

**Labour Standards and Development Finance  
Institutions: A Review of Current Policies  
and Activities**

Franz Christian Ebert  
Anne Posthuma

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INTERNATIONAL LABOUR ORGANIZATION  
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## Introduction

Development Finance Institutions (DFIs) have the purpose of providing financial resources to economic actors in regions and sectors where access to capital is limited. Rather than competing with private sector banks, DFIs generate finance for projects which are considered too risky by the majority of private banks. In particular, in the aftermath of the financial and economic crises, DFIs are likely to play an important role in helping developing countries recover from the economic downturn by ensuring that business operations and public infrastructure and construction projects can move ahead.

Increasingly, international bodies have called for DFIs to take into account the promotion of decent working conditions when carrying out their investment operations.<sup>1</sup> Hereby, a context has been created for the introduction of labour concerns into the investment operations of DFIs. In recent years, labour issues along with other social policy concerns have been progressively integrated into DFI operations. Most notably, in 2002, the World Bank publicly announced its support for all four Core Labour Standards (CLS) embodied in the ILO Declaration on Fundamental Rights and Principles (ILO, 1998).<sup>2</sup> Similar approaches have been adopted by DFIs at the regional and bilateral level.<sup>3</sup>

This paper provides an initial exploration of these developments by documenting the policies of 16 DFIs at the global, regional, and bilateral level that have integrated labour provisions in their investment policies. Also, a review of first experiences with the application of these labour provisions in practice is provided. For the purpose of this paper, the term “labour provisions” is defined as comprising (i) any labour standard which establishes minimum working conditions, terms of employment or worker rights, (ii) any norm on the protection provided to workers under national labour law and its enforcement, as well as (iii) any framework for implementation and monitoring of these issues. Where reference is made to the standards established by the ILO, the terms “international labour standards” (ILS) or “ILO instruments” will be used. The term “DFI policies” refers to normative standards which are adopted by these institutions in relation to their investment operations and procedures.

### 1. How have labour provisions been integrated into DFI policies?

Unlike private sector banks, DFIs pursue, in addition to generating profits for their stakeholders, certain public policy goals such as promoting economic development of targeted countries, or increasing growth in certain sectors or industries.<sup>4</sup> DFIs are also to be distinguished from development agencies, which provide grants that do not have to be repaid. DFIs are, moreover, distinct from export credit agencies which provide guarantees and insurances against political and certain other risks.

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<sup>1</sup> The ECOSOC 2006 Ministerial Declaration called for “cooperation and coordination, in the pursuit of the goals of full and productive employment and decent work for all” in international and bilateral donor agency activities (see paragraph 33 of the document) (ECOSOC, 2006). A similar, statement is made by the World Commission on the Social Dimension of Globalization (ILO, 2004, p. 94).

<sup>2</sup> World Bank, “Transcript of Town Hall Meeting with NGOs”, Washington, January, 2002, cited in Bakvis and McCoy (2008, p. 5). See also the earlier policy statement in World Bank (2001) as well as Hagen (2003).

<sup>3</sup> See, for example, the Social Protection Strategy of ADB (ADB, 2003).

<sup>4</sup> Another distinctive feature is that DFIs do not have depositors but rely upon their shareholders for capital (Buiter/Fries, 2002).

DFIs exist both at the global, regional and bilateral level. At the global level, the World Bank Group comprises five financial institutions, three of which operate in the field of development finance.<sup>5</sup> The main DFIs at the regional level are the Asian Development Bank, the African Development Bank, the European Bank for Reconstruction and Development, the EU's European Investment Bank and the Inter-American Development Bank. In addition to these, numerous States have put in place bilateral DFIs.<sup>6</sup> While multilateral and regional DFIs are owned by their member States, some bilateral DFIs also have private owners, although the main shares usually remain with the national government (Dellacha and te Velde, 2007).

DFIs provide a wide range of financial services, in particular loans (unsecured or secured against collateral) and equity and quasi-equity (which involves acquiring ownership in the company concerned) (Penfold, 2004). In addition, DFIs typically also provide financial expert advice. The focus and range of the financial services offered differs considerably among the DFIs and may cover the public and/or the private sector. The World Bank Group, for example, covers both investment in the public sector (IBRD and IDA) and the private sector (International Finance Corporation (IFC)). The same is true for regional banks although the majority of them tend to prioritize the public sector. Bilateral DFIs typically focus on the private sector. The main DFIs disbursed in total US\$ 45 billion in loans, equity and guarantees during 2005, of which just less than half (US\$ 21.3 billion) was directed into the private sector (te Velde and Warner, 2007; te Velde (2008)). Labour policies of DFIs have thus a considerable potential outreach into the business community in development countries.

### ***1.1. Labour provisions in DFIs' investment policies***

To date, many of the major DFIs have included labour provisions in their policies for their client companies. In this regard a leading role has been played by IFC. By 1998, IFC had adopted a safeguard policy dealing with labour issues (IFC Compliance Advisory Ombudsman, 2003). Following an assessment by the IFC's Ombudsman in 2003 and consultations with a wide array of stakeholders, including the ILO, the "IFC Policy and Performance Standards on Social and Environmental Sustainability" (IFC, 2006) were adopted and have been applied to all IFC-financed projects since May 2006 (Sims, 2008; Bakvis and McCoy, 2008). Performance Standard 2 contains requirements specifically related to labour issues. They contain a comprehensive set of good governance standards, which are systematically incorporated into contracts with its clients, as shown in Table 1.

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<sup>5</sup> These are the International Bank for Reconstruction and Development (IBRD), the International Development Association (IDA), and the International Finance Corporation (IFC). The Multilateral Investment Guarantee Agency (MIGA) focuses on guarantees for foreign investors' projects in developing countries. The last branch of the World Bank Group is the International Centre for the Settlement of Investment Disputes.

<sup>6</sup> Important examples are the American OPIC, the German DEG and the Dutch FMO.

**Table 1. Overview of labour provisions in the IFC Performance Standard 2**

Area of labour issues	Requirement applicable to IFC's clients
General issues	Client must adopt a human resource (HR) policy and "document and communicate to their employees" information on their employment and working conditions
Freedom of association	Compliance with national law Where national law prohibits unions: alternative mechanisms for grievance and protection of working conditions must be put in place Clients may not, under any circumstances, discourage workers from, or discriminate against workers for, organizing or bargaining collectively
Non-discrimination	Compliance with national law if it prohibits discrimination No discrimination regarding recruitment, compensation, working conditions, termination of employment training and retirement regarding gender, colour, religion, etc.
Child labour	No child labour that is exploitative or harmful to the child's education, health or development Minimum age: follows applicable national law, no employment of children under 18 in "dangerous work"
Forced labour	No use of work or services "not voluntarily performed" "under threat of force or penalty"
Working conditions	Follow the collective agreement where the client is party to such an agreement Where no collective agreement covers wages, hours of work, overtime arrangements and compensation, sick leave, maternity leave or annual leave, national law will be respected
Occupational safety and health	Client must take steps to minimize, as far as possible, the risks of occupational injury and disease The client must: identify risks, take preventive measures, provide training to workers, document occupational accidents and diseases
Retrenchment	In the event of mass lay-offs, a retrenchment plan is required to mitigate effects of retrenchment in consultation with workers and in a non-discriminatory manner
Grievance mechanism	Possibility for workers to raise concerns with the management in a transparent and expeditious manner
Non-employee workers	Covers contract workers performing core functions for the client for a "substantial duration" All labour provisions apply, except those on HR policy, retrenchment and supply chains
Supply chains	Client must "inquire about and address child labour and forced labour in its supply chain"

Source: IFC (2006)

The IFC Performance Standards have become a reference for other DFIs in developing integrated labour provisions within their own policies (Sims, 2008). For example, the "Performance Requirements" of the European Bank for Reconstruction and Development (EBRD), adopted in May 2008, seem to have been inspired by the IFC's Performance Standards (EBRD, 2008, p. 22). Also, the policies of other financial actors have been influenced by these Standards. The Multilateral Investment Guarantee Agency (MIGA), which is the investment guarantee arm of the World Bank Group, adopted the Performance Standards in 2007 (MIGA, 2007). In 2003, the leading international private sector banks (known as the "Equator Banks") adopted provisions known as the "Equator Principles". Since their revision in 2006, the Equator Principles contain the social and environmental safeguards of the IFC Performance Standards. Banks that adopt the Equator Principles commit themselves to apply the principles to any project with a minimum value of US\$ 10 million. Adherence to the Equator Principles rose from ten compliant banks in 2003 to more than 60 compliant banks in 2008.<sup>7</sup> The IFC estimates that the Equator Principles are now applied to 80 per cent of project finance provided by private banks in developing countries (IFC, 2007a).

A number of DFIs have included labour provisions in their policies before or in parallel to the IFC. An early example is the US OPIC, which started using such provisions in its investment activities in 1989, requiring clients to respect certain labour standards (OPIC, 2008). From the late 1990s, European DFIs, in particular the Danish Industrialisation Fund for Developing Countries (IFU) (IFU,

<sup>7</sup> See further at: <http://www.equator-principles.com/> [4 August 2010].

2005), the Netherlands Development Finance Company (FMO) and the German Investment and Development Corporation (DEG), have integrated labour provisions into their investment policies. Numerous regional DFIs and more recent bilateral DFIs, including the Development Bank of Austria (OeEB), established in 2008, have followed suit.

**Table 2: Labour provisions in operational policies of major DFIs<sup>8</sup>**

Name of DFI	Reference to ILO instruments *	Areas covered by DFI policies**	Labour provisions inserted into contracts with partner companies
International Finance Corporation (IFC)	Fundamental Conventions	Issues related to CLS and other selected labour issues (see table 1)	Yes (for investment through financial intermediaries the specific standard applied depends on the risk factor)
Asian Development Bank (ADB)	ILO 1998 Declaration	Issues related to CLS, minimum wage, occupational safety and health	Yes (usually for large infrastructure projects depending on the social assessment)
African Development Bank (AfDB)	Unclear	Issues related to occupational safety and health and gender issues	Yes (in the form of concrete commitments depending on the social assessment)
European Bank for Reconstruction and Development (EBRD)	Fundamental Conventions	Issues related to CLS, occupational safety and health, employment contracts, retrenchment, non-employee workers, minimum conditions of work, respect for collective agreements, EU rules on non-discrimination	Yes
European Investment Bank (EIB)	Fundamental Conventions	Issues related to CLS and occupational safety and health	Yes (in the form of concrete commitments depending on the social assessment)
Inter-American Development Bank (IDB)	Unclear	Issues related to CLS and certain selected areas (for large infrastructure projects)	Yes (primarily national legal requirements – international labour standards are typically aimed at through a specific action plan)
UK Commonwealth Development Corporation (CDC)	Fundamental Conventions	Issues related to CLS, wages, occupational safety and health and other selected areas	Yes
DEG	Fundamental Conventions, Conventions on working time, pay and occupational safety and health	Issues related to CLS, working time, wages and occupational safety and health	Yes
FMO	Fundamental Conventions	Issues related to CLS and other labour issues (identical to the IFC Performance Standards)	Yes
IFU	Fundamental	Issues related to CLS, weekly rest,	Yes (primarily national legal

<sup>8</sup> The World Bank, which provides finance mainly directly to states, does currently not have such a policy in place. However, it does address the issue of labour standards in its public procurement policies (as seen later in this text).

	Conventions	working hours, annual leave, wages and occupational safety and health	requirements –international standards are typically aimed at through a specific action plan)
Norfund (Norway)	Fundamental Conventions	Issues related to CLS and other labour issues (identical to the IFC Performance Standards)	Yes
OeEB	Fundamental Conventions	Issues related to CLS, occupational safety and health and other selected labour issues	Yes (primarily national legal requirements – international standards are typically aimed at through a specific action plan)
OPIC	Unclear	Issues related to CLS except non-discrimination, wages, working hours and occupational safety and health	Yes (primarily national legal requirements – international standards are included where national standards are not sufficient)
Swiss Investment Fund for Emerging Markets (SIFEM)	Fundamental Conventions on child and forced labour	Issues related to child labour and forced labour – other labour issues, including occupational safety and health and minimum working conditions, as far as covered by national law	Yes
Swedfund (Sweden)	Fundamental Conventions	Issues related to CLS and other selected labour issues	Yes

Notes:

\* Reference to the ILO instruments does not necessarily imply that the policies embrace all the obligations contained in these instruments but may refer to them as a source of inspiration or a benchmark.

\*\* The substance of the labour conditions referred to may be derived from ILO standards or national law or may be established by the DFI policy itself. Some of the bilateral and regional DFIs also refer to the IFC Performance Standards or the IFC policy on occupational safety and health.

Source: Policy documents of the various DFIs as well as interviews with DFI officials.

As seen in Table 2, while these DFI policies generally incorporate a wide variety of labour issues, the scope of the labour provisions varies considerably. Interestingly, twelve of the DFI policies examined refer directly to at least some of the ILO Fundamental Conventions. This may be due in part to consultation with the ILO in the design of these policies, as in the case of the IFC and EBRD. That being said, it should be noted that the DFI's labour policies do not necessarily embrace all the specific requirements of the relevant ILO Conventions. Usually, the main reference point for labour provisions in DFI policies is, in the first instance, national law; although, a minimum standard is generally maintained on a number of issues, in particular related to CLS.<sup>9</sup> That said, some DFI policies go further; those of EBRD and DEG even go beyond the scope of the labour standards protected by IFC's Performance Standards, the by the DFI policy (Rudolph, 2005; EBRD, 2008). The EBRD requires companies, for example, to respect also certain EU regulation on non-discrimination. Many of these DFIs, including IFC, IDB and most of the European DFIs, also have an exclusion list in place that precludes DFIs from investing in clients that use child labour and forced labour.

## 1.2. Other DFI policies on labour issues

Apart from getting integrated in DFI's investment policies, labour concerns have also made inroads into the public procurement policies of various DFIs. While the World Bank (IBRD and IDA) have not yet adopted a policy for screening projects with regard to labour issues, both DFIs require bidders

<sup>9</sup> As regards freedom of association, a special approach is often applied. Where national law directly contradicts international standards (for example, by prohibiting workers from forming unions), many DFI policies require their clients to adopt parallel procedures to enable the affected workers to benefit from international standards as far as possible.

since 2007 to comply with certain labour standards requirements. This covers CLS issues as well as a number of other labour standards, which have, however, not been completely harmonized with the relevant ILO instruments.<sup>10</sup> This policy applies to all contracts exceeding a value of US\$ 10 million dollars (World Bank, 2007). Also, the EBRD has harmonized their public tender practices with that of the World Bank (EBRD, 2009). In accordance with these policies, contractors must sign a declaration stating that they will respect the CLS when carrying out these projects.

While DFI policies focus mainly on the compliance with labour standards of the companies involved in the respective investment operation, some also directly address the states in which these operations take place. The World Bank Group's public arms (IBRD and IDA) include CLS as an aspect of the Country Assistance Strategies, which the Bank prepares in cooperation with the borrowing country concerned. Country Assistance Strategies do not make compliance with the CLS of the borrowing State an eligibility criterion for loans. However, the World Bank seeks to address CLS issues in dialogue with the country concerned, "in cases where non-implementation of one or more core standards negatively impacts the country's prospects for development" (World Bank, 2002). A similar policy was recently adopted by the EBRD (EBRD, 2008, p. 11).

Furthermore, since 1985, the US Overseas Private Investment Corporation (OPIC) policies include labour provisions which are linked to those of the US GSP. This means that investment activities in countries which have lost trade preferences due to a breach of the US GSP's labour provisions are also excluded from OPIC's operations. For countries that do not benefit from the US GSP, an individual assessment is foreseen (Clatanoff, 2005).

## 2. Practical implications of DFI labour provisions

### 2.1. Implementation procedures of DFI labour policies

For the practical impact of the DFI labour policies, the design of the implementation procedures is of crucial importance. While the details of the DFI policies differ in this regard, the application of these policies is typically based on an initial social assessment of the proposed investment. If problems in relation to labour practices are identified, they may be addressed through an action plan.<sup>11</sup>

One of the most comprehensive procedural frameworks for DFI policies has been developed by the IFC:<sup>12</sup> First, an initial social assessment must be conducted by the client company. If potential risks of problems regarding compliance are identified, the client company will develop an action plan designed to avoid, or at least mitigate, the negative impact on labour conditions. The IFC will take this action plan into account when conducting its own social assessment, which includes consultations with NGOs and trade unions. In the event of compliance difficulties, the IFC will (in extreme cases) reject the project or require the company to remedy these problems, often in combination with technical assistance offered to the company (IFC, 2006). Similar procedures are also followed by the other DFIs, which have integrated labour concerns into their investment policies.

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<sup>10</sup> To date, the IBRD and IDA have not yet adopted a policy for screening projects with regard to labour issues.

<sup>11</sup> In many cases, the DFI policies include a clause requiring clients to comply with the DFI's labour policy in general, as well as specific requirements in the form of an action plan to be met by the client, based on the initial social assessment. Some DFIs, including AfDB and ADB, and EIB focus exclusively on the latter requirement (see for example AfDB (2003) and ADB (2007)).

<sup>12</sup> Unlike earlier environmental and social policies, the IFC not only submits its client company to an auditing procedure prior to the investment, but works with the client company to ensure compliance throughout the life of the investment (Warner, 2006).

**Box: Implementation of labour provisions in indirect DFI investments**

Investments conducted through financial intermediaries (i.e. another bank) or funds may complicate the application of labour provisions in DFI policies. The link between the DFI and the company concerned, in such circumstances, is more remote than in the context of direct project finance. Here, DFIs usually require their financial intermediary or fund to have a social management system in place to ensure that the projects or companies of their portfolio comply with the specified level of protection in terms of labour standards. For example, the IFC applies a three-tier approach in this regard. The precise standard of protection depends on the initial social assessment. While financial intermediaries with low-risk portfolios only have to apply an exclusion list (precluding in particular child labour and forced labour activities), portfolios with a medium-risk factor require the financial intermediary additionally to ensure the application of national law. In cases of a high-risk portfolio, financial intermediaries also apply the IFC Performance Standards (IFC, 2009).

Given that projects often receive finance from more than one DFI, some DFIs have started to coordinate their policies, including the social requirements to be met by the client. Often, DFIs that co-finance a given project agree on joint environmental and social (E&S) requirements. A response to the need for coordination can be seen in the creation, in 1992, of the Association of the European Development Finance Institutions (EDFI), to which 16 bilateral DFIs subscribe at present.<sup>13</sup> In May 2009, EDFI members signed a declaration on “Principles for Responsible Financing”, which commits members to working with client companies in order to progressively realize the standards contained in a number of international instruments, including ILO Fundamental Conventions (EDFI, 2009).<sup>14</sup> Since 2007, the EDFI has also adopted “Harmonized Environmental, Social, and Governance Standards” (EDFI, 2009). While they do not harmonize the content of the labour provisions in DFI policies, these Standards do contain Social Category Definitions, and certain technical standards for social due diligence, social contractual requirements as well as an exclusion list for joint investment projects. Often, DFIs which co-finance a project also coordinate their responses if problems arise regarding the labour provisions, for example in the form of a jointly defined action plan that the client company is required to implement. These arrangements can be seen as an important step towards providing coordination between DFI policies on labour and other social concerns.

A number of DFIs have also put in place specific review mechanisms to protect third parties from potentially harmful consequences of their operations, often in the context of specific safeguard policies. These policies typically allow the affected parties to bring their concerns before a committee that is formally independent from the operational part of the DFI and reports directly to the DFI’s highest body. The review body usually works with both parties to resolve the dispute and may recommend amendments to the DFI’s policy or offer redress if problems are identified. Most review bodies not only provide a forum for addressing complaints, but may also independently examine whether a DFI has complied with its internal policies and may promote dialogue between the DFI and the affected group.<sup>15</sup>

The first DFI to put a review mechanism in place was the World Bank in 1994 after facing criticism of shortcomings in its environmental and community policies (Clark, 1999; Horta, 2002; Brodnig, 2005). The World Bank’s review mechanism does, however, not cover labour standards issues. By contrast, the review mechanisms of other DFIs, such as IFC, the EBRD and the EIB, also scrutinize labour policies of their DFIs. The AfDB allows for review of gender issues (Rees and Vermijs, 2008). While the IFC’s Compliance Advisory Ombudsman is most widely known review mechanism, the EIB Complaints Mechanism stands out for its two-step procedure. Here, individuals may make a submission to the EIB’s internal complaints office, but may also have recourse to the European

<sup>13</sup> See at: <http://www.edfi.be/>.

<sup>14</sup> Other instruments are the UN Declaration of Human Rights, the IFC Performance Standards and the IFC’s Environmental and Health & Safety Guidelines (EDFI, 2009).

<sup>15</sup> See, for example, IFC Compliance Advisory Ombudsman (2007).

Ombudsman (an independent EU institution) if they consider the reply from the complaints office to be unsatisfactory (EIB, 2008).

## ***2.2. Application of DFI labour policies in practice***

Little is known about the practical application of labour provisions in the policies of DFIs, as much of the information is confidential and the nature of such policies makes it premature to conduct a comprehensive assessment. In particular, information on the application of labour provisions in DFI policies regarding investments through financial intermediaries or in the context of public procurement is difficult to obtain and assessment is available so far. Among the DFIs, documentation on the application of labour provisions is most advanced in relation to the IFC Performance Standards. Some preliminary insights can, for example, be drawn from the IFC's report on their first three years of implementation of the Performance Standards (IFC, 2009),<sup>16</sup> as well as a assessment by the Global Union of the IFC Performance Standards (Global Unions, 2009) as well as the reports of the IFC's Compliance Advisory Ombudsman.

According to the Global Unions assessment, 21 submissions were filed by trade unions between 2006 and 2009, involving two requests for information and 19 reports of alleged breaches of IFC Performance Standards. Table 3 provides an overview of recent cases dealt with under the Performance Standards between July 2006 and August 2009. The IFC has reacted with enhanced monitoring and capacity building activities for finance recipients and has, in some cases, suspended the project after the circumstances of the complaint were investigated.

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<sup>16</sup> IFC also published an assessment of the application of its Performance Standards with the first 18 month assessment which the more recent assessment partly draws on (IFC, 2007a).

**Table 3. Submissions regarding breaches of the Performance Standards filed with the IFC by trade unions between July 2006 and August 2009**

Type of submission	Freedom of association	Child labour	Others	Total*
Total number of cases submitted by trade unions to the IFC				21
Number of requests for information				2
Number of registered complaints	17	3	4	19
Intervention undertaken by IFC				
Additional capacity building or monitoring provided	3	–	–	3
Project suspended or not pursued	2	1	1	2
Correction of alleged violations due to IFC intervention	5	–	–	5
Company bankrupt**	2	–	–	2
No breach found by IFC	1	1	2	4
Pending	4	1	1	3

Note:

\* Due to the complexity of the problems at stake, some of the cases submitted to IFC involve several allegations, which have triggered different interventions by IFC. The total number of the interventions undertaken by IFC, therefore, does not coincide with the total number of the cases submitted.

Source: Global Unions (2009).

\*\* It is unclear to which extent the decision to suspend or to not pursue the project was due to a lack of the company's compliance with the DFI's labour policies.

It appears that at least in certain cases the IFC's interventions have been helpful to address the labour standards issues raised by the trade unions. For example, in a case concerning a Brazilian airline, the IFC helped to end anti-union activities (Bakvis and McCoy, 2008). In a similar case involving a Ugandan construction union, the IFC's intervention was instrumental in making the company apply a collective agreement (Murie, 2009).

Based on a review of existing cases, a case study in Turkey and one in Uganda, Bakvis and McCoy (2008), Atgas (2009) and Murie (2009) respectively, see potential in the Performance Standard 2 to positively influence the situation of workers. However, the consideration that the IFC relies to a large extent on the borrowers' self-assessment and consultants has led some to argue that the IFC Performance Standards are effective mainly in cases where local unions are present and are able to monitor the workers' situation (Bakvis and McCoy, 2008). Moreover, when these local unions are linked to global unions, they can further inform the IFC and provide more detailed information regarding implementation (Atgas, 2009). This finding is all the more important in light of the fact that that trade unions are, up to now, less involved in the implementation of policies of other DFIs.

As far as capacity building is concerned, the IFC has hired staff to implement its environmental and social policy, including a number of labour specialists (IFC, 2009, p. 12), totalling 62 staff members in 2009, and has established a Labour Advisory Group. Also, strong emphasis was put on familiarizing the IFC's own staff with the Performance Requirements (Table 4). More than 1,600 staff members received face-to-face training on the IFC's Performance Standards, while 192 participated in an online training course on the IFC's E&S management. Furthermore, beyond the initial assessment, 17 projects were subject to a comprehensive labour audit. The IFC also has a number of tools for internal review in place, which seek to assess and gradually improve the IFC's E&S performance,

such as an Environmental and Social Review Procedure and a Quality Assurance and Control System (IFC, 2009).<sup>17</sup>

**Table 4. Staff hired and capacity building undertaken on IFC Performance Standards in the first three years of application**

Staff Members in the E&S Department in 2009	Specialists on E&S in investments through financial intermediaries in 2009 *	Number of staff (IFC and WB) that received face-to-face training on the Performance Standards	Number of staff that completed an online course on E&S	Labour audits carried out on project sites
62	11	1,616	192	17

\* These figures include consultants.

Source: IFC (2009)

These observations reinforce the view that capacity building is an important component in enabling DFI staff to ensure that internal compliance with labour provisions is truly effective and sustainable.

Finally, in a few cases, labour concerns have also been raised to IFC's Compliance Advisor Ombudsman. Out of the 73 cases that were filed with the Ombudsman until 1 August 2010 four dealt with labour issues. Three of the four complaints dealt with the freedom of association of workers and could be solved amicably. The case against a Turkish company handed down in October 2008 is particularly illustrative for the IFC Ombudsman's approach vis-à-vis labour issues.<sup>18</sup> In this case, the Ombudsman conducted an on-site visit to examine the alleged problems regarding freedom of association and recommended that the client undertake training activities on the implementation of the IFC Performance Standards and implement an independent labour audit. The parties accepted these recommendations, whose implementation, at the time of writing, continued to be reviewed by the Ombudsman.

<sup>17</sup> Furthermore, a number of DFIs, including EIB, Norfund, and SIFEM have trained their staff on issues related to labour standards in collaboration with the ILO or the ILO's Turin-based International Training Centre.

<sup>18</sup> Most of these cases focus on local communities, indigenous people and environmental concerns.

**Table 5: Cases on labour issues filed with IFC's Compliance Advisor Ombudsman**

Name of the case	Date of filing	Labour concerns raised	Action taken by the Compliance Advisor Ombudsman (CAO)	Results
Nigeria / Niger Delta Contractor Revolving Credit Facility-01/Niger Delta (Environmental Rights Action)	1 June 2001	Employment practices and environmental /social performance of Shell contractors (among other non-labour related issues)	CAO conducted an appraisal and accepted the complaint in June 2001. The CAO's Assessment Report, made a number of recommendations, including the development of a participatory monitoring and evaluation program;	CAO's assessment was rejected by the complainants and CAO closed the case in January 2005.
Nicaragua / Nicaragua Sugar Estates Limited-01/León and Chinandega (complainant: Center for International Environmental Law)	1 March 2008	Labor and working conditions such as rights of association and restrictions to forming a union (among other non-labour related issues)	Since February 2009, CAO has convened a dialogue table to address the concerns of community members and the client company. Alongside the dialogue table, CAO has assisted community members from Goyena and Abangasca to address concerns together with the company.	The parties have so far agreed on a framework to address some of the health issues raised by the complainant .CAO is monitoring implementation of the agreements made by the parties.
Turkey / Standard Profil-01/Duzce (complainant: Confederation of Turkish Trade Unions)	1 September 2008	Labor and working conditions and more specifically, rights of association and restrictions on formation of a labor union.	CAO conducted a preliminary field visit in November 2008 followed by regional consultation visits. CAO recommended that the client company take a number of actions such as (1) promote awareness of IFC Performance Standards (PS2); (2) assist workers and management to implement a training program to ensure the application of the Performance Standards (3) implement an independent labor audit to provide assurance of adherence to IFC's core labor standards.	The parties agreed on the recommendations proposed by the CAO. CAO is now working with both Standard Profil and IFC in pursuit of effective implementation of the recommended actions. For example, a CAO-hired labour training expert carried out training for workers and managers on Performance Standard 2. CAO continues to monitor progress until the satisfactory completion of all agreed actions.
Turkey / Assan Aluminyum-01/Dilovasi (complainant: Confederation of Turkish Trade Unions)	1 October 2008	The company's support of and conformity with the IFC Performance Standards regarding freedom of association	The complaint was accepted by the CAO, however while the project was in an early stage of IFC involvement and therefore IFC had not yet completed its own due diligence procedure and processes.	IFC completed its due diligence and finalized its agreements with the client company. The complainants were informed about the results and did not object to it. The CAO closed the case but continues to monitor the implementation of these agreements.

Source: Database on cases submitted to the CAO Ombudsman. Available at: <http://www.cao-ombudsman.org/cases/> [4 August 2010].

### *2.3. Reactions from client companies to DFI labour policies*

Aside from the impact of DFI labour policies on workers, the question of their effect on client companies also arises. In an IFC survey of 2009, it was found that the Performance Standards are largely acceptable to IFC's clients. According to this survey, while 60 per cent of the respondents believe that costs under the Performance Standards are higher than in the average sector, only 21 per cent of the respondents consider that the Performance Standards might negatively affect their decision to collaborate with the IFC. For IFC investments through financial intermediaries, the number of respondents that share this latter perception is even lower (15 per cent). By contrast, 60 per cent of the financial intermediaries responding to this study consider that the Social and Environmental Management System that the IFC requires them to put in place has positive implications for their brand reputation (IFC, 2009, p. 22).

Additional insights may also be gained from the private banks that have adopted the Equator Principles. The preliminary evidence regarding the business impact of the Equator Principles indicates that they have not negatively influenced the business relations of the banks adhering to the Principles. As Sims (2008) notes, the number of banks adhering to the Equator Principles continued to grow after the Equator Principles were revised so as to align with the IFC's enhanced Performance Standards in 2006. Further, Scholtens and Dam (2007) find that the adoption of the Equator Principles has not led to negative reactions by the banks' shareholders. However, Sims (2008) observes a drop in the percentage of the proceeds of the DFI project advisers (mandated arrangers) covered by the Equator Principles since 2006. This suggests that adopting the Equator Principles entails certain additional costs (Scholtens and Dam, 2007), which are, however, for a number of banks outweighed by the expected enhancement of their reputation (IFC, 2007b; Sims, 2008).

## Concluding remarks

A growing number of DFIs, including the World Bank institutions and numerous regional and bilateral DFIs, have integrated labour provisions into their policies over the past ten to fifteen years. These policies go beyond hortatory statements including specific requirements with which the client bidding company must comply. Twelve of the 16 DFIs analysed in this paper, explicitly make reference to the ILO 1998 Declaration or, more frequently, to the ILO' Fundamental Conventions, using the four CLS as a core element of their labour policies.<sup>19</sup> Where several DFIs conduct joint investments, they often use a common labour policy and, in particular within EDFI, jointly address problems that arise as regards implementation.

Many DFIs have put in place complex procedures to implement these policies into their operations, which differ across DFIs and vis-à-vis the different investment types.

As for the application in practice, first limited experiences with the IFC Performance Standards show that labour policies can indeed contribute to the improvement of labour standards in developing countries. In this regard, the cooperation between unions seems to have contributed to remedying breaches of labour standards, an experience which other DFIs might build on. The fact that negative reactions from client companies have been very scarce should encourage DFIs to further enhance their labour policies.

A number of possibilities to further develop labour policies exist. A number of DFIs have not yet adopted a policy on labour standards, and therefore might reconsider their position in the light of the positive experiences gathered so far regarding labour provisions in DFI policies. Furthermore, existing DFI policies could be enhanced by referring to additional ILO conventions, including those on occupational safety and health or working time, which would further improve coherence between DFI policies and ILO instruments.

As far as implementation is concerned, more reflection is warranted on how social partners and representatives of civil society, which often dispose of considerable information on labour standards violations in the different countries, can be integrated more into the supervision process. This could be done by making available information on projects or evaluation reports through channels available to the general public or direct consultations with the relevant actors. In any event, the development of labour provisions is likely to remain a dynamic process. This is illustrated, among other things, by the fact that IFC is currently revising its Performance Standards with a view to refine it in the light of the experience gained so far.<sup>20</sup>

By and large, DFI labour policies constitute a promising step, not only as a tool for the promotion of labour standards in developing countries but also for further mainstreaming social concerns into the global economic governance framework. Further research is required to more comprehensively assess the practical impact of these policies on labour standards working conditions.

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<sup>19</sup> That said, not all of the labour provisions which refer to ILO instruments necessarily incorporate all labour standards contained therein.

<sup>20</sup> See further at: <http://www.ifc.org/policyreview> [4 August 2010].

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