

**STATEMENT OF JONATHAN SOHN
SENIOR ASSOCIATE
WORLD RESOURCES INSTITUTE**

**TESTIMONY SUBMITTED TO THE COMMITTEE ON FOREIGN AFFAIRS
SUBCOMMITTEE ON TERRORISM, NON-PROLIFERATION AND TRADE
U.S. HOUSE OF REPRESENTATIVES**

**HEARING ON “THE REAUTHORIZATION OF THE OVERSEAS PRIVATE
INVESTMENT CORPORATION”
MAY 24, 2007**

Mr. Chairman and distinguished members of the Committee, good morning and thank you for inviting me to testify on the value of reauthorizing the Overseas Private Investment Corporation (OPIC), specifically with respect to OPIC’s mission of fostering foreign economic development in a manner that protects the environment at a local, regional and global level. I am Jon Sohn, Senior Associate of the World Resources Institute (WRI).

The Financial Flows Objective of the World Resources Institute engages financial institutions to shift investment to sustainable companies and projects. Our innovative research informs banks and investors about the value of taking action on the most pressing environmental and social challenges. WRI works in partnership with governments, businesses, scientists and non-governmental organizations in more than 70 countries. For over 25 years, WRI has provided information, tools and analysis to address climate change and the degradation of ecosystems, while working to increase access to information and improve people’s lives. In the testimony below, WRI presents ideas that not only make sense for the environment but also make good business sense. In that respect, I will for example, draw your attention to a new WRI report: “*Development Without Conflict: The Business Case for Community Consent.*”

Opportunity for Leadership

WRI supports OPIC’s core mission of economic development that promotes human rights, core labor standards and broad environmental goals. My testimony today will provide some key policy markers that are suggested for Congress to enact prior to the reauthorization of OPIC. These policy markers will enable OPIC to play a leadership role within international finance and development. During the past few years OPIC has made a number of promising investments including supporting a \$300 million energy efficiency fund with AIG International, rural electrification projects, increased water access services and providing international relief funds in sensitive political environments. These types of investments need to reflect a growing percentage of OPIC’s overall portfolio in terms of aggregate dollars and development impact. The challenge for OPIC is to strategically plan to scale-up its support of positive, sustainable investments. At the same time, a significant number of environmentally and socially sensitive projects exist in the current OPIC portfolio and continue to come through the investment due diligence pipeline. Congress can use the opportunity of reauthorization to

keep OPIC on a prudent course towards sustainability while also lowering portfolio and project risk.

My testimony focuses on three policy areas that financial leaders in the public and private sector are all addressing:

- Climate Change
- Local Community Consent
- Transparency and Accountability

Developing a Climate Change Action Plan

In February 2007, the Intergovernmental Panel on Climate Change (IPCC) released its report on climate change science. The report states that it is “unequivocal” that the Earth’s climate is warming, and confirms that the current atmospheric concentrations of CO₂ and methane, two important greenhouse gas emissions, “exceeds by far the natural range over the last 650,000 years.” Many scientists believe we must limit global warming to no more than 2 degrees Celsius to avoid the worst impacts of climate change, and therefore we must avoid atmospheric concentrations of carbon dioxide that exceed 450-500 parts per million. To do this global emissions must be reduced by 60-80% below current levels during this century. A recent report by Sir Nicholas Stern, former chief economist at the World Bank, highlights the financial risks for the global economy of failing to address climate change. Calling climate change “the greatest market failure the world has ever seen” Stern’s report appeals for strong, international and coordinated government policies to encourage GHG reductions. Accordingly, it is imperative that Congress employ every U.S. Government tool to tackle the climate change challenge and realize the global business opportunities that are emerging in clean technology. OPIC should be a more significant part of the solution as a condition of reauthorization.

Prior to OPIC reauthorization, we suggest that Congress set the agency on a path towards the development of a ***Climate Change Action Plan*** to mitigate greenhouse gas emissions and increase support for clean, renewable energy and energy efficiency. The Action Plan should be developed with OPIC stakeholders with a view to designing measurable targets and outcomes that support the growing energy needs of emerging markets in a clean, safe and efficient manner while actively mitigating global greenhouse gas emissions. A broad menu of options could be considered as part of this Climate Change Action Plan:

- ***Ambitious targets for renewable energy and energy efficiency.*** Set measurable targets for clean, renewable energy. In the past few months alone, OPIC private sector counterparts Citigroup and Bank of America set clean energy investment targets of \$50 billion and \$20 billion respectively. On the public side, the World Bank Group has adopted a target to increase investment in “new renewable energy” by 20% annually.
- ***Reducing the Carbon Footprint of OPIC’s Lending Portfolio***
Reduce the overall cumulative emissions in individual projects and the broader aggregate portfolio. The World Bank Group has made commitments to account for and reduce the total emissions in its portfolio and the IFC now has a

- performance standard requirement to seek project-level mitigation options.
- ***Review Fossil Fuel Extraction Investments***
Review input that suggests amending the Foreign Assistance Act (22 U.S.C. sec. 234(c)-(d)), which currently prohibits the agency from directly investing in oil or gas extraction and surveying, by extending this provision to other forms of OPIC assistance for a broader set of oil development and delivery activities, e.g. pipelines.
- ***Innovative Financing Mechanisms***
Explore and establish more flexible lending terms and innovative financing mechanisms that support clean energy technologies. For example, the Export-Import Bank provides extended loan repayment terms for renewable energy.

Developing a Business Case and Standard of Free, Prior, Informed, Consent for Local Communities

Moving from the global level to the local, it is imperative that OPIC play a leadership role in empowering local communities impacted by its projects to have an increasingly strong voice in development decisions. Congress should guide OPIC to develop a standard that will require clients of the agency to obtain the free, prior and informed consent of communities impacted by its investments. OPIC should enhance its due diligence requirements to meet this goal. WRI's report, "***Development Without Conflict: The Business Case for Community Consent***" can be a valuable tool for OPIC to operationalize the principles that support this standard as a core strategy of risk mitigation and opportunity identification.

FPIC is a legal and normative term in sustainable development. The FPIC principle suggests that affected communities have the right to approve how projects are designed and implemented. FPIC goes beyond mere Environmental Impact Assessment consultation, towards a set negotiated binding agreements enforceable over the lifetime of a project. The term finds its roots in International Labor Organization Convention 169 for indigenous peoples but has increasingly been implemented in national laws for communities broadly. Public and private banks are developing standards that are moving towards community consent. The International Finance Corporation now requires its clients to engage in "free, prior, informed *consultation*" with local communities that leads to demonstrated "broad community support" of a given project.

WRI carefully reviewed a number of large-scale development projects around the world including direct engagement due diligence with companies and communities on the ground. Based on studies of a Shell gas project in the Philippines, a Newmont mine in Peru, a proposed Meridian mine in Argentina, a water services privatization in Bolivia and a wastewater treatment plant project in Thailand and additional engagement with other leading multinational corporations, we find that there is a clear business case for operationalizing consent principles in environmentally sensitive projects. WRI finds that:

- When businesses get it right, achieving consent can benefit local communities and project sponsors.

- The business risks of going forward with a large-scale project in a community without its acceptance can threaten the viability of a project.
- Community opposition can arise from impacts that are generated at any stage in the project cycle.
- Addressing issues of community concern before a project begins is likely to be more successful and cost-effective than responding to community opposition later on.
- The risks of failing to achieve community consent are not borne exclusively by the project sponsor. Other stakeholders such as shareholders, financiers and host governments can also have their interests adversely affected by conflicts that may result from a failure to achieve consent.
- Engagement or mere consultation may not always be sufficient to fully address these risks.

The report also finds that companies that achieve FPIC gain a competitive advantage in the form of project cost savings, reputation, and greater access to international finance. OPIC can play a leadership role by moving to adopt this standard.

Increasing Transparency and Accountability at the Institutional and Project Level

If one looks back at the testimony provided by members of the environmental community from 2003, a number of concerns were raised with respect to OPIC drifting significantly from its mandate of sustainable development. In 2003, OPIC was coming off a decade of increasing investment in large-scale projects with difficult environmental and development outcomes and in some instances no lasting development benefits to impoverished countries. OPIC also had a series of other portfolio investments that strayed from its development mission including support for building international 5-star hotels and luxury tourist adventure facilities. OPIC was also a significant financier of a number of failed Enron-led projects including damaging and economically questionable investments in the Dabhol Power Plant in India and the Cuiaba Gas pipeline running from Bolivia to Brazil.

Congress chose to set OPIC on a path of enhanced environmental standards, transparency and accountability with a view to shifting OPIC's portfolio to more sustainable companies and projects with more obvious development benefits. Two key reform efforts were initiated at OPIC as part of the Overseas Private Investment Corporation Amendment Act of 2003: 1) Establishment of an Office of Accountability (OA). This office was indeed initiated by OPIC to evaluate agency compliance with environmental, social, labor, human rights and transparency standards, and to create a forum and provide advice for resolving concerns about the impact of OPIC projects; and 2) Establishment of a "Transparency Initiative" to :

"{H}eighten transparency and information disclosure concerning OPIC's projects and internal mechanisms, consistent with existing statutes and laws. Interested stakeholders, including NGOs, environmental and labor organizations, and the business/investor community, should play an active role in this process and provide recommendations on how it should be used to strengthen OPIC's program policies."

OPIC made a good first step by releasing a 2006 list of Transparency Initiative commitments yet it remains uncertain how these voluntary commitments are mainstreamed into agency policy decisions in a substantive and accountable manner.

While these transparency and accountability efforts at OPIC are important steps in the right direction, many stakeholders engaged with OPIC on the processes find that implementation has proven to be a challenge in terms of meaningful change in practices at the agency or on the ground in developing countries. In addition, several investments are still causing environmental and social risk or are simply not transparent enough for the public to be informed. Below please find a few illustrative examples of OPIC investments that, together with the uncertain pace and depth of 2003 reform efforts, warrant enhanced transparency and accountability measures during this reauthorization:

- BP's Baku-T'Blisi-Ceyhan (BTC) pipeline project, which transects 1,760 kilometers of Azerbaijan, Georgia and Turkey. This oil pipeline project impacts several environmentally sensitive areas. A complaint was brought under OPIC's new Accountability Mechanism by local communities because of widespread cracking of anti-corrosion coating on the pipeline. Independent analysis by some experts suggests that the potential failure of this anti-corrosion coating greatly increases the risk of oil leaks and spills over the life of the project, with consequent threats to the natural environment and human health. The OPIC Office of Accountability (OA) final report on the matter acknowledges that these issues are real and were not brought to OPIC's attention by the project sponsors prior to approval of \$141 million in project risk insurance. It also presents a number of recommendations on improving environmental monitoring of the project. Yet the Accountability Office report also underscored the scope of its powers: the OA can only review whether the agency has complied with its own policies, not if OPIC clients are in compliance with those policies and positive strategies to manage those risks.
- Increasingly OPIC is investing broadly in banking services without clearly identifying to the public the specific use of these proceeds by these financial institutions. In 2006 alone, OPIC provided over \$1 billion in finance to private sector financial institutions who then use those cash proceeds to on-lend to other commercial banks or individual projects. These investments figures are direct finance and do not include OPIC exposure in its investment fund portfolio. Based on publicly available information it is unclear how this money has specifically been used or what impacts these investments might have on the environment. This follows a broader trend among development banks over the last decade in which the volume of lending has increased to financial intermediaries that in turn lend to or invest in subprojects with a view to development and expansion of domestic financial markets. WRI's report on the role of Financial Intermediary Lending and Environmental Risks provides tools for managing such risks where appropriate.

- Currently, OPIC is considering support for the Tenke Fungurume copper-cobalt mining project in the Democratic Republic of the Congo. This investment comes in the context of an international appeal by civil society for the potential revision of mining contracts that some fear are unfavorable to the Democratic Republic of the Congo (DRC) and local communities. At issue is the fair division of the benefits from mining, and the corresponding risk that the reconstruction and development of the country could be compromised. Some aid organizations are calling on the Congolese Government and international financiers to review contracts inherited from the country's civil war and the transition in order to ensure that the Congolese people derive an equitable share from the benefits of the exploitation of the country's mineral wealth.

In order to fulfill the transparency and accountability vision set forth by Congress in 2003, the following ideas are put forward for the 2007 reauthorization. OPIC can:

- Establish clear policies and implementation mechanisms to operationalize the Transparency Commitments made as of September 2006.
- Expand transparency requirements to the public release of environmental and development impact monitoring reports.
- Enhance due diligence of development impact monitoring methodologies to include criteria to take in the views of public stakeholders.
- Enhance, to the extent feasible, OPIC project level transparency requirements with respect to contract conditions.
- Expand the role of OPIC's Office of Accountability to have a clear mandate to review client compliance with relevant OPIC policies.
- Review the various project and investment risks noted above with respect to the BTC pipeline, use of proceeds to specific subprojects banking service investments, and the economic and development challenges of the Tenke Fungurume mining project in the DRC.

Mr. Chairman, I thank you this opportunity and look forward to working with you and the Committee during this reauthorization process. OPIC has an opportunity to expand U.S. leadership on high environmental standards while increasing investment in sustainable development.

Thank you.

Jonathan Sohn

Senior Associate

World Resources Institute