions, community issues and complaints and contaminated or hazardous sites. If an OPIC loan officer or client notices these "red flags" they are asked to notify OIP.

### 3.0 RENEWABLE ENERGY PROJECT REVIEWS

#### 3.1 AZURE POWER GUJARAT

##### 3.1.1 Project Screening, Review, and Clearance

The OA was provided with and reviewed the following clearance documents:

- Sectoral, Performance Requirements, and Developmental-Impact Analyses Memorandum (30-Mar-11, with a 9-Nov-11 addendum);
- Environmental Assessment Memorandum (14-Feb-11, amended on 1-Sep-11);
- Worker Rights Clearance Memorandum (14-Feb-11); and
- Human Rights Clearance Memorandum (14-Jan-11).

The “Screening” section of the amended Environmental Assessment memo indicates that Azure Power Gujarat<sup>2</sup> (Azure) is a Category B project “because impacts are site specific and readily mitigated.” The section identifies the following key E&S issues associated with PV projects:

- Land use;
- Disturbance of sensitive ecological species through habitat alteration;
- Visual impacts; and
- Disposal of panels at the end of their use life.

The “Applicable Standards” section of the memo lists the World Bank General EHS Guidelines (2007) and IFC Performance Standards (PS) 1 through 4 and 6 as the project’s applicable standards.

The “Key Environmental and Social Issues and Mitigation” section of the memo lists and discusses the following project-specific key E&S issues and their associated mitigation measures:

- Social and environmental assessment and management systems (PS 1);
- Occupational health and safety (PS 2);
- Air emissions (PS 3);
- Water and wastewater (PS 3);
- Solid and hazardous substances (PS 3);
- Natural disasters (PS 3);
- Disposal of units (PS 3);

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<sup>2</sup> As mentioned in Section 1.2.1.1, the project changed ownership in 2016-2017 to another independent power producer (IPP), TerraForm Global. TerraForm is currently the developer, while Avi Solar is the operations and maintenance (O&M) contractor.

- Community health and security (PS 4); and
- Biodiversity conservation and sustainable natural resource management (PS 6).

The discussion of each of these topics is limited and does not cover all of the subtopics/requirements within the applicable Performance Standards. So while the memo indicates that the applicable standards includes PS 1 through PS 4 and PS 6, this section of the memo gives the impression that only certain requirements within these Performance Standards are applicable.

The “Conclusions and Conditions” section describes the E&S conditions for financing. These include the following:

- Compliance with national and local EHS laws and regulations and the applicable standards;
- Submission prior to first disbursement of a Grievance Mechanism, E&S organizational chart, plan for the disposal of on-site solid wastes, plan for the disposal of on-site sanitary wastes, and schedule for implementation of on-site worker housing;
- Development and implementation of an Environmental and Social Management Plan (ESMP) for OPIC’s review and approval;
- Submission of monthly reports until the completion of construction on the development and implementation of a Social and Environmental Management System (SEMS), documentation that the project has in place adequate resources to implement the SEMS, updated action plans indicating completion of milestones, and progress in providing adequate worker housing;
- Notification of any material change to the project; and
- Notification within 24 hours of any accident that results in loss of life, or that could adversely impact the environment, and submission of a report on the accident within 30 days.

The Worker Rights Clearance memo requires the project to align with IFC Performance Standard 2 (Labor and Working Conditions). The memo provides a brief project description, followed by a list of the following labor-related contract conditions:

- Alignment with PS 2;
- Prohibition of actions to prevent workers from exercising their rights of association or to organize and bargain collectively;
- Prohibition of employing children for any work under the age of 14 and for hazardous activities under the age of 18;
- Prohibition of employees working more than 48 hours of work per week, and guarantee of a 24 hour rest period;
- Payment of all overtime worked; and
- Right of workers to remove themselves from hazardous situations.



The memo also includes a detailed discussion of country laws and conditions. It does not include, however, an assessment of the borrower's labor policies or performance, or the project's labor plans and procedures. It does not assess the project's alignment with, or capacity to align with, PS 2. As a result, it does not include an Action Plan other than identifying the applicable standards.

The Human Rights Clearance memo states that the "project received a Human Rights Clearance on January 14, 2011." No additional information is provided. There is no section on OPIC/State Department consultation, including a description of how the project was cleared, as required in the Procedures Manual.

The Finance Agreement, which is dated September 12, 2011, includes E&S Conditions Precedent to first disbursement (Section 4.19) and E&S (Section 6.11) and labor (Section 6.12) affirmative covenants. The CP require submission of "its letter to U.S. Shareholders and SunEdison, LLC, dated August 23, 2011, concerning certain environmental and social issues" and an ESMP. Section 6.11 (Environmental, Health and Safety Compliance) requires:

- Compliance with national and local environmental, health, and safety (EHS) laws and regulations, the applicable standards (as defined in the amended Environmental Assessment memo), and the OPIC Environmental Handbook (2004), as well as maintenance of all required Consents relating to air emissions, discharges to surface water or ground water, noise emissions, solid or liquid waste disposal, hazardous substances or wastes, and other EHS matters;
- Notification within 24 hours of any accident that results in loss of life, or that could adversely impact the environment, and submission of a report on the accident within 30 days; and
- Implementation of the ESMP; and
- Submission of any reports or other documentation required in the ESMP.

The Finance Agreement therefore includes most of the E&S conditions recommended in the amended Environmental Assessment memo, the discrepancies most likely being conditions met in the time between the two documents. Section 6.12 (Worker Rights) requires the six conditions recommended in the Worker Rights Clearance memo, as well as:

- Compliance with labor laws and regulations, including requirements related to child labor, minimum wages, hours of work, and occupational health and safety (OHS);
- No forced labor;
- Communication to workers of their conditions and terms of employment;
- Subcontractor compliance with these requirements; and
- Notification of any non-compliances.

The OA was provided with a copy of the project's ESMP, entitled "Social and Environmental Management Plan (SEMP) Update for 20MW Solar Power Plant Site Located in Dhama

Village, Surendranagar District, Gujarat.” The ESMP was prepared by a third party consultant (ERM) in September 2011. The ESMP is in table format, and appears to be more of an Action Plan than a management plan. The ESMP lists “action items” under the following headings: Social and Environmental Management System (including grievance mechanism); occupational health and safety (including first aid kits and fire extinguishers, emergency response and preparedness, and shelter, water, and sanitation for workers); pollution prevention and abatement (including drainage, water purification, sanitary wastewater, hazardous wastes, hazardous materials, and solid wastes); and community health, safety and security (including local employment, development needs of local communities, informing communities of construction activities and avoiding sensitive areas, community outreach, and recycling of solar modules).

Finally, the OA was provided with a copy of the Engineering, Procurement, and Construction (EPC) contract for the project, which is entitled “Amended and Restatement Turnkey EPC Agreement for Photovoltaic Electric Plant of 5MW at Dhama Village, Gujarat, India” and dated September 19, 2011. Section 5.5 of the contract contains the following E&S covenants:

- Compliance with the ESMP;
- Notification of any materials changes to the project;
- Submission of any reports or other documentation required in the ESMP; and
- Notification within 24 hours of any accident that results in loss of life, or that could adversely impact the environment, and submission of a report on the accident within 30 days.

### **3.1.2 Monitoring**

The OA was provided with a Self-Monitoring Questionnaire (SMQ) dated June 30, 2015. While the Procedures Manual requires annual SMQs, the SMQ is dated several years after the Finance Agreement. The SMQ includes general project information, as well as responses to limited environmental and labor questions. The responses are mostly yes or no, with limited descriptive information and no additional documentation.

The OA was also provided with a Quarterly Loan Review (QLR) for the third quarter of 2016. It is unclear whether additional QLRs were submitted by the project and not provided to ERM for review. The QLR does not include any E&S information on the project.

Finally, the OA was provided with a Trip Report by OIP’s Economic Group dated June 3, 2016 based on a site visit conducted to two projects, including Azure Power Gujarat, on November 16, 2015. The report focuses on development and economic impact and includes limited ESHSL information. There is reference to a regulatory requirement to undertake corporate social responsibility that has been flagged to the Economic Impact Group on the scoring of similar projects. However, the final recommendation is for no further action.

### 3.1.3 Site Visit

The OA and ERM visited the Azure site at Dhama village in Surendranagar District, Gujarat on November 7, 2017. The site has the following three solar plants with a combined capacity of 19.5 MW:

- 5 MW capacity plant owned by Terraform Global;
- 5 MW capacity plant owned by ESP Urja/TerraForm Global; and
- 9.5 MW capacity plant owned by Millennium/TerraForm Global.

(The project has now changed ownership and is being run by TerraForm.)

The purpose of the visit was to understand OPIC's monitoring mechanisms for the project and the implementation status of its Environment and Social Management Plan (ESMP), as well as compliance with key permits and regulations.

The following staff members from Azure/TerraForm were present for the site assessment:

- Anandhi Gokhale, Asset Manager, TerraForm Global;
- Prabhakaran, Project Manager;
- Jigar Gohil, Site Manager (Engineering); and
- Pravin Ladava, Regional Engineer.

The site visit included a walkthrough of the solar farm to determine current practices with respect to emergency response, waste storage and disposal, use of personal protective equipment (PPE) by workers, unsafe conditions, provision of sanitary facilities, and sustainable use of resources. It also included discussions with workers to assess occupational health and safety (including accidents/incidents), labor rights, employee benefits, community perception towards the project, human resources policies, and grievance mechanisms.

Key findings with respect to E&S issues and observations are listed below.

- The OA has not been able to ascertain if E&S covenants relevant to the operations phase of the project (e.g., regulatory compliance, workforce protection, and ESMP implementation) have been reflected in the agreement with Avi Solar.
- With respect to the implementation of the ESMP (dated September 2011), the project proponent was required to prepare four site-specific plans linked to assurance audits, emergency management, community outreach, and a grievance redressal framework. These plans were developed by a third party in November 2011. During the site visit, however, they were not found to be implemented. The onsite team (especially the O&M contractor) was not aware of these documents. (Following the site visit the plans were located by the TerraForm asset manager and forwarded to the OA. The Status Update prepared by the company claims that TerraForm is in general compliance regarding the

ESMS specifically occupational health and safety, pollution prevention and abatement and labor and working conditions). The site visit found, however, that although they were in general alignment with health and safety requirements, they were not aligned with other requirements, including pollution prevention and abatement requirements (e.g., recycling of solar panels).

- A continuing issue concerns the need for recycling solar modules at the end of their life. Broken solar panels have been discarded in a pile for 7-8 years without a proper disposal plan. The company is considering making a “problem-solving” submission to the OA on this issue.)
- The project did not have a factory license, nor was there any monitoring of labor and working conditions of the workers engaged at the site.
- Hazardous chemicals and waste were being stored on open ground without any secondary containment.

Key observations with respect to the OPIC monitoring process for the project are the following:

- The change in ownership of the asset and potential implications on transfer of E&S covenants has not been captured by OPIC’s trip report (which reports on a site visit that predates the change) or any other monitoring documentation.
- Limited information was available on whether there was any guidance provided to Azure’s current owners on the type of information, level of details, and linkage to the ESMP implementation indicators during completion of the SMQ.
- The status of ESMP implementation and contract conditions relevant for the operations phase has not been reflected in the supporting documentation of the SMQ.
- Key/material issues specific to solar energy projects (e.g., water, employment generation, status of permits linked to factory license, and/or groundwater abstraction) have not been captured by the SMQ.

### **3.2 SOUTHERN ENERGY PARTNERS (SEP)**

#### **3.2.1 Project Screening, Review, and Clearance**

The OA was provided with and reviewed the following clearance documents:

- Sectoral, Performance Requirements and Developmental-Impact Analyses Memorandum (18-May-10, with a 4-Jun-12 addendum);
- Environmental Assessment Memorandum (11-May-10);
- Worker Rights Clearance Memorandum (25-May-10); and
- Human Rights Clearance Memorandum (24-May-10).

The “Environmental Issues” section of the Environmental Assessment memo indicates that SEP is a Category B project because “environmental impacts are limited, site-specific and

readily mitigated.” The “Standards and Regulatory Framework” section of the memo lists the World Bank Group General EHS Guidelines and EHS Guidelines for Wind Energy (2007) as the project’s applicable standards. The memo predates OPIC’s ESPS, so no applicable IFC Performance Standards are indicated.

The “Project Impacts” section briefly discusses the project’s potential impacts to vegetation, local communities (via noise), and biodiversity, including migratory birds. It also briefly discusses physical or economic displacement of indigenous people (none), and greenhouse gas emissions (no direct emissions). The discussion of each of these topics is limited and does not cover all of the subtopics/requirements within the World Bank Group EHS Guidelines.

The “Conclusions and Recommendations” section describes the E&S conditions for financing. These include the following:

- Alignment with the World Bank Group General EHS Guidelines and EHS Guidelines for Wind Energy and compliance with national and local EHS laws and regulations;
- Notification of any material changes to the project; and
- Notification within 24 hours of any accident that results in loss of life, or that could adversely impact the environment, including the death of over three bats or birds, and submission of a report on the accident within 30 days.

The Worker Rights Clearance memo provides a brief project description followed by a list of the following six labor-related contract conditions:

- Prohibition of actions to prevent workers from exercising their rights of association or to organize and bargain collectively;
- Prohibition of employing children for any work under the age of 14 and for hazardous activities under the age of 18;
- Prohibition of employees working more than 48 hours of work per week, and guarantee of a 24 hour rest period;
- Payment of all overtime worked;
- Right of workers to remove themselves from hazardous situations; and
- Compliance by all contractors and subcontractors with these conditions.

The memo also includes a detailed discussion of country laws and conditions. It does not include, however, an assessment of the borrower’s labor policies or performance, or the project’s labor plans and procedures.

The Human Rights Clearance memo states that the “project received a Human Rights Clearance on May 24, 2010.” No additional information is provided. There is no section on OPIC/State Department consultation, including a description of how the project was cleared, as required in the Procedures Manual.

The OA was provided with Contracts of Insurance dated June 18, 2007 (Action Memorandum), September 28, 2010 (Master Contract), and September 25, 2012 (Action Memorandum). Section 16 (Environmental Compliance) of the 2010 Master Contract requires the three E&S conditions recommended in the Environmental Assessment memo, and Section 11 (Worker Rights) requires the six labor conditions recommended in the Worker Rights Clearance memo. The 2012 Action Memorandum updates the language but does not change the substance of the first E&S condition in the Master Contract (applicable standards).

### **3.2.2 Monitoring**

The OA was provided with an SMQ dated July 14, 2015, which is almost five years after the 2010 Master Contract. The SMQ includes general project information, as well as responses to limited environmental and labor questions. The responses are mostly yes or no, with little descriptive information and no supporting documents.

### **3.2.3 Site Visit**

OPIC's OA Director, together with an ERM representative made a visit to three SEP sites in the Satara District of Maharashtra, India on November 3, 2017. Each of the sites consisted of three to five 300 kW wind turbines that were purchased from a previous owner and then refurbished by SEP. A visit to the SEP corporate office in Ahmedabad, India was also undertaken on November 6, 2017 to discuss the findings from the site visit with senior management staff.

The site visit included a walkthrough of the wind farms to determine current practices with respect to chemical storage, waste disposal, use of personal protective equipment (PPEs) by workers, unsafe conditions, provision of sanitary facilities, and sustainable use of resources. It also included a discussion with workers to assess occupational health and safety (including accidents/incidents), labor rights, employee benefits, community perception towards project, human resources policies, and grievance mechanisms. The site visit also included a drive through neighboring areas to identify affected communities and assess the potential for community health and safety concerns.

Key findings with respect to E&S issues and observations are listed below.

- In 2014-2015, a fatality occurred when a worker fell off the ladder of a wind turbine in the Chalkawadi Wind Farm. The accident was assessed to be a suicide and due compensation was reportedly provided to the family of the worker.
- Limited information on land and labor compliance was made available, as the sites were part of larger wind energy farms.
- Hazardous chemicals and wastes were being stored on open ground without any secondary containment.
- Incineration of oil contaminated waste (classified as hazardous) and general waste was being undertaken at the site.

- Several underground pipelines had been unearthed due to a heavy monsoon and were creating trip hazards around the site.
- SEP did not undertake any monitoring linked to bird and bat carcasses to comply with their requirement to notify OPIC as per agreed contract conditions.

Key observations with respect to the OPIC monitoring process for the project are listed below.

- Contract conditions specified during the project screening and review phase include “[notification to] OPIC immediately, and in no event later than 24 hours after the insured should have become aware of any accident that results in the loss of life.” The fatality that occurred on site, however, was not reported to OPIC or even in the SMQ dated July 2015.
- The SMQ did not capture environmental impacts associated with onsite activities and practices, including: the use, storage and disposal of hazardous chemicals/goods; and the storage of hazardous chemicals and incineration of waste.
- OPIC’s environmental assessment did not capture cumulative impacts from the project, as was apparent during the site visit in Chalkewadi, where there were over 3,000 wind energy turbines within an immediate vicinity of 5-7 km.
- OPIC’s environmental assessment requires the project proponent to notify in the “event of mortality of over 3 bats of birds.” There is limited justification on the specific number indicated in the notification requirement (i.e., 3) vis-à-vis any ecological sensitivities around the site.

The first two observations also represent a regulatory non-compliance with the Hazardous and Other Wastes Rules of 2016.

The aforementioned findings and previously filed monitoring reports were discussed with the senior management of SEP, including Chief Executive Officer (CEO) Gary Sigel. SEP was keen to provide feedback on the monitoring process and suggested more guidance be provided for questions asked in the SMQs, and that questions be catered to the renewable energy industry.

### 3.3 SANTA CATARINA

#### 3.3.1 *Project Screening, Review, and Clearance*

The OA was provided with and reviewed the following clearance documents:

- Sectoral, Performance Requirements, and Developmental-Impact Analyses Memorandum (28-Oct-10, with a 10-Aug-11 addendum);
- Environmental Assessment Memorandum (29-Mar-11);
- Worker Rights Clearance Memorandum (29-Mar-11); and
- Human Rights Clearance Memorandum (25-Oct-10).

The “Screening” section of the Environmental Assessment memo indicates that Santa Catarina is a Category B project “because impacts are site specific and readily mitigated.” The

“Environmental Issues” section identifies the following “major concerns related to wind energy conversion systems”:

- Sensitive bird habitat or migratory flyways;
- Disturbance of sensitive ecosystems;
- Erosion and sediment control;
- Ambient noise; and
- Visual impacts.

The “Standards” section of the memo lists the World Bank General EHS Guidelines (2007) and EHS Guidelines for Wind Energy (2007) as the project’s applicable standards. The memo states that the consent request (2-Jul-10) predates OPIC’s ESPS (October 2010). As a result, it does not list any of the IFC Performance Standards as applicable.

The “Project Implications” section of the memo lists and discusses the following project-specific key E&S issues and their associated mitigation measures:

- Impacts to flora and fauna;
- Bird, bat, and butterfly impacts;
- Air and noise emissions;
- Solid and sanitary waste disposal;
- Occupational health and safety; and
- Community engagement.

The “Conclusions and Recommendations” section describes the E&S conditions for financing. These include compliance with national and local E&S laws and regulations, alignment with the applicable standards, and compliance with the mitigation measures in the project’s Environmental Impact Assessment (MIA for its Spanish acronym). The conditions also include submission of a number of plans for OPIC review and approval. The following is a list of these plans, with information in parentheses on whether or not ERM was provided with the plans or equivalents for review:

- Vehicle Preventive and Corrective Maintenance Plan (provided for review);
- Waste Management Plan (Solid and Hazardous Waste Management Plan provided for review);
- Flora and Fauna Rescue Plan (Special Interest Flora Rescue Plan, and Wildlife Species Protection Program provided for review);
- Environmental Monitoring Plan (not provided for review, although an Environmental and Social Action Plan was provided for review);
- Reforestation Plan (Special Interest Flora Rescue Plan, and Wildlife Species Protection Program provided for review);
- Occupational Health and Safety Plan (provided for review);
- Grievance Mechanism (provided for review); and



- Bird, Bat, and Butterfly Mortality Plan (provided for review).

The Worker Rights Clearance memo requires the project to align with IFC Performance Standard (PS) 2 (Labor and Working Conditions). The memo provides a brief project description, a list of six labor-related contract conditions, and a detailed discussion of country laws and conditions. It does not include, however, an assessment of the borrower's labor policies or performance, or the project's labor plans and procedures. It does not assess the project's alignment with, or capacity to align with, PS 2. As a result, it does not include an Action Plan other than identifying the applicable standards.

The Human Rights Clearance memo states that the "project received a Human Rights Clearance on October 25, 2010." No additional information is provided.

Although not provided to the OA for review, it should be noted that an E&S Review was conducted by a third party (Environ) in August 2010 (i.e., pre-closing), according to the First Construction Monitoring Report (2013). The OA was provided with an E&S Action Plan (ESAP) for the project, which was presumably developed as part of the 2010 E&S Review. The ESAP provided to the OA, however, was an August 6, 2012 update rather than the original. It is unclear based on this version of the document when and by whom the ESAP was originally developed. The updated ESAP addresses the following issues/impacts:

- Creation and delimitation of the exclusion zone;
- Nursery;
- Public communication;
- General (H&S policy);
- Electrical hazards;
- Worker training (two items);
- Monitoring and documentation; and
- Reporting.

The OA was not provided with a copy of the loan agreement. A copy of the Consent Notice, however, which is dated May 31, 2011 indicates that the Amended and Restated Finance Agreement is dated March 1, 2010. The Consent Notice lists as "Environmental Conditions" all of the conditions recommended in the Environmental Assessment memo.

### **3.3.2 Monitoring**

The OA was provided with two E&S monitoring reports for review. Both were prepared by a third party consultant (Environ). The first, entitled "First Construction Monitoring Report," is dated February 2013. The report indicates that the site visit occurred on November 29, 2012, during construction. The second report, entitled "Second Annual Monitoring Report," is dated January 2014. The report indicates that the site visit occurred on December 18, 2013, at which time construction was complete and operations had commenced. The reports provide a detailed

assessment of the project's compliance with national and local E&S laws and regulations, as well as the project's alignment with the applicable standards (i.e., World Bank Group EHS Guidelines). The first report includes the following three recommendations for improving project performance and alignment with the applicable standards:

- Fill in the gap in the berm around a hazardous materials storage area;
- Implement the Bird and Bat Mortality Monitoring Plan during operations; and
- Conduct noise monitoring during operations.

The second report includes the following five recommendations:

- Improve the bird, bat, and butterfly mortality monitoring to comply with the requirements in the ESMP;
- Conduct monthly rather than quarterly ESMP/HASP compliance audits;
- Create a site drainage plan and install drainage channels;
- Meet with administrators of the Cumbres de Monterrey National Park at least once a year to exchange information; and
- Install a lock on the hazardous materials storage shed.

The reports do not include an update of, and in fact do not even mention, the project's ESAP. The reports would have been improved if they had included an assessment of the project's compliance with the ESAP.

The OA was provided with a SMQ dated June 24, 2014. The SMQ includes general project information, as well as responses to limited environmental and labor questions. The responses are mostly yes or no, with very little descriptive information and no supporting documentation.

The OA was also provided with two Environmental Compliance Inspection Monthly Audits and two Health and Safety Compliance Inspection Monthly audits. All four documents are dated December 2012. It is unclear whether these represent the only audits performed or were just provided as examples. The audits consist of long checklists that cover numerous topics. There is little descriptive information in the responses, however, and no supporting documentation.

A Trip Report for a site visit conducted on November 29, 2012 corresponds with the first third party consultant site visit (see above). The report includes very little E&S information and no recommendations. It does list two follow up items, however, which are to: 1) review Environ's report and keep abreast of bird fatality monitoring; and 2) ensure the field recommendation for noise monitoring is incorporated into the ESAP.

### **3.3.3 Site visit**

On May 15 and 16, 2017, ERM, on behalf of the OA, conducted a site visit to better understand, through interviews with key Project staff and field observations, how monitoring activities for the Project have been conducted. Seven interviews were conducted during the site visit, distributed as follows:

- Interviews with environmental consultants (2);
- Interview with the Project Director (1), project staff in charge of permits (1), and a General Electric (GE) technician (1);
- Interview with the manager of El Jonuco residential club (1); and
- Interview with an owner of lands surrounding the site (1).

During the site visit, it was confirmed that the sponsor team was very willing to receive external input and open to share information, which was seen as an indication of commitment towards international best practice. It was also confirmed that since December 2013, Environ has not conducted additional follow-up reviews on the project's alignment with applicable standards. The Sponsor has continued to document corresponding evidence, but there has not been external, independent review to review the documentation on behalf of OPIC. The sponsor team is unaware of why these independent reviews have stopped or if there are any plans to reinstate them.

They confirmed that the project, due to its location and size, is of low environmental and social impact. No impact was identified that had not been previously identified in the past. The Project is properly managing their environmental impacts by having hired an experienced local environmental consultant.

## 4.0 HOUSING PROJECT REVIEWS

### 4.1 GDN INVERSIONES II

#### 4.1.1 Project Screening, Review, and Clearance

The OA was provided with and reviewed the following clearance documents:

- Sectoral, Performance Requirements, and Developmental-Impact Analyses Memorandum (3-Dec-14);
- Environmental Assessment Memorandum (26-Aug-14, amended on 5-Dec-14);
- Worker Rights Clearance Memorandum (29-Nov-14); and
- Human Rights Clearance Memorandum (30-Jul-14).

The “Screening” section of the Environmental Assessment memo indicates that GDN Inversiones II is a Category B project “because impacts are site-specific and readily mitigated.” The “Applicable Standards” section lists the World Bank General EHS Guidelines (2007) and IFC Performance Standards 1 through 5 as the project’s applicable standards.

The “Key Environmental and Social Issues and Mitigation” section of the memo lists and discusses the following project-specific key E&S issues and their associated mitigation measures:

- Policy Statement (PS 1);
- Grievance Mechanism (PS 1);
- Organizational capacity and competency (PS 1);
- Labor and working conditions (PS 2);
- Resource efficiency and pollution prevention (PS 3);
- Community health, safety, and security (PS 4); and
- Land acquisition and involuntary resettlement (PS 5).

The discussion of each of these topics is limited and does not cover all of the subtopics/requirements within the applicable Performance Standards. So while the memo indicates that the applicable standards includes PS 1 through PS 5, this section of the memo gives the impression that only certain requirements within these Performance Standards are applicable.

The “Consent Conditions” section describes the E&S conditions for financing. These include the following:

- Compliance with the national and local laws and regulations and the applicable standards;
- All resettlement conducted in accordance with PS 5;
- Semiannual reporting on resettlement and notification and reporting of any forced eviction or any displacement of individuals without legal rights to their home; and

- Notification within 24 hours of any accident that results in loss of life, or that could adversely impact the environment, and submission of a report on the accident within 30 days.

The Worker Rights Clearance memo requires the project to align with PS 2. The memo provides a brief project description, a list of two labor-related contract conditions, and a detailed discussion of country laws and conditions. It does not include, however, an assessment of the borrower's labor policies or performance, or the project's labor plans and procedures. It does not assess the project's alignment with, or capacity to align with, PS 2. As a result, it does not include an Action Plan other than compliance with the applicable standards.

The Human Rights Clearance memo states that "OPIC issued a human rights clearance for this Project on July 30, 2014." No additional information is provided.

The OA was provided with a copy of the Finance Agreement, which is dated July 25, 2011. The agreement does not include any E&S covenants or conditions, however, a Consent Notice, dated December 10, 2014, includes the conditions recommended in the Environmental Assessment and Worker Rights Clearance memoranda.

#### **4.1.2 Monitoring**

The OA was not provided with any annual monitoring reports, audits, SMQs, or Trip Reports for the GDN Inversiones II project. As a result, it is assumed that no E&S monitoring occurred for the project.

#### **4.1.3 Site Visit**

The OA consultant firm, ERM, completed interviews with the Alsis team regarding the GDN Inversiones II loan. The portfolio was bought out by a third party, and the investment from OPIC was repaid in its totality in 2014. ERM discussed the organizational framework the original loan was based on, as well as the contracting and monitoring processed agreed to as part of the investment.

The Alsis team indicated that GDN would serve as the loan "servicer" who would be implementing the process of acquisition, including any necessary legal processes, and completing all necessary evictions or resettlements associated with the portfolio. Consultoría Integral de Informática S.A. de C.V CiiSA is an independent third party monitor who works with Alsis managing all administrative activities, including human resources and finances. They do not interact with loans or credits in any way. Once the portfolio was bought from Alsis, GDN would become the "servicer" for the new owners, and neither Alsis nor CiiSA would be further involved.

During the negotiation process between Alsis and OPIC, there were numerous conversations regarding the requirement to comply with the IFC Performance Standards, including discussions with GDN about their policies and procedures regarding forced eviction or resettlement of

squatters. ERM has reviewed e-mail that addressed these topics. According to the e-mails, it was agreed that Alsis would provide monitoring reports providing details on the properties in the process of being acquired, as well as any relevant information regarding evictions and resettlement. It was also agreed that Alsis would support GDN in developing appropriate policies and procedures for evictions and resettlement, which would be provided to OPIC for approval prior to implementation, all within the first year of the loan.

Regarding disclosure and monitoring, Alsis was to provide OPIC with detailed information of any credits they were going to provide that would be guaranteed by OPIC, explaining the potential compliance issues with the IFC Performance Standards. Alsis reported that since the turn-around time regarding OPIC approval was extended, they developed formats that would allow their credit recipients to fill all information that would be required to prove compliance with the IFC Performance Standards, and ensure that all requirements were fulfilled and reviewed by Alsis, prior to presenting the information to OPIC and requesting approval for the credit.

Alsis completed one SMQ, which at the time was not an online portal but a PDF form. To this they attached an internal memo which covered all relevant compliance materials. They received positive comments on their SMQ submittal. Alsis stated that they feel that the SMQ was unclear, which led to questions and clarifications from OPIC, which in turn slows the process down. They stated that they would have appreciated more clarity regarding what information was needed and what format would have been most acceptable in order to make the process more efficient.

## **4.2 GORI Y ASOCIADOS**

### **4.2.1 Project Screening, Review, and Clearance**

The OA was provided with and reviewed the following clearance documents:

- Sectoral, Developmental-Impact Analyses Memorandum (7-Oct-11);
- Environmental Clearance Memorandum (3-Nov-11);
- Worker Rights Clearance Memorandum (28-Oct-11); and
- Human Rights Clearance Memorandum (21-Sep-11).

The “Screening” section of the Environmental Clearance memo indicates that Gori y Asociados is a Category B project “because impacts and site-specific and readily mitigated.” The section identifies the following key E&S issues:

- Siting;
- Land acquisition;
- Solid waste and wastewater treatment;
- OHS.

The “Applicable Standards” section of the memo lists the World Bank General EHS Guidelines (2007) and IFC Performance Standards 1 through 4 as the project’s applicable standards.

The “Key Environmental and Social Issues and Mitigation” section of the memo lists and discusses the following project-specific key E&S issues and their associated mitigation measures:

- Social and Environmental Assessment and Management Systems (PS 1);
- Occupational health and safety (PS 2);
- Potable water and wastewater disposal (PS 3);
- Solid waste (PS 3);
- Air emissions and greenhouse gases (PS 3);
- Hazardous materials (PS 3);
- Water and energy efficiency (PS 3); and
- Life and fire safety (PS 4).

The discussion of each of these topics is limited and does not cover all of the subtopics/requirements within the applicable Performance Standards. So while the memo indicates that the applicable standards includes PS 1 through PS 4, this section of the memo gives the impression that only certain requirements within these Performance Standards are applicable.

The “Contract Conditions” section describes the E&S conditions for financing. These include the following:

- Compliance with the national and local laws and regulations and the applicable standards;
- Submission of an organizational chart and a detailed Grievance Mechanism;
- Submission of a Life and Fire Safety Master Plan for all multistory units; and
- Notification within 24 hours of any accident that results in loss of life, or that could adversely impact the environment, and submission of a report on the accident within 30 days.

The Worker Rights Clearance memo requires the project to align with PS 2. The memo provides a brief project description, a list of seven labor-related contract conditions, and a detailed discussion of country laws and conditions. It does not include, however, an assessment of the borrower’s labor policies or performance, or the project’s labor plans and procedures. It does not assess the project’s alignment with, or capacity to align with, PS 2. As a result, it does not include an Action Plan other than compliance with the applicable standards.

The Human Rights Clearance memo states that the “projects received Human Rights Clearances on September 21, 2011.” No additional information is provided.

The OA was provided with a copy of the Finance Agreement, which is dated July 25, 2011. The agreement does not include any E&S covenants or conditions, however, a Consent Notice, dated

November 9, 2011, includes the conditions recommended in the Environmental Assessment and Worker Rights Clearance memoranda.

#### **4.2.2 Monitoring**

The OA was provided with a SMQ dated June 4, 2014. The SMQ includes general project information, as well as responses to limited environmental and labor questions. The responses are mostly “yes or no”, with very little descriptive information and no supporting documentation.

The OA was also provided with a trip report for a site visit conducted in June, 2013. The report includes a list of bullets on the Gori y Asociados project, as well as two other projects in Mexico. The bullet list appears to be notes taken during the site visit, and includes project information as well as limited information on the project’s E&S performance. The report does not include an assessment of the project’s compliance with national and local E&S laws and regulations or alignment with the applicable standards, and does not include any recommendations, and interviews confirmed that no environmental questions were asked nor information requested. A PowerPoint presentation from the site visit, however, includes one E&S recommendation. The recommendation is for the project to augment fire control measures.

#### **4.2.3 Site Visit**

The OA conducted a visit to the location of the project housing development, which is located in the outskirts of the city of Villahermosa, Tabasco, within a known floodplain. Interviews with locals indicated that the land had previously been a greenfield site that had been used as public land, generally for livestock grazing.

During the self-guided tour of the site, we saw the differences in the quality of the houses that had been sold 7 years prior, 5 years prior, and as part of the investment. The homes that had been sold 7 years prior showed significant wear and tear, as well as evidence of mold and water damage, and access to several streets were notably limited due to stagnant water. Interviews with individuals in the area indicate that this is at least in part due to an amassing of domestic waste (trash disposal), which the local government had not picked up due to national policies restricting municipal budgets several months running. Reportedly, the trash blocked the drains, which in turn prevented appropriate water run-off. The same individual also reported high incidents of dengue and malaria, although they did mention this was “the same as all of Tabasco.” Interviews with members of the sales staff indicated that they considered the standards to be appropriate (one had bought their own house there), and that there was a “post-sale” manager who coordinated with the municipality for trash pick-up. The sales team was unaware as to why the post-sale manager had not managed to address the trash pickup.

A construction manager for Gori mentioned that the site in question had been one of the best low-income housing developments in the state and “would be again” once the municipal budget resumed, and Gori could do the maintenance it had planned. Based on information provided by



the office staff, Alsis fills in the SMQ in English based on information provided by the finance team in Spanish. It was also clarified that Gori had officially taken out loans with Alsis in 2011, but found cheaper rates in 2015 and thus changed their financing.

Notable feedback received from Gori includes:

- The need for the documents to be available in the local language, and for clarity regarding expectations (e.g., the meaning and definition of terms, such as public consultation, in the OPIC context);
- A name or number to contact for assistance in filling out the SMQ; and
- Training on how the SMQ works and its purpose, and perhaps an example of a fully filled out SMQ as reference.

## 5.0 FINANCIAL INTERMEDIARY PROJECT REVIEWS

### 5.1 JANALAKSHMI FINANCIAL SERVICES (JFS)

#### 5.1.1 Project Screening, Review, and Clearance

The OA was provided with and reviewed the following clearance documents:

- Sectoral, Performance Requirements, and Developmental-Impact Analyses Memorandum (1-May-14);
- Environmental Clearance Memorandum (9-Jun-14, amended on the same day);
- Worker Rights Clearance Memorandum (7-May-14); and
- Human Rights Clearance Memorandum (15-Apr-14).

The “Screening” section of the amended Environmental Assessment memo indicates that JFS is a Category C project because “[e]nvironmental, health, safety and social impact concerns are minimal.” The “Applicable Standards” section lists the IFC Performance Standards 1 and 2 as the project’s applicable standards.

The “Key Environmental and Social Issues and Mitigation” section of the memo lists and discusses the following project-specific key E&S issues and their associated mitigation measures:

- Environmental and Social Management System (PS 1);
- Grievance Mechanism (PS 1); and
- Labor and working conditions (PS 2).

The discussion of each of these topics is limited and does not cover all of the subtopics/requirements within the applicable Performance Standards. While the memo indicates that the applicable standards includes PS 1 and PS 2, this section of the memo gives the impression that only certain requirements within these Performance Standards are applicable.

The “Contract Conditions” section describes the E&S conditions for financing. These include the following:

- Compliance with national and local EHS laws and regulations;
- Prohibition of providing loans to any entity engaged in a categorically prohibited activity as defined in the Master Prohibited Activities List (14-Mar-14) and Appendix A of OPIC’s ESPS; and
- Submission of an ESMS within three months of disbursement.

The Worker Rights Clearance memo requires the project to align with PS 2. After a brief project description, the memo presents a brief assessment of the project’s labor management system, including human resource policies and grievance mechanisms, which existed at the

time, and E&S policy, which was still under development. The memo also includes a list of the following labor-related contract conditions:

- Alignment with PS 2;
- Prohibition of actions to prevent workers from exercising their rights of association or to organize and bargain collectively;
- Prohibition of employing children for any work under the age of 15 and for hazardous activities under the age of 18; and
- Prohibition of providing loans to micro-borrowers that violate applicable labor laws and regulations, including right of association, organization, and collective bargaining, forced labor, child labor, wages, hours of work, and OHS.

In addition, the memo includes a detailed discussion of country laws and conditions. While the memo does assess the borrower's labor policies, it does not assess the project's full alignment with, or capacity to align with, PS 2. As a result, it does not include an Action Plan other than identifying the applicable standards.

The Human Rights Clearance memo states that "OPIC issued a human rights clearance for this Project on April 15, 2014." No additional information is provided.

The OA was provided with a copy of the Loan Agreement, which is dated January 8, 2015. The agreement includes E&S Conditions Precedent (CP) to first disbursement (Section 4.19) and E&S (Section 6.11) and labor (Section 6.12) affirmative covenants. The CP require submission of an ESMS. Section 6.11 (Environmental, Health and Safety Compliance) requires:

- Compliance with national and local EHS laws and regulations, the applicable standards (as defined in the amended Environmental Assessment memo), and the OPIC Environmental Handbook (2004), as well as maintenance of all required Consents relating to air emissions, discharges to surface water or ground water, noise emissions, solid or liquid waste disposal, hazardous substances or wastes, and other EHS matters;
- Notification within 24 hours of any accident that results in loss of life, or that could adversely impact the environment, and submission of a report on the accident within 30 days; and
- Compliance by all contractors and subcontractors with the E&S covenants;
- Submission of an ESMS; and
- Prohibition of providing loans to any entity engaged in a categorically prohibited activity as defined in the Master Prohibited Activities List (14-Mar-14) and Appendix A of OPIC's ESPS.

These covenants cover all of the E&S conditions recommended in the amended Environmental Clearance memo. Section 6.12 (Worker Rights) requires the six conditions recommended in the Worker Rights Clearance memo, as well as:

- Compliance with labor laws and regulations, including requirements related to child labor, minimum wages, hours of work, and occupational health and safety (OHS);
- Prohibition of forced labor;
- Communication to workers of their conditions and terms of employment;
- Non-discrimination on the basis of gender, race, religion, nationality, political opinion, or social or ethnic origin;
- Compliance by all contractors and subcontractors with the labor covenants; and
- Notification of any non-compliances.

### **5.1.2 Monitoring**

The OA was provided with a SMQ dated November 2, 2016. The SMQ includes general project information, as well as responses to limited environmental and labor questions. The responses are mostly yes or no, with little descriptive information and no supporting documents.

While no E&S monitoring site visit took place, it is ERM's opinion that this is appropriate for a Category C project.

### **5.1.3 Management Meeting and Customer Visit**

The Director of the OA visited the corporate office of JFS on November 9, 2017. The agenda included a brief explanation on the structure of OPIC, its objectives, the purpose of the visit, and the intended outcomes of the discussions.

The following staff members from JFS were present at the meeting:

- Jayasheel Bhansali, Chief Financial Officer;
- Alexander John, Chief Credit Officer;
- Roy Varghese, Credit Head, Retail Assets;
- Debdoot Banerjee, Product Head, Retail Assets; and
- Sindhu Nair, Policy Manager, Enterprise Loans.

#### **5.1.3.1 Environment and Social Risk Management**

After enquiring about the implementation of the company's ESMS, the OA was provided with a PowerPoint presentation that discusses the ESMS process. This was limited to assessing ESMS compliance among clients, however, and there was no discussion on how the company complies with its own ESMS. ERM was therefore not able to fully assess the company's compliance with the loan agreement's Section 6.11 affirmative covenant, which requires the submission of an ESMS.

A flow chart for implementing the ESMS was also provided by JFS. It depicts an ESMS Adherence Process Flow with the following elements:

- Enterprise Financial Services (EFS) – ESMS Process Adherence Checklist; and
- Retail Finance Service (RFS) & Public Finance – Process Adherence Checklist.

JFC maintained that it is quite robust in its ESMS compliance due to financing from the IFC. The IFC, which has a good understanding of the microfinance sector, provides procedures for financial closure purposes and routinely carries out monitoring and assessments for compliance.

### ***5.1.3.2 Project Categorization based on Environmental Risks***

JFS provides loans to individuals, enterprises, and public finance for urban infrastructure development and services. Eighty percent of the loans are microfinance for individuals and MSEs and are therefore Category C. JFS does lend to the construction sector, including construction material and equipment suppliers and labor contractors. Agriculture finance is largely limited to the dairy sector and some small farm loans. There are minimal environmental impacts from these clients and these sectors are also Category C. This was supported by JFS's response to a question on whether their clients require Environmental Clearances under the EIA Notification (2006) or Consents to Establish and Operate by the Karnataka Pollution Control Board. JFS responded that the only clients that may require these are those that receive public finance for urban infrastructure development and service. Until recently, however, the only such financing provided was to some educational institutions.

### ***5.1.3.3 Screening in the Lending Process***

In 10 % of its cases (i.e., large ticket cases), JFS goes for credit risk assessment, and under this an ESMS compliance check is carried out. Most lending, however, is focused on retailers with some check on any past E&S violations. Under RFS, small batch (SB) ticket size is \$900, Nano loans have a ticket size of \$2,200, and the public finance ticket size is greater than \$4.50 lakhs.

The OA was provided with a copy of a Nano application form (i.e., customer information sheet). The form includes the following clauses:

- The customer undertakes to abide by the environmental laws of the country, and the credit requested by me/us in this application, if sanctioned, will not be used for any purposes/activities directly or indirectly barred/prohibited by environmental laws; and
- The customer shall not use the loan proceeds in a project or investment that uses child labor as defined by the Child Labour (Prohibition and Regulation) Act of 1968 and all its amendments.

The OA also reviewed a loan sanction letter, which includes the clauses listed below.

- The Borrower/Co-Borrower irrevocably undertakes that the financial assistance obtained from bank/company will not be used to carry out any activity prohibited under the environmental laws of the country. In case any of the activities carried out by the borrower/co-borrower is barred under environmental law, either through an amendment or legislation, borrower/co-borrower undertake to notify the company immediately and stop the activity forthwith.
- We undertake to comply with the provisions of the Child Labour (Prohibition and Regulation) Act of 1986 and all its subsequent amendments.

As mentioned above, the E&S Conditions Precedent (CP) to first disbursement (Section 4.19) and the E&S (Section 6.11) and labor (Section 6.12) affirmative covenants in the loan agreement require implementation of an ESMS by JFS. However, there are no provisions to ensure that JFS customers abide by these requirements. The OA was also unable to determine if JFS clients are monitored for compliance with the E&S and labor requirements in the loan agreement.

#### **5.1.4 Monitoring**

The OA requested feedback from JFS on the type of information included in and the structure of the SMQ, in view of their activities as a financial intermediary. JFS indicated that the information requested was at a project level and not at an organizational or portfolio level. In addition, the specific credit line is distributed across 5 million retail and industrial borrowers and the limitation and/or constraints associated with monitoring of these borrowers needs to be better reflected in the monitoring requirements. JFS also suggested that OPIC's site visits focus on the impacts of micro finance and should not be limited to a discussion of financial figures.

#### **5.1.5 Customer Visit**

The Director of the OA and an ERM representative accompanied JFS to visit the premises of a representative borrower, Sri Lakshmi Metal Works, located on Magadi Road in Bengaluru. The borrower melts recycled copper at another unit, and uses this for the manufacture of objects, including vessels and plates, that are mostly used in religious ceremonies. Based on an interview with the site manager and an inspection of the premises, the following observations were made:

- Working hours at the premises exceeded the stipulated limited and there was no information on compensation for overtime work at a premium rate.
- Nearly all the male workers were migratory daily wage earners from North India. They were not eligible for health insurance.

- No personal protective equipment (PPE) was provided to anyone using machinery and equipment including lathes, millers, and welding blow torches. Nearly all workers were barefoot.
- The owner and management were not aware of the type of environmental permits required for the copper melting unit and the documentation that was required to be maintained.

These observations indicate that JFS's customer oversight and monitoring procedures do not capture compliance with Section 6.12 of JFS's loan agreement, including:

- Compliance with labor laws and regulations, including requirements related to child labor, minimum wages, hours of work, and occupational health and safety (OHS); and
- Communication to workers of their terms of employment.

In addition, it is likely that several clauses in Section 6.11 of the loan agreement are not being complied with and monitored.

## 5.2 YES BANK

### 5.2.1 *Project Screening, Review, and Clearance*

The OA was provided with and reviewed the following clearance documents:

- Sectoral (U.S. Effects), Performance Requirements and Developmental-Impact Analyses Memorandum (25-Jun-10, with a 14-Oct-10 addendum);
- Environmental Assessment Memorandum (5-May-10, with another dated 6-Mar-15 for a new loan);
- Worker Rights Clearance Memorandum (24-May-10); and
- Human Rights Clearance Memorandum (24-May-10).

The "Environmental Issues" section of the 2010 Environmental Assessment memo indicates that YES Bank is a Category C project. The section states that the project has "no material environmental impacts" and therefore "no further environmental assessment is warranted." The memo does not list any applicable standards or identify any key E&S issues and mitigation measures.

It does include, however, the following E&S conditions:

- The project will not use OPIC proceeds for loans to projects that involve a Categorically Prohibited Activity (provided as Appendix A, which is very similar to Appendix B of OPIC's ESPS); and
- The project will not use OPIC proceeds for loans to projects that involve an activity likely to have significant adverse impacts on the environment or health and safety (including items listed in Appendix B, which is very similar to Appendix A of OPIC's ESMS).

The “Screening” section of the 2015 Environmental Assessment memo indicates that the new loan to YES Bank is a Category C project because “[e]nvironmental, health, safety and social impact concerns are minimal.” The “Applicable Standards” section of the memo indicates that the IFC Performance Standards 1 and 2 will apply to the new loan. The “Key Environmental and Social Issues and Mitigation” section of the memo lists and discusses the following project-specific key E&S issues and their associated mitigation measures:

- E&S policy (PS 1);
- Grievance mechanism (PS 1); and
- Labor and working conditions (PS 2).

The discussion of each of these topics is limited and does not cover all of the subtopics/requirements within the applicable Performance Standards. So while the memo indicates that the applicable standards includes PS 1 and PS 2, this section of the memo gives the impression that only certain requirements within these Performance Standards are applicable. The 2015 memo, however, is a significant improvement over the 2010 memo.

The “Contract Conditions” of the 2015 Environmental Assessment memo lists the following E&S conditions:

- Compliance with national E&S laws and regulations and the applicable standards; and
- The project will not use OPIC proceeds for loans to projects that involve a Categorically Prohibited Activity (provided as Appendix A, which is an expanded version of the list in the 2010 memo) or projects that involve an activity likely to have significant adverse impacts on the environment or health and safety (including items listed Appendix A of OPIC’s ESMS).

The Worker Rights Clearance memo provides a brief project description, followed by a list of the following labor-related contract conditions:

- Prohibition of actions to prevent workers from exercising their rights of association or to organize and bargain collectively;
- Prohibition of providing loans to borrowers that employ children under the age of 15 or utilize workers under the age of 18 for hazardous activities; and
- Prohibition of providing loans to borrowers that violate applicable labor laws and regulations, including right of association, organization, and collective bargaining, forced labor, child labor, wages, hours of work, and OHS.

The memo also includes a detailed discussion of country laws and conditions. It does not include, however, an assessment of the borrower’s labor policies or performance, or the project’s labor plans and procedures.

The Human Rights Clearance memo states that the “project received Human Rights Clearance on May 24, 2010.” No additional information is provided.



The OA was provided with a copy of the Loan Agreement, which is dated November 15, 2010. Section 11 (OPIC Covenants) includes all of the E&S conditions recommended in the 2010 Environmental Assessment memo and the labor conditions recommended in the Worker Rights Clearancememo.

### **5.2.2 Monitoring**

The OA was provided with a SMQ dated July 2, 2015 (with an expiration date of April 30, 2018). Although the Procedures Manual requires annual SMQs, the SMQ is dated almost five years after the Loan Agreement. It is possible, however, that the project submitted prior SMQs that were not provided to the OA for review. The SMQ includes general project information, as well as responses to limited environmental and labor questions. The responses are mostly yes or no, with little descriptive information and no supporting documents.

The OA was also provided with a Trip Report from the Environmental Group for a site visit conducted on October 15, 2015. The report includes notes on the project's E&S policy, training, corporate social responsibility, E&S process, grievance mechanism, and OHS. It also includes notes on visits to two sub-borrowers, Black Rose (chemical manufacturing and distribution, textiles, and wind mills) and Tennex (manufacture of rubber balls and sports equipment). The report notes that the project is "apparently compliant" with both of the E&S contract conditions. No follow-up actions or recommendations are provided. It is ERM's opinion that the Trip Report is adequate for a Category C project.

The OA was provided with another Trip Report from the Economics Group dated June 13, 2016 based on a site visit conducted on January 28, 2015. The report focuses on development impact and includes limited ESHSL information. As a result, it is unclear whether an E&S and/or L&HR Analyst participated in the site visit. Based on the fact that there was an E&S monitoring site visit later in the year, it probably did not.

### **5.2.3 Management Meeting**

The Director of the OA visited the corporate office of YES Bank on November 1, 2017. The agenda included a brief explanation on the structure of OPIC, its objectives, the purpose of the present visit, and the intended outcomes of the discussions. The following staff from YES Bank participated in the meeting:

- Mitesh Sanghvi, Relationship Manager;
- Bhadresh Nath, Head of the SME Portfolio (overseeing 500 relationship managers); and
- Srinath Komarani, President for Responsible Banking

### **5.2.4 Environment and Social Risk Management**

YES Bank has an overarching ESMS that operates on the following two levels: 1) assessment of E&S risks for their lending activities as a part of the credit risk management process under

the Environment and Social Policy (ESP) team; and 2) an internal sustainability policy which is implemented by the Responsible Banking team. There is limited reference in the assessment documentation reviewed at the time of project screening to assess the adequacy of the existing ESMS to manage E&S risks associated with the industries to be prioritized for SME lending. The SMQ did not contain information on the credit risk assessment process and was limited to the generic internal sustainability initiatives of YES Bank.

#### **5.2.5 Screening of Risks within the Portfolio**

YES Bank indicated that statutory compliance and the inherent risk of the sector itself are considered at the time of the screening of borrowers. A particular emphasis is made on ensuring that there are no industries within the exclusion list.

- Some of the SME sectors, such as chemicals, textiles, and even metals recycling generate environment impacts and have hazards with respect to working conditions. Limited information was made available on how these risks (and mitigation) are considered by YES Bank's team, especially its interface with the ESP team. YES Bank indicated that relationship managers visit all borrowers once a quarter, however no specific representative from the ESP team visits the facilities.
- YES Bank indicated that traders and manufacturers represent a majority of the borrowers. Based on ERM's understanding of the SME sector, some of the typical labor and human rights risks include engagement of child labor, lack of social security benefits due to the activity being unorganized and outside of the purview of regulations, and hazardous working conditions. The existence of these risks and consideration of how YES Bank has mitigated them are not addressed by the SMQ.

YES Bank also indicated that the Responsible Banking team is presently implementing an energy efficiency initiative for the SME portfolio and around 2,269 SMEs have been trained on energy and environmental management aspects. It appears that this project has been ongoing for 2-3 years. It is not mentioned, however, in the SMQ.

#### **5.2.6 Feedback on the SMQ**

YES Bank informed the OA Director that the Relationship Manager had filled out the SMQ based on inputs provided by the Human Resources and ESP Team. YES Bank provided the following feedback on the SMQ:

- The structure of the SMQ and the information requirements have not been tailored to the activities of a financial intermediary as well as the diversity of their portfolio;
- While the SMQ has a generic section on environment and social benefits, OPIC has never required YES Bank to provide information or supporting documentation on capacity building activities that are being undertaken for the SME portfolio; and

- There is limited guidance provided regarding the information requested in the SMQ and whether correct and accurate information has been provided.

### 5.3 *INFRASTRUCTURE DEVELOPMENT FINANCE COMPANY (IDFC)*

#### 5.3.1 *Project Screening, Review, and Clearance*

The OA was provided with and reviewed the following clearance documents:

- Sectoral (U.S. Effects), Performance Requirements and Developmental-Impact Analysis Memorandum (15-Feb-12);
- Environmental Clearance Memorandum (6-Feb-12); and
- Worker Rights Clearance Memorandum (10-Feb-12).

The “Screening” section of the Environmental Clearance memo indicates that IDFC is a Category B project because “impacts are site-specific and readily mitigated.” The section identifies the key E&S issue as the need for a robust ESMS. The “Applicable Standards” section of the memo lists the World Bank General EHS Guidelines, EHS Guidelines for Electrical Power Transmission and Distribution (2007), and EHS Guidelines for Toll Roads (2007), as well as the IFC Performance Standards 1 through 8 and national and local EHS laws and regulations, as the project’s applicable standards.

The “Key Environmental and Social Issues and Mitigation” section of the memo lists and discusses the following project-specific key E&S issues and their associated mitigation measures:

- E&S Review (PS 1);
- Organizational capacity (PS 1);
- Monitoring and reporting (PS 1);
- Grievance Mechanism (PS 1);
- Occupational health and safety (PS 2);
- PS 3 and PS 4;
- PS 5; and
- PS 6, PS 7, and PS 8.

The discussion of each of these topics is limited and does not cover all of the subtopics/requirements within the applicable Performance Standards. So while the memo indicates that the applicable standards includes PS 1 through PS 8, this section of the memo gives the impression that only certain requirements within these Performance Standards are applicable.

The “Contract Conditions” section describes the E&S conditions for financing. These include the following:

- Definition of the project (i.e., types of projects eligible for on-lending);

- Applicable standards (listed above);
- Prohibited activities (projects that involve conversion or degradation of critical forest habitats or forest-related critical natural habitats and projects that require resettlement of 5,000 or more persons);
- Activities that require OPIC approval (projects that involve: development of a wind energy generation project, solar energy generation project exceeding 50 MW, or a contaminated site; impacts to international recognized protect areas; impacts to wetlands, areas of archaeological significance, areas prone to erosion and/or desertification, areas of importance to ethnic groups/indigenous peoples, primary temperate/boreal forests, coral reefs, mangrove swamps, or nationally-designated seashore areas; involuntary resettlement or economic displacement; impacts to indigenous peoples; or a major hazard to human health or safety);
- Greenhouse gas emissions (prohibition of projects that exceed 100,000 tons of CO2 equivalent per year);
- Conditions Precedent to First Disbursement (evidence that grievances and/or concerns regarding a project are incorporated into the borrower's E&S due diligence and monitoring procedures); and
- Reporting requirements (submission of annual E&S performance report and notification within 48 hours of any accident that results in loss of life, or that could adversely impact the environment, and submission of a report on the accident within 30 days).

The Worker Rights Clearance memo requires the project to align with PS 2. The memo provides a brief project description, followed by a list of the following six labor-related contract conditions:

- Alignment with PS 2;
- Prohibition of actions to prevent workers from exercising their rights of association or to organize and bargain collectively;
- Prohibition of employing children for any work under the age of 14 and for hazardous activities under the age of 18;
- Prohibition of employees working more than 48 hours of work per week, and guarantee of a 24 hour rest period;
- Payment of all overtime worked; and
- Right of workers to remove themselves from hazardous situations.

The memo also has a detailed discussion of country laws and conditions. It does not include, however, an assessment of the borrower's labor policies or performance, or the project's labor plans and procedures. It does not assess the project's alignment with, or capacity to align with, PS 2. As a result, it does not include an Action Plan other than compliance with the applicable standards.

The OA was not provided with a copy of the Human Rights Clearance memo. The Worker Rights Clearance memo, however, states that “OPIC issued a human rights clearance for the project on February 1, 2012.” No additional information is provided.

The OA was provided with a copy of the Finance Agreement, which is dated March 1, 2013. The agreement includes E&S Conditions Precedent to first disbursement (Section 4.11) and E&S (Section 6.11) and labor (Section 6.12) affirmative covenants. The CP require an overarching E&S policy for the program and an E&S information request form to be given to each sub-borrower. Section 6.11 (Environmental, Health and Safety Compliance) requires:

- Compliance by sub-borrowers with the applicable standards, and maintaining all required Consents relating to air emissions, discharges to surface water or ground water, noise emissions, solid or liquid waste disposal, the use, generation, storage, transportation, or disposal of toxic or hazardous substances or wastes, and other EHS matters;
- Compliance with and notification of any changes to E&S plans (i.e., documents required in Section 4.11);
- Notification within 48 hours of any accident that results in loss of life, or that could adversely impact the environment, including death of three or more birds or bats for wind power generation projects, and submission of a report on the accident within 30 days;
- Compliance by all contractors and subcontractors with the E&S covenants;
- Prohibition of supporting projects that exceed 100,000 tons of CO<sub>2</sub> equivalent per year;
- Paying prevailing market prices for land lease contracts; and
- Annual submission of an E&S performance report.

These conditions are not significantly different from the E&S conditions recommended in the Environmental Clearance memo. Section 6.12 (Worker Rights) requires the six conditions recommended in the Worker Rights Clearance memo, as well as:

- Compliance with labor laws and regulations, including requirements related to child labor, minimum wages, hours of work, and occupational health and safety (OHS);
- Prohibition of forced labor;
- Communication to workers of their conditions and terms of employment;
- Non-discrimination on the basis of gender, race, religion, nationality, political opinion, or social or ethnic origin;
- Compliance by all contractors and subcontractors with the labor covenants; and
- Notification of any non-compliances.

### 5.3.2 *Monitoring*

The OA was provided with an “Annual Environmental and Social Performance Reporting – OPIC” report, which is dated January 12, 2015. The report covers the period from January to December 2014. The report takes the form of tables. The first table lists four new sub- projects,

two of which are Category B solar projects and two of which are Category C telecom projects. The table indicates that the two solar projects lack E&S Impact Assessments but that the clients complied with corrective actions agreed to in ESAPs. The table also indicates that there were no exited/divested projects during the reporting period. The second table provides more detailed information on E&S due diligence, E&S management plans, and results of annual E&S monitoring for the two Category B projects.

It also includes columns that indicate that there were no E&S incidents, that the projects are in compliance with E&S conditions, and that no new corrective actions are proposed for either project. The final table provides basic information on the borrower's ESMS, E&S capacity, E&S monitoring, and E&S reporting. The level of information in this last table is similar to that provided in OPIC's SMQs.

### 5.3.3 *Management Meeting*

The OA Director visited IDFC's corporate office on November 1, 2017. It should be noted that at the time of the site visit, IDFC had already cleared/paid OPIC's loan commitment and that the specific representatives that were assigned as relationship managers to OPIC were not available during the discussion. ERM interacted with the following representatives:

- Ashish Shah, Relationship Team; and
- Pankaj Kumar, Environment Risk Team.

Key observations from the management meeting are the following:

- Of the four projects funded through OPIC's line of credit, two were in the telecom sector (internally categorized by IDFC as Category C) and two were in the solar sector (internally categorized by IDFC as Category B). Available documentation indicated that information on the telecom projects was not available and that documentation provided to OPIC focused on the solar projects.
- There was reportedly pushback from IDFC's portfolio companies in complying with the E&S requirements in the loan agreement, especially pertaining to worker rights and incident reporting. However, IDFC did manage to work with the portfolio companies to address this resistance.
- The Environment Risk team representative had completed the most recent SMQ submitted to OPIC (not available for review). He indicated that he found it challenging to fill in information for multiple projects within an FI's portfolio, and that the SMQ does not consider sector-specific sensitivities, risks, and opportunities.

## 5.4 WBC SEFIA

### 5.4.1 *Project Screening, Review, and Clearance*

The OA was provided with and reviewed the following clearance documents:

- Sectoral Performance Requirements and Developmental-Impact Analyses Memorandum (23-Apr-14);
- Environmental Assessment Memorandum (17-Apr-14);
- Worker Rights Clearance Memorandum (12-May-14); and
- Human Rights Clearance Memorandum (11-Apr-14).

The “Screening” section of the Environmental Assessment memo indicates that WBC Sefia is a Category C project, and states that “[e]nvironmental, health, safety and social impact concerns are minimal.” The “Applicable Standards” section of the memo lists IFC Performance Standards 1 and 2 as the project’s applicable standards.

The “Key Environmental and Social Issues and Mitigation” briefly discusses PS 1 and PS 2. The discussion of PS 1 focuses on the fact that Sefia has an E&S Policy, Grievance Mechanism, and ESMS already in place. It states that these are adequate to align the project with the requirements of PS 1. The discussion of PS 2 states that compliance with national and local labor laws and regulations is adequate to align the project with PS 2. The discussion of each of these topics is limited and does not cover all of the subtopics/requirements within the applicable Performance Standards. So while the memo indicates that the applicable standards includes PS 1 and PS 2, this section of the memo gives the impression that only certain requirements within these Performance Standards are applicable.

The “Contract Conditions” section describes the E&S conditions for financing. These include the following:

- Compliance with the national and local E&S and labor laws and regulations;
- Prohibition of making loans using OPIC proceeds to any entity engaged in a categorically prohibited activity as defined in Appendix B of OPIC’s ESPS.

The Worker Rights Clearance memo requires the project to align with PS 2. The memo provides a brief project description and description of Sefia’s labor management system, including human resource policies, equal opportunity employment, Grievance Mechanism, and loan screening and monitoring. The memo lists four labor-related contract conditions, and includes a detailed discussion of country laws and conditions. It also includes an Action Plan with one item due prior to first disbursement. This item is the development and implementation of a human resources management system to cover “working relationships, child labor, forced labor, non-discrimination and equal opportunity, trade unions, wages, benefits, and conditions of work, [and] occupational health and safety” in a manner that is consistent with the Mexico labor code.

The Human Rights Clearance memo states that “OPIC issued a human rights clearance for this Project on April 11, 2014.” No additional information is provided.

The OA was provided with a copy of the Credit Agreement, which is dated August 13, 2014. The agreement includes E&S Conditions Precedent to first disbursement (Section 4.10) and affirmative covenants (Section 6.10). The former requires submission of an E&S policy and Grievance Mechanism. The latter requires:

- Compliance with national and local E&S laws and regulations;
- Notification of any changes to E&S plans;
- Notification within 24 hours of any accident that results in loss of life, or that could adversely impact the environment, and submission of a report on the accident within 30 days; and
- Requirement for project subcontractors to comply with the above.

#### **5.4.2 Monitoring**

The OA was provided with a SMQ dated July 12, 2016. The SMQ includes general project information, as well as responses to limited environmental and labor questions. The responses are mostly “yes or no”, with very little descriptive information and no supporting documentation.

#### **5.4.3 Management Meeting**

The OA consultant, ERM, conducted interviews during a site visit to the Sefia offices in outskirts of Santiago de Querétaro, Querétaro. Interviews with the director confirm that OPIC/WBC has requested and received their documents, but provided no further feedback. He stated that the governmental agency CONDUSEF (*Comisión Nacional para la Protección y Defensa de los Usuarios de Servicios Financieros*), which is responsible for non-banking financial institutions, monitors their activities. The regulations imposed by CONDUSEF are substantially more stringent and more consistently monitored and reviewed than the broader financial industry and general legislative requirements. CONDUSEF also requires grievance mechanisms, that all borrowers comply with national environmental and labor laws, and visits to all clients within 90 days of the loan closing and at least once per year thereafter.

The director clarified that during the process of negotiating the loan, Sefia read all contract requirements. He focused his attention on the financial requirements, however, and did not remember content regarding compliance with the IFC Performance Standards and did not in fact understand what they are. He had never looked into it and had never been asked about it.

All monitoring activities are rigorous in their focus on financial matters, and Sefia is consistently reviewed on documentation and reporting regarding financial compliance, with a prominent focus on laws regarding financial transparency, corruption prevention, and avoidance of money laundering. Sefia’s monitoring visits to borrowers are based on approved use of funds. They do not ask for assurances that the borrowers have no current or pending lawsuits against them



(including regarding noncompliance with national laws), or a review of their internal labor processes.

ERM reviewed contracts with borrowers, which had specific stipulations regarding protection of the environment through appropriate management of natural resources, management of waste, and prevention of damage to biodiversity. There were no clauses specifically discussing labor standards (including child labor or forced labor).

Sefia staff indicate that they complete their SMQ online, and that there has been no follow ups by WBC or OPIC. They also stated that it does not address environmental and social issues. They stated that they answer what they feel to be appropriate, even when they are not entirely sure of what is being asked. They also provide any documentation requested, but without any clarity as to what purpose the documentation serves (e.g., they provided their human resource policies, but did not understand why they were asked for or how they relate to the IFC Performance Standards).

## 5.5 WBC LINGO

### 5.5.1 *Project Screening, Review, and Clearance*

The OA was provided with and reviewed the following clearance documents:

- Sectoral, Performance Requirements, and Developmental-Impact Analyses Memorandum (19-Jul-13);
- Environmental Assessment Memorandum (1-Aug-13);
- Worker Rights Clearance Memorandum (13-Jul-13); and
- Human Rights Clearance Memorandum (17-Jul-13).

The “Screening” section of the Environmental Assessment memo indicates that Lingo is a Category B project. The section identifies the key E&S issue as impacts caused by the leasing of improperly manufactured or maintained equipment. The “Applicable Standards” section of the memo lists the World Bank General EHS Guidelines (2007) and IFC Performance Standards 1 through 4 as the project’s applicable standards.

The “Key Environmental and Social Issues and Mitigation” section of the memo lists and discusses the following project-specific key E&S issues and their associated mitigation measures:

- Assessment and management of E&S risks and impacts (PS 1);
- Labor and working conditions (PS 2);
- Pollution prevention and abatement (PS 3);
- Community health and safety (PS 4).

The discussion of each of these topics is limited and does not cover all of the subtopics/requirements within the applicable Performance Standards. So while the memo

indicates that the applicable standards includes PS 1 through PS 4, this section of the memo gives the impression that only certain requirements within these Performance Standards are applicable.

The “Conclusions and Conditions” section describes the E&S conditions for financing. These include the following:

- Compliance with the national and local laws and regulations and the applicable standards;
- Prohibition of making loans using OPIC proceeds to any entity engaged in a categorically prohibited activity as defined in Appendix B of OPIC’s ESPS;
- Annual submission of a list of leases that were active at any time during the year;
- Notification within 24 hours of any accident that results in loss of life, or that could adversely impact the environment, and submission of a report on the accident within 30 days.

The Worker Rights Clearance memo requires the project to align with PS 2. The memo provides a brief project description, a list of two labor-related contract conditions, and a detailed discussion of country laws and conditions. It does not include, however, an assessment of the borrower’s labor policies or performance, or the project’s labor plans and procedures. It does not assess the project’s alignment with, or capacity to align with, PS 2. As a result, it does not include an Action Plan other than compliance with the applicable standards.

The Human Rights Clearance memo states that “OPIC issued a human rights clearance for this Project on July 17, 2013.” No additional information is provided.

The OA was provided with a copy of the Credit Agreement, which is dated November 20, 2013. The agreement includes E&S Conditions Precedent to first disbursement (Section 4.10) and affirmative covenants (Section 6.10). The former requires submission of an E&S policy and Grievance Mechanism. The latter requires:

- Compliance with national and local E&S laws and regulations;
- Notification of any changes to E&S plans;
- Notification within 24 hours of any accident that results in loss of life, or that could adversely impact the environment, and submission of a report on the accident within 30 days; and
- Requirement for project subcontractors to comply with the above.

### 5.5.2 *Monitoring*

The OA was provided with two SMQs. The first is dated July 10, 2015, while the second is incomplete and missing the page with the date. The latter does have a date stamp, however, with the date of February 7, 2017. The SMQs include general project information, as well as responses to limited environmental and labor questions. The responses are mostly “yes or no”, with very little descriptive information and no supporting documentation.

The OA was also provided with a PowerPoint presentation trip report for a site visit to three projects, including Lingo, in August, 2015. The presentation includes no E&S information, and no E&S and/or L&HR Analyst participated in the site visit.

### *5.5.3 Management Meeting/ Site Visit*

During the site visit, the OA Director interviewed the Director of Lingo at their offices in Guadalajara, Jalisco, and discussed the OPIC loan process in detail. The primary finding of the interview is that there was a lack of communication regarding E&S expectations and performance. The Director stated that representatives of the respective finance teams spoke together and only discussed financial and legal risk (including money laundering). The monitoring team also spoke solely of financial risks and did not ask for any information regarding human resources or labor standards. He stated that Mexican labor standards are robust, but legal compliance is not always a valid indicator of appropriate implementation.

The Director stated that the SMQ took close to a week to fill out, considering the time it took to get complete information from all parties. He stated that the process was helpful in ensuring implementation of their “know your client” process, and the results were useful to their internal monitoring processes.

Following the discussion, a Client Account Manager took us to visit a credit recipient, Movil Care Treatments, which develops and rents machines that clean engines using hydrogen for more efficient fuel consumption. Visits to the client confirmed detailed financials, compliant policies and procedures, and neat and well-ordered warehouses. There was also evidence of inconsistent occupational health and safety standards, however, including an employee handling highly corrosive substances with no personal protective equipment (PPE) who was wearing short sleeves and sandals and talking on the phone. When asked about this situation, the Manager of the site stated “he should be wearing PPE. He normally does.”

Lingo’s Director recommended creating a guidance note or FAQ format for borrowers to review before filling in the SMQ. He also suggested splitting the SMQ into multiple formats so people are only answering questions that are relevant to them (i.e., a different questionnaire for a financial intermediary than for a construction project). It was suggested that terms be defined throughout to minimize confusion regarding how that term should be understood. It was also recommended that clients should be more clearly informed regarding the purpose of the SMQ, as well as the repercussions if it is not filled in accurately. The reason for this is to counter the tendency for people to answer what they believe OPIC would like to see rather than an accurate response.

## 5.6 *KEYINSIGHTS*

Based on a discussion with all five financial intermediaries, the OA has the following insights for OIP's consideration:

- Only the three financial intermediaries in India had an ESMS in place at the organizational level. However, there was limited information requested from OPIC (at different stages of the project review and monitoring process) on how this was being implemented for portfolio companies.
- OPIC does not have an adequate mechanism to assess FI compliance with environmental laws, as is required in loan agreements.
- OPIC does not provide adequate direction to FIs to ensure that its clients comply with the labor covenants in the loan agreements.

## **6.0 ENVIRONMENTAL AND SOCIAL MONITORING POLICIES AT OTHER DEVELOPMENT FINANCE INSTITUTIONS (DFIs)**

All DFIs promote environmentally and socially sound sustainable development in the full range of their activities by ensuring that the projects they finance are:

- Socially and environmentally sustainable;
- Respect the rights of affected workers and communities; and
- Are designed and operated in compliance with applicable regulatory requirements and good international practices.

They differ, however, in the way they do this, particularly regarding investing with financial intermediaries.

As of September 30, 2017, the Financial Institutions sector (Finance and Insurance plus Investment Funds) represented 50% of OPIC's portfolio. This sector represents 33% of the annual business volume of the EBRD. In comparison, the IFC has similar business volume in its financial markets sector with 31% of the 2016 committed portfolio. EIB, IADB and BSTB have approximately 45%, 40% and 41% respectively in their portfolio in the FI sector.

## **6.1 OTHER DFI's ENVIRONMENT AND SOCIAL REQUIREMENTS FOR FINANCIAL INTERMEDIARIES**

Many of OPIC's partner financial institutions have relationships with other DFIs in addition to OPIC, e.g. IFC, Inter-American Development Bank, Asian Development Bank, European Investment Bank, Black Sea Trade and Development Bank, Netherlands Development Finance Company (FMO) and the German Investment and Development Corporation (KfW/DEG). Unlike OPIC, however, all of these DFIs are engaged in capacity building targeted at the environmental and social capability of beneficiary FIs and, to some extent, the environmental /social awareness/performance of end-user companies.

The IFC has been offering E&S training to financial institutions since 1997. The IFC also builds its FI client capacity through online courses and trainings on E&S risk management (free of charge), review of client prepared environmental and social due diligence and joint IFC-FI sub-project supervision visits. IFC also works through third party providers, consultant firms and trainers to support financial sector improvement of E&S practices.

The IFC's Sustainability Training and E-learning Program (STEP) is designed for managers and staff of financial institutions including banks, private equity funds, leasing companies and microfinance institutions and is available in English, French and Russian. The e-training is designed to help financial institutions better understand sustainable finance, social and environmental risk management and explore sustainability-related business opportunities. The EBRD has also established an E&S e-learning training program and the IADB will be launching a similar on-line training module soon.

## 6.2 *DFI MONITORING VISITS TO FI's*

Unlike OPIC, which concentrates its FI monitoring on sub-projects rather than the FI itself, monitoring visits that are undertaken by DFIs such as the IFC and EBRD examine the FI's existing credit and investment activities from an E&S perspective to determine the adequacy with which the E&S due diligence is conducted within the FI and how the FI's Environmental Management System (EMS) requirements are being met. Like OPIC, IFC has established an environmental and social risk rating for IFIs. Unlike OPIC the IFC "ESRRs" are numbered (1 to 4) from high to low risk and can go up or down over the life of the investment depending on the client's performance. High risk projects (Level 1 or 2) are visited annually; other less regularly.

## 7.0 CONCLUSIONS AND RECOMMENDATIONS

The purpose of this report has been to assess whether the use of client-reported data supplemented by selective site monitoring visits is acceptable for meeting OPIC program goals. The assessment was to provide feedback to all teams within OIP on which policies and procedures (including project screening and review) are achieving their intended goals and which ones should be modified to better achieve alignment with the ESPS. The assessment was carried out at the request of OPIC's President and CEO in response to the U.S. Government Accountability Office (GAO) Report entitled "OPIC – Additional Actions Could Improve Monitoring Processes" (GAO 2015).

The GAO Report includes a comparison of OPIC's monitoring policies and procedures with those of the IFC. As noted in the report, IFC conducts site visits to all projects in its portfolio on a regular basis. IFC officials told us that using client-reported data for monitoring projects is a standard practice, but they underlined the difficulty in validating such data. According to IFC officials, it's Environmental and Social team visits all projects once every 2 years. IFC also undertakes a limited number of post-completion evaluations to assess the project's development impact. However, IFC employs a significantly larger staff than OPIC, including some in overseas field offices. For example, in 2017, IFC employed 80 full time environmental and social specialists together with approximately 20 short term consults amounting to 4 times more human resources than OIP to manage a portfolio that is about three times the size of OPIC's.

This report has aimed to "recommend modifications and improvements to current monitoring processes that would relate various aspects of the monitoring process, including but not limited to: project selection, visit timing, visit planning, frequency and coverage as well as interfacing with clients and stakeholders." This chapter sets forth the OA's conclusions and recommendations, which are presented in four sections. The first section addresses project selection. The second section addresses disbursement and discusses specific procedures and activities that OPIC can undertake prior to and during the disbursement process to improve the environmental and social risk management of portfolio companies. The third section addresses site visits, which encompasses "visit timing, visit planning, frequency and coverage as well as interfacing with clients and stakeholders" as set forth in the scope of work. The last section addresses self-monitoring by OPIC clients, including recommendations regarding OPIC's Self-Monitoring Questionnaire (SMQ). While not explicitly set forth in the scope of work, self-monitoring and the SMQ were central issues in the GAO Report, which was the impetus for this assessment.

Recognizing the need to optimize OPIC's use of resources, the OA has divided its recommendations into the three tiers described below.

- Tier 1 Recommendations: Could be implemented quickly and with few if any additional resources (i.e., short-term action items).

- Tier 2 Recommendations: Would require more time and resources to implement (i.e., long-term action items to be implemented if and when resources become available).
- Tier 3 Recommendations: Would require more time and significantly more resources to implement (i.e., aspirational action items to be implemented if and when the U.S. government commits significantly more resources and personnel to OPIC's environmental and social oversight programs).

## 7.1 PROJECT SELECTION

It is the OA's opinion that OPIC does a good job of selecting projects for monitoring. OPIC conducts site visits for all Category A, Special Consideration, and high risk Category B projects. OPIC also conducts site visits for a sample of other Category B and Category C projects that are randomly and systematically selected from its active portfolio each year. The risk system to determine the category and define high risk Category B projects is based on the "Factors for Risk Rating System" that has been described in Section 2.5.2. As stated in Section 2.5.7, however, OIP staff stated that the process of determining which Category B projects are considered high risk is informal.

- Tier 1 Recommendation: Develop explicit criteria for determining whether a Category B project should be prioritized for a site visit. Document whether Category B projects are prioritized for a site visit in E&S clearance documents (according to OIP, this was implemented on September 28, 2017);
- Tier 2 Recommendation: Develop project categories (similar to those used by IFC) for FI projects (i.e., FI-A, FI-B, and FI-C) based on the type of projects that the FIs intends to include within OPIC's line of credit.
- Tier 3 Recommendation: Require site visits for all Category B projects.

## 7.2 SITE VISITS

According to OIP's "Internal Environmental Guidance – Site Monitoring," OPIC "will endeavor to monitor" all projects with a high E&S risk rating within the first three years of the execution of the loan agreement. One potential issue with this policy is that for many development projects, the highest environmental and social risks occur during construction activities. If a project's construction schedule is less than three years, a site visit may not occur until after construction activities are complete and the project is in operations, which generally has lower environmental and social risks.

As discussed in Section 2.4.2, the OIP's "Internal Environmental Guidance – Site Monitoring" indicates that projects are monitored against contract conditions and a monitoring checklist during site visits. The "Sample Monitoring Checklist" is more comprehensive in regards to environmental and social issues than the SMQ template, but still only covers the requirements of IFC Performance Standards 1 through 4. The "Environmental, Health & Safety Site Visit" report



template does not specify that a site visit report should describe the project's alignment with applicable IFC Performance Standards, although this should fall under "Compliance with Contract (Consent) Conditions."

Of the five India projects reviewed by ERM, site visits were conducted and trip reports completed for two projects; of the five Mexican projects, site visits were and trip reports were also completed for two projects. While the trip reports generally include the sections specified by the guidance document and template, they do not provide a point-by-point analysis of the projects' compliance with contract conditions, specifically alignment with applicable IFC Performance Standards. As a result, it is the OA's opinion that they are not specific enough to fully assess a projects' compliance with contract conditions and alignment with applicable IFC Performance Standards.

### 7.2.1 *Common Recommendations*

- **Tier 1 Recommendation:** Revise the "Internal Environmental Guidance – Site Monitoring" and "Environmental, Health & Safety Site Visit" report template to ensure that EHS Site Visit reports address alignment with each of the project's applicable IFC Performance Standards (according to OIP, this has been adopted as of August 2017).
- **Tier 1 Recommendation:** Require the submission of site visit reports within a certain period of time after the site visits, per the recommendation in the GAO Report (according to OIP, this was adopted in September 2016).
- **Tier 1 Recommendation:** Revise the "Sample Monitoring Checklist" to address IFC Performance Standards 5 through 8 (according to OIP, this was adopted as of August 2017).
- **Tier 2 Recommendation:** Arrange where possible for project monitoring visits to include OIP environmental or social specialists along with OPIC investment staff. This will allow informal cross-training, which is likely to increase the quality of environmental and social information gathered by investment staff. An alternative is for OIP to provide the investment staff with a list of project-tailored E&S questions to ask during their monitoring visits.

### 7.2.2 *Financial Intermediaries*

- **Tier 2 Recommendation:** Develop a Site Visit Checklist that is focused on the FI's ESMS and/or safeguards put in place by OPIC for the FI (e.g., E&S covenants). The purpose of this checklist will be to assess the extent to which the ESMS and E&S safeguards have been passed on to borrowers and their compliance monitored.
- **Tier 2 Recommendation:** Include a visit to a representative customer within OPIC's line of credit for all monitoring site visits for FI loans.

### 7.2.3 *Projects*

- Tier 2 Recommendation: Change the timing of site visits so that they are more likely to coincide with construction activities (e.g., one year after instead of within three years of closing).
- Tier 3 Recommendation: Require annual site visits during construction activities.

### 7.3 *SELF-MONITORING QUESTIONNAIRE (SMQ)*

The SMQ is designed to be submitted by the client annually for the life of their loan. ERM's review of the five India and five Mexico projects indicates that clients are inconsistent about when they submit SMQs. It should be noted that this is a small sample of projects, however, and some of the projects are quite old (three of the projects have loan agreements and/or consent notices that date to 2010 or 2011). The GAO Report includes an assessment of OPIC's overall SMQ response rate from 2008 to 2014. According to this assessment, there has been a general increase in the response rate (i.e., SMQs received divided by SMQs required) over this time. The response rate was 61% in 2008, 67% in 2009, 96% in 2010, 79% in 2011, 94% in 2012, 91% in 2013, and 86% in 2014 (GAO Report, page 36, Table 3). During an interview with OIP personnel on April 7, 2017, The OA learned that the SMQ response rate for the previous year (2016) was approximately 90% and was also informed that OPIC has contracted a consultant to improve the SMQ process. The consultant has specifically been tasked with: 1) revising the SMQ frequently asked questions (FAQ); 2) revising the SMQ handbook for clients; 3) highlighting areas of the SMQ template that need to be updated/revised; 4) developing a 30 minute WebEx to provide guidance to clients in filling out SMQs; and 5) comparing SMQ responses with OPIC site visit results to assess the percentage of SMQs that provide valid data and which questions provide valid data. According to OIP, this work was completed as of August 2017.

The Environment and Social Impact groups within OIP do not rely on the SMQ for E&S monitoring and, given the limited scope and dubious quality of the SMQs examined as part of this assessment, it is understandable why they do not. However, in the absence of a site visit, the SMQ is the only formal mechanism for OPIC to obtain environmental, social, health and safety, and labor (ESHSL) information on each and every project it finances. It is the OA's opinion that the SMQ is inadequate to assess a project's ESHSL performance, compliance with national and local ESHSL laws and regulations, and alignment with lender requirements (i.e., World Bank Group EHS Guidelines and IFC Performance Standards). It should be noted that the SMQ has been revised several times over the last few years, and that the current template is significantly improved from earlier templates.

### 7.3.1 *Common Recommendations*

- Tier 1 Recommendation: Tie the annual submission of SMQs to disbursements. In other words, require a clearance certifying that the client is up to date on submission of SMQs prior to each disbursement.
- Tier 3 Recommendation: Provide training to clients in the proper completion of SMQs.

### 7.3.2 *Financial Intermediaries*

- Tier 2 Recommendation: Develop a SMQ that is specifically designed for FIs (and going beyond the scope of Part B in the current SMQ template), which considers the existence and implementation of an ESMS within the organization and its implementation on projects within OPIC's line of credit.

### 7.3.3 *Projects*

- Tier 2 Recommendation: Conduct a site visit to any facility where there is a fatality, notice from a government official, significant community protest, or significant emergency event (e.g., fire) (according to OIP, this was adopted on September 28, 2017).

## 7.4 *GENERAL MONITORING*

The following recommendations relate to monitoring but are not specific to project selection, site visits, or the SMQ.

- Tier 1 Recommendation: Require loan officers to explain environmental covenants to clients prior to financial closing.
- Tier 2 Recommendation: Require OPIC clients to establish a Single Point of Contact (SPOC) within their respective organizations. The SPOC should either be a site-level staff member or have visibility of site components through regular internal audits. The SPOC should undersign all documented communications with OPIC and have a succession plan in place prior to leaving the company.