

# Review of the Application of IUCN's *Operational Guidelines for Private Sector Engagement*

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## 1. Introduction

### 1.1. Context

IUCN's *Operational Guidelines for Private Sector Engagement* were developed by the IUCN Secretariat's Business and Biodiversity Programme (BBP) to assist IUCN Secretariat staff and Commission members worldwide with the implementation of IUCN's Private Sector Strategy, as a response to Resolution 3.061 adopted at the 3rd World Conservation Congress (Bangkok, 2004) which "Calls on the IUCN Director General to initiate an open and participatory process to strengthen the principles of engagement and develop guidelines to guide further dialogues, partnership agreements and other interactions with the private sector". Drawing on the findings and recommendations of a survey of existing guidelines for not-for-profit / private sector interactions carried out in August-December 2005, and on a report on IUCN engagements with the private sector (March 2006), the Operational Guidelines were launched in 2006, after having been presented to and noted by the IUCN Council (May 2006).

Resolution 4.086 adopted at the 4th World Conservation Congress (Barcelona, 2008), "Guiding and improving IUCN's involvement with the private sector", reconfirms the crucial role that the Operational Guidelines play in establishing agreements with the private sector and calls on the Director General to "conduct all interactions with the private sector in full compliance with the *Guidelines* when approved by Council". The resolution "Calls on IUCN's Council as soon as possible, in consultation with the Director General, to approve the *Operational Guidelines* by which the IUCN Secretariat and the Commissions interact with the private sector and to establish and implement effective mechanisms for consultation and communication with members and Commissions on issues related to private-sector engagement".

### 1.2. Purpose and objectives of this review

Following Resolution 4.086, the BBP is revising the 2006 Operational Guidelines in order to strengthen and increase the transparency of IUCN's engagement with the private sector, ahead of their submission to IUCN Council for consideration and approval. To support this revision, this review was undertaken to capture the experience gained by IUCN members and staff in the past two years in directly and indirectly using the Operational Guidelines.

The specific objectives of the review are to:

- Gather feedback on the usefulness of the guidelines in implementing the Private Sector Strategy; and
- Gather specific recommendations for the revision of the Guidelines, including comments on specific elements, gaps, inconsistencies and structure.

A small number of private sector representatives were also consulted for the review.

### 1.3. Methodology

This review followed the steps set out in the terms of reference (Annex 1). Feedback and suggestions were collected by telephone interview (or, in a few cases, by email), between 12 November and 2 December 2008, from 52 identified stakeholders (IUCN members, former and current IUCN Councilors, IUCN Commission members, IUCN Secretariat staff, and private sector representatives; Annex 2) using a small number of focused questions (Annex 3).

For IUCN Councilors, IUCN Secretariat staff, National Committee staff, and IUCN Commission members, stakeholders were divided into "users" and "non-users" and asked the questions in protocol 1 or 2 accordingly. Private sector representatives were asked the questions in protocol 3. As some of the private sector representatives were relatively familiar with the Guidelines – either because they had been applied, at least partially, in developing an agreement between their organization and IUCN and/or because they had commented on a draft version of the Guidelines – some were also asked questions from protocol 2.

In addition to the interview material, the authors considered the recommendations presented in the following reports:

- S. Tuner, March 2006. "IUCN and the private sector: experience and lessons learned"
- D. Shand, October 2008. "Final Report on review of existing agreements between IUCN and the business sector compared to IUCN'S private sector Strategy and Guidelines" (reproduced in Annex 4).

Note that quotes from interviewed stakeholders have been edited to facilitate understanding. Consequently, these should not be cited outside the context of this document.

## 2. Summary of feedback on experience in using the Operational Guidelines

Respondents were asked about their direct and indirect experience in specific aspects of using the Operational Guidelines. This section summarizes this feedback according to topic. Note that most of the issues discussed in this section are discussed in more detail and with analysis in section 3 in the context of possible improvements to the Operational Guidelines.

### **2.1. Use of the Operational Guidelines**

Most of the interviewed respondents had never used the Guidelines. For some the document is not applicable to their work (for example, IUCN Commission and member representatives who have never engaged with the private sector; representatives from IUCN member organizations with their own guidelines; private sector representatives), while for others, even though the document is applicable, they have never looked at it (IUCN members). Some had not read the Guidelines recently or ever before the review, with two not having read them at the time of the interview.

A few (four) IUCN member representatives had used the Guidelines, either as a reference document or for more concrete guidance on their organization's private sector engagement activities. A few (four) respondents who had not previously used the Guidelines, including one private sector representative, also indicated that they would be useful for their work.

All 13 of the interviewed IUCN Committee and Secretariat respondents who have been involved with private sector engagement said they have used the Guidelines.

Some non-user respondents (nine), including representatives from organizations with which IUCN has entered into a formal engagement, also directly or indirectly questioned the extent to which the Guidelines are being used by Secretariat and Commission staff.

### **2.2. Usefulness in implementing IUCN's Private Sector Strategy**

The majority of respondents (41) who directly answered the relevant questions indicated that the Operational Guidelines are useful in the implementation of IUCN's Private Sector Strategy. However, in a number of cases (16) this positive response was qualified by an indication that the Guidelines need improving.

Three respondents indicated that the Guidelines are not useful, because: they are too complicated; they need expanding; and they don't help to make the decision of whether IUCN should engage with one company or another.

It should be emphasized that in some cases, respondents expressed a broad view of the usefulness of the Guidelines, not necessarily referring explicitly to implementation of the Private Sector Strategy. In addition, some responses suggest that a number of respondents were unfamiliar with the Strategy and/or confused between the Strategy and the Guidelines.

### **2.3. Barriers in structure or content**

The majority of respondents (27) who directly answered the relevant questions indicated there are no barriers in the structure or content of the Guidelines that prevent their use. However, in a few cases (five) this response was qualified by an indication that the Guidelines need improving.

Some respondents (seven) felt there are barriers in the content and/or structure, due to them being too complicated and difficult to follow.

### **2.4. Clarity of instructions**

Of the non-user respondents who directly answered the question of whether it is clear which steps must be applied as opposed to examples of guidance and best practice, 15 answered yes and 19 answered no. Of the user respondents who directly answered the question of whether the instructions are clear and easily applied, four answered yes and one answered no.

### **2.5. Inconsistencies**

User respondents were asked whether there are any inconsistencies in the Guidelines. Only two indicated that there are. One commented that the document is not internally inconsistent but it is inconsistent with new developments at Congress and the due diligence process; the other questioned why there are Guidelines for engaging the private sector only.

### 3. Summary and analysis of feedback on possible improvements to the Operational Guidelines

Respondents were asked how any issues and concerns could be addressed in the revision of the Operational Guidelines, as well as for suggestions for improving the content and structure. This section summarizes this feedback according to topic, with a brief analysis that includes the reasons for not considering some suggestions in the recommendations (section 4).

#### 3.1. Revision process

A few (five) respondents indicated that revision of the Operational Guidelines needs to involve the wider IUCN Secretariat staff and membership. One mentioned that the drafting process “needs to have more ownership” by involving the regions and membership, and another asked that members and Commissions have a chance to review the revised Guidelines before they are put up for approval by Council.

→ *A representative sample of IUCN members, Commissions, and Secretariat staff has provided input to the revision through this review process. One way to provide more ownership would be to test the revised Guidelines with selected regions and members. Guidelines elements that received particular attention by respondents, namely the due diligence process and development of a system for informing and involving IUCN members in the engagement process, should be developed in consultation with IUCN members.*

Some (seven) respondents asked that the following be taken into account for the revision:

- “Final report on review of existing agreements between IUCN and the business sector compared to IUCN's private sector Strategy and Guidelines” (D. Shand, October 2008)
- “IUCN and the private sector: experience and lessons learned” (S. Turner, March 2006)
- Previous comments received on the draft version of the current Operational Guidelines.

→ *The recommendations from the D. Shand report (reproduced in Annex 4) applicable to the Operational Guidelines have been considered in this review. Comments on the previous draft, including the S. Turner report, were not considered: these were already considered during the development of the current version of the Operational Guidelines and this review provided an opportunity for members to express their thoughts on issues and concerns they feel should be addressed in the current revision.*

Several comments were made about IUCN's engagements with Shell, ICMM, and Holcim. In general, these comments related to revising the guidelines so that the controversy and issues surrounding these engagements do not occur again. However, one respondent felt that the Operational Guidelines should not be changed before the problems surrounding the Shell engagement are “fixed” and the lessons learned from this are gathered, so that these lessons can feed into the revision process.

→ *Given that Resolution 4.086 from the Barcelona World Conservation Congress calls for Council to approve the Guidelines as soon as possible, it does not seem practical to halt the current revision process until all Council members feel the current Shell engagement has been “fixed”. Several respondents explicitly mentioned problems with this engagement and their suggestions as to how these could be avoided in the future are included in this report. Therefore, it seems reasonable to revise the Operational Guidelines despite continued controversy surrounding the Shell engagement.*

One respondent urged for revision of the Guidelines to be minimised because of the potential disruption to existing partnerships.

→ *Consideration needs to be taken of the effect of the revision on existing engagements; however, the revision should be that necessary to gain Council approval as soon as possible, as called for in Resolution CGR4.MOT109 from the Barcelona World Conservation Congress. The Secretariat could consider advising existing partners of the new guidance, explaining the reasons for it, what has changed, and how this affects the engagement.*

### **3.2. Changes to structure and content**

As mentioned in section 2, a large number of respondents (27) indicated that there are no barriers in the content or structure of the Guidelines. A number (15), including users, commented positively on their comprehensiveness and/or user-friendliness, and two felt they do not need changing at all. Nevertheless, a similar number of respondents (19) indicated that the Guidelines are too long and/or difficult to follow or understand, with seven of these indicating that this prevents their use.

Suggestions for making the Operational Guidelines more user-friendly included:

- Shortening, simplifying, and making them more concise (eight respondents)
- Setting them out clearly in practical steps, more like a manual than a long document (two respondents)
- Removing general elements covered, or that ought to be covered, by other IUCN guidelines, rules, and tools and focus on issues that are specific to private sector engagement (one respondent)
- Including a summary (for example, of mandatory steps; as a quick reference to the modules and activities; what the document applies to and how to use it) (four respondents)
- Including a flow chart of the engagement process (five respondents) that emphasizes the idea it is not a linear process (two respondents)
- Illustrating the process with real examples (five respondents)
- Developing specific guidance on how to apply the Guidelines in different cultural and country contexts (two respondents) and implement global partnerships at a national level (two respondents)
- Making due diligence reports public, to be used as examples (one respondent)
- Developing a companion handbook that gives step-wise guidance and templates for developing MoUs, contracts, due diligences and risk assessments (one respondent), or a “dummy's guide” of how to go from the first meeting right through to the interaction (one respondent)
- Sign-posting where people can get additional information (one respondent)
- Creating a more explicit hierarchy between the modules (five respondents; however their suggestions as to how this might be done were contradictory).

One respondent noted, however, that condensing the guidelines to a stringent, short document should not mean diluting them – the additional guidance information still needs to be available somewhere.

Two respondents also mentioned that reference should be made existing international guidelines, such as OECD guidelines, the Equator Principles, as well as codes of conduct, standards, best practice more generally.

*→ Despite some respondents feeling that there is nothing wrong with current version of the Operational Guidelines, there is a clear indication that they should be more user friendly, in particular, shorter and more practical. At the same time, comprehensive guidance, including additional guidance in several areas (see the following points), is still desirable. These two competing indications need to be balanced.*

### **3.3. Policy context and guidance**

As mentioned in section 2, comments received by some respondents indicated confusion over, or indeed a lack of awareness of the content of, IUCN's Private Sector Strategy, as well as the relationship between the Operational Guidelines and the Strategy. For example, one respondent commented that the Operational Guidelines are based on the assumption that IUCN will engage with business: however this should not be unexpected given that the Private Sector Strategy explicitly concerns engaging with the private sector and that the Operational Guidelines were developed to help implement the Strategy.

A few (four) respondents felt the overall objectives of engaging with the private sector need to be clarified.

Two respondents asked for guidance on implementing the Strategy, such as how to make it part of the daily work of the programmes.

A few (three) respondents mentioned linking the Operational Guidelines to recent Congress Resolutions, and one suggested linking them explicitly with the Intersessional Programme 2009-2012.

→ *Preface and Module 1 of the 2006 Operational Guidelines provides the policy context of the Operational Guidelines, a summary of the IUCN Private Sector Strategy and a statement about the purpose of the Operational Guidelines; this could be made clearer.*

One respondent said the Guidelines should respond to the workplan required as part of Resolution 3.060.

→ *The workplan called for in the Resolution is not related to the Guidelines.*

One respondent felt it would be useful to include a short summary of the debate over IUCN's engagement with business for an external reader, explaining why the Operational Guidelines have been developed.

→ *The IUCN Private Sector Strategy outlines some of this debate; this could be included.*

A few (five) respondents suggested changes to the Private Sector Strategy and the Principles of Engagement.

→ *Changes to the Private Sector Strategy, including the Principles of Engagement, fall outside the scope of the current review of the Operational Guidelines.*

### **3.4. Scope & intended user**

Comments received by a few respondents indicated confusion over the scope of the Operational Guidelines; specifically, whether they apply to partnerships that pre-date the Guidelines or only to new engagements (two respondents) and whether they apply to all interactions with the private sector or just the larger partnerships (three respondents).

→ *The scope of the Operational Guidelines should be clearly articulated.*

Some respondents (six) also indicated that they were unclear as to the intended users of the Guidelines: IUCN Secretariat only, or also National Committees, Commissions, and members. Some also seemed to be unclear that the Secretariat extends beyond IUCN headquarters to all IUCN regional, country offices, and project offices. Three respondents also felt that the private sector itself was one audience, to help companies understand the requests IUCN is making during the engagement process and also to help companies understand the benefits of engagement to business.

→ *The 2006 Operational Guidelines already state Secretariat staff the intended users; this could perhaps be indicated more clearly. The Guidelines could also clearly indicate how they apply to IUCN Commissions, national Committees, and members. The Guidelines should be clear to an outside audience including the private sector, but should not be addressed to non-IUCN audiences directly.*

One respondent questioned the applicability of the Guidelines at a regional level, and two others felt there was insufficient guidance for regional staff working in the context of global partnerships.

→ *Guidance should be developed on how to apply the Guidelines at a regional, national and project level, as well as how regional, national and project offices can implement global partnerships.*

Two respondents indicated that the Guidelines are not clear on no-go areas for engagements.

→ *The 2006 Operational Guidelines state that the Private Sector Strategy "... does not specifically exclude engagement with any business or sector". This should be made clearer.*

Two respondents asked whether guidelines are needed for non-business engagements, such as with multilateral banks and governments which can also have bad reputations and questionable practices.

→ *The Operational Guidelines fall under the Private Sector Strategy, and as such, only apply to engagements with the private sector. However, in explaining the policy context for the Guidelines (see "Policy context"), mention could be made as to why IUCN has specifically developed policy and guidance for the private sector.*

Contradictory opinions were expressed as to whether guidance on IUCN's own corporate social responsibility (module 10) is relevant to the Guidelines. Three respondents indicated that it does not belong in the Guidelines,

while four respondents, including two from the private sector, welcomed the mention of IUCN's corporate social responsibility

→ *In keeping with the recommendation to shorten the Operational Guidelines (see "Structure and content" above) and given that IUCN has published a Policy on Procurement of Goods and Services since the 2006 Operational Guidelines were published, guidance on procurement should not be included. However, reference should still be made to IUCN's own corporate social responsibility*

### **3.5. Type of guidance and process**

Several (six) respondents mentioned that the guidance provided in the Operational Guidelines is too general and/or subjective, and, as mentioned in section 2, a number (19) do not feel there is a clear distinction between mandatory elements and guidance or examples of best practice. Accordingly, there were calls to provide concrete guidance as well as clarity on mandatory actions. One respondent stated that mandatory actions need to be measurable and objectively verifiable, while another said not to make things mandatory unless they will be followed up on.

At the same time, a few (three) respondents recognized that a mandatory process for all types of engagements could lead to excessive bureaucracy, for example in the case of convening meetings, and be a burden to small companies. Two of these respondents suggested a threshold of engagement/sectors for which actions become mandatory, namely formal engagements that would allow a private sector entity to use IUCN's name and logo; in the case of companies with large environmental and human rights impacts; and the mining industry.

Also, while one respondent strongly feels the Guidelines should be a prescribed process that all staff must follow in order to be sure that IUCN's reputation will not be damaged by any inappropriate engagement with the private sector, many more (ten) cautioned against a rigid, proscriptive process and/or emphasized the need for an empowering, flexible process. Two of these respondents indicated that the Guidelines should provide a broad set of directions approved by Council that are then up to senior management to implement, while one said that pursuing a "punitive control route" is not necessarily the way to get the best results. Another respondent commented that IUCN's internal processes should not lead to a perception by the private sector that IUCN is internally disorganised or inconsistent.

As a point of reference, none of the reviewed private sector entities or reviewed member organizations has such comprehensive guidelines for engagement as IUCN's Operational Guidelines. For example, one private sector entity has a 5-page document with a small number of mandatory actions and areas to be assessed before entering a partnership; one is in the process of shortening and simplifying its guidance documents, having found that their length and detail was a barrier to use; and another has no formal policies or procedures at all.

One respondent cautioned against mixing mandatory and optional actions in the same document, due to difficulties for both the implementer and for the assessor to know what is required when, as well as problems with different forms of interpretation and failure to apply the mandatory actions.

Several respondents (six) commented more broadly on the process, indicating that the Guidelines should be less like explicit procedures to scrutinize actions at an individual level, and more like a broad set of directions from Council that the Secretariat senior management must then implement, being accountable back to Council under existing processes. (See also "Involvement of IUCN members and Council")

→ *The 2006 Operational Guidelines state that "except for aspects of private sector engagement dealing with signing of contracts, receipt of funds statements in the name of IUCN, and use of IUCN logo, which need to follow existing policies and delegation of authority, these Guidelines are not mandatory". Since then, the Secretariat has decided that some elements should be mandatory for Secretariat staff and Commission members; nevertheless, much of the content is guidance. Mandatory actions should therefore be clearly indicated, and these actions could be better separated from guidance.*

→ *Mandatory actions should be measurable and objectively verifiable.*

→ *A balance needs to be met between a strictly mandatory process that protects IUCN's reputation and provides sufficient transparency and involvement of IUCN members, and a flexible, not overly cumbersome process that allows practical implementation of the Private Sector Strategy. One way to achieve this would be to create a set of overarching mandatory directions, supported by procedures that allow for the necessary flexibility.*

### **3.6. Delegation of authority, approval process, and accountability**

For a few (four) respondents, the summary of delegation of authority on page 13-14 of the 2006 Operational Guidelines proved insufficiently clear, including the role of the Director General in approving engagements (three respondents). One respondent thought that module 8 indicated that the communications department gave authority to use the IUCN logo, and felt this authority should be much higher up.

→ *A revised version of the Secretariat's Delegation of Authority was published in December 2008; the revised Operational Guidelines should refer to this document instead of summarizing a delegation of authority.*

Similarly, a few (five) respondents commented that accountability was unclear, including for the IUCN Council and for IUCN's accountability to members or the broader public affected by private sector. One suggested looking at how other sectors, e.g. the humanitarian sector, have dealt with this issue. One respondent suggested including a statement that the reader is responsible for applying the Guidelines.

→ *Accountability should be more clearly articulated.*

Three respondents suggested a formalised mechanism for approving engagements, or at least controversial engagements, before they are signed, with one suggesting this could be the IUCN Council. However, there were also warnings against IUCN Council taking approval power away from the Director General and the Guidelines restraining rather than empowering the Secretariat (see "Involvement of IUCN members and Council").

→ *Establishing a formal mechanism for reviewing/vetting engagements falls outside the scope of revising the Operational Guidelines; nevertheless, such a mechanism could be useful to ensure that engagements cover all mandatory elements of the Operational Guidelines, to identify potential problems early on, and to facilitate decision making. In examining the feasibility of such a body, and in order to minimise bureaucracy and the risk of bottlenecks, careful attention should particularly be given to (a) the types of requests that may be forwarded to the body; (b) the timing for such requests to be forwarded; (c) the composition of the body; (d) the communication of decisions, internally and externally.*

→ *Authority for the Secretariat's engagement with the private sector should follow the Delegation of Authority.*

### **3.7. Types and hierarchy of engagements**

Some (six) respondents pointed out that there are different types and levels of engagement, with different levels of risk to IUCN's reputation and/or independence. A few (three) questioned whether a signed formal agreement is always necessary to achieve the desired outcome; however one respondent who has been involved with private sector engagements indicated that a dialogue may not always be enough to work with a private sector entity, as having the engagement go through a process helps to build trust. One private sector respondent recognized the importance of informal relationships.

A number of respondents (twelve) suggested clearly spelling out what different types of engagements entail and/or when they might be appropriate, especially in the case of IUCN receiving money. Suggestions included:

- Developing a matrix of different ways of influencing companies (from press releases to legal actions to engagements), in consultation with members (one respondent)
- Clearly articulating the hierarchy of different types of engagement (one respondent)
- Articulating the different conditions under which IUCN accepts money from corporations (such as corporate fundraising/donation/endowment; providing services and expertise; as part of a partnership to change the company's performance; and licensing) (five respondents). One of these suggested that "greening the business" must be not-for-profit and the provision of services and expertise must be zero-profit.
- Clearly articulating the conditions/criteria for developing different types of engagement (two respondents)
- Identifying criteria that would allow an informal relationship to become formal (four respondents), such as when a company changes its policy, after a series of specific informal relationships that have demonstrated real results and built experience within IUCN, or after performance objectives have been met
- Providing information on multilateral partnerships: their intricacies, challenges, risks and opportunities (one respondent).

Some respondents (nine) also indicated that the type of engagement or level of risk should influence the level of due diligence and/or requirement for a mandatory process.

One private sector representative pointed out that while an MoU is a lighter commitment, it is still a commitment that the company and the courts will expect IUCN to carry out.

→ *The Private Sector Strategy describes different types of engagements; this could be included in the Operational Guidelines. The different conditions under which IUCN accepts money should also be articulated.*

→ *The 2006 Operational Guidelines already list different types of engagements (pages 13-14, 15) and advises that the appropriate mechanism be chosen to formalise an engagement. However there is no ranking of different types of engagements according to risk, or any explanation of what different engagements entail. Guidance on what different types of engagements entail, their associated risk, and when and how they might be used to achieve a specific objective, should be developed.*

→ *The decision as to which kind of engagement to pursue and under what conditions will depend on the risk assessment; part of risk management may be to limit the type of relationship or ask a company to meet a set performance objective before the engagement is formalized. Since each potential engagement will have a different kind of risk and appropriate ways to manage this, it does not seem practical to set a mandatory procedure for risk management. However, guidance could be developed on risk management, including on how to use a series of less risky engagements to drive concrete outcomes.*

### **3.8. Engagement objectives & outcomes**

Some respondents (seven) called for specifying clear, verifiable environmental/biodiversity objectives and outcomes as part of all engagements, in order to be sure that engagement meets the overall objective of improving the performance of the private sector. One respondent further called for assessing environmental outcomes at the company-level, not just at the level of the project, saying that "one small conservation project is not enough if the company's activities in other areas are destroying 10 times that area".

→ *The 2006 Operational Guidelines already require that formal engagements are in the explicit pursuit of the IUCN Mission and Programme, are consistent with the Private Sector Strategy, and have specific objectives, performance milestones, and outcome and output indicators. This could be better emphasized.*

Three of the above-mentioned respondents particularly highlighted that engagements should be seen as bringing more than just financial resources to IUCN.

→ *Under the Private Sector Strategy, fundraising is not considered to be the main goal of engagement. Nevertheless, the IUCN Statutes state that the Director General may "within policy guidelines laid down by Council, accept from individual or corporate supporters, funds or other forms of support for the work of IUCN". Therefore, fundraising is a legitimate activity for the Secretariat.*

### **3.9. Types and hierarchy of private sector entities/industries**

Along with the different types of engagement, a number of respondents (ten) also pointed out that different private sector entities or industries have different levels of risk or likely controversy, with a few (five) stating that IUCN should be more cautious about engaging with the more risky sectors.

Suggestions for addressing this included:

- prioritizing which parts of the private sector are most consistent with the Principles of Engagement (one respondent)
- grouping different sectors into risk categories (for instance "red" for mining, "green" for agriculture, and "orange" for manufacturing) and requiring a different level of due diligence and oversight for each category (two respondents)
- spelling out the different risks (two respondents)
- building experience and concrete results through low risk engagements before undertaking larger, more risky engagements (four respondents)
- providing more detail on how to manage the balance between needing private sector funds to do 'good' work, even if the company or industry is not 'pure' (one respondent).

→ *The 2006 Operational Guidelines list priorities for engagement (page 19); this could be made clearer and linked more clearly to the priorities listed in the Private Sector Strategy (section 5.6.1). The risks associated with these priorities should be clearly articulated. Guidance could be provided on building experience with the private sector/a private sector entity through a series of low risk engagements.*

→ *While grouping private sector entities and industries into risk categories, with corresponding mandatory actions/mandatory oversight for each, may be welcomed by some members, such a grouping would not necessarily identify all potentially problematic issues, and indeed, may even cause people to be less cautious. As one respondent pointed out, a telecommunications company doesn't fall into the categories listed on page 8 of the 2006 Operational Guidelines, so people might think there's no need to do a full due diligence – but then later on find out that the company is involved in damaging or unethical activities. Therefore, such a grouping is not recommended.*

Two respondents asked for more information on developing engagements with different sectors, such as agriculture, mining, and IT, and the financial sector, while one asked for information on the business drivers for particular sectors that IUCN should particularly target.

→ *Specific guidance on different sectors should be developed.*

A few (five) respondents called for more guidance on engaging small and medium enterprises (SMEs). Suggestions included:

- making a stronger distinction between large multinationals, large nationals, and SMEs (one respondent)
- mapping the relevant big, medium and small enterprises at the global, regional and national levels (one respondent)
- providing guidance on specific issues surrounding engagement with SMEs, such as how to identify them, build a relationship with them, and secure their buy-in (one respondent)
- providing guidance on how to adapt the social responsibility concept for SMEs, which have less financial and investment capability (one respondent)

→ *Specific guidance on SMEs should be developed.*

### **3.10. Due diligence**

All respondents who mentioned due diligence recognized it as a necessary part of the process of engaging with the private sector. A number (11) indicated either implicitly or explicitly that there are no problems with the current due diligence guidance and process, and one felt that the current due diligence process is too stringent.

However, a number (15) felt the current guidance and process for due diligence and subsequent decision-making is inadequate, particularly for large and controversial engagements. These included the Guidelines:

- being too subjective and open to discretion (three respondents)
- giving no indication of what level of due diligence is appropriate for different types of private sector entities, engagements, or perceived level of risk (four respondents), or when to stop the due diligence (one respondent)
- not differentiating between the performance/policy of the company headquarters and national offices (six respondents)
- not clearly indicating the difference between research, preliminary due diligence and full due diligence (one respondent)
- not indicating whether the due diligence report should answer how the Principles of Engagement are met (one respondent)
- not indicating whether approval is needed for the preliminary due diligence before going on to the full due diligence, or who should give that approval (one respondent)
- not providing guidance for assessing the risk of one engagement compared to others, or assessing whether the risk is higher than the potential benefit (one respondent)
- not guiding the decision of whether IUCN should engage or not (three respondents)
- not including a mechanism to get feedback from IUCN members on a due diligence (one respondent)
- not including the issue of human rights (one respondent)

As mentioned previously ("Types and hierarchy of engagement"; "Types and hierarchy of private sector entities/industries"), a number of respondents (ten) indicated that the type of engagement or private sector entity/industry should define the level of due diligence, with some suggesting that different categories of engagement and private sectors be created to guide this. Other respondents approached due diligence from the other direction, asking for objective criteria or performance indicators to assess the environmental performance of, and risk associated with, a private sector entity that would then clearly guide the decision of whether and how to engage. One respondent pointed out, however, that developing such criteria first requires a policy decision of whether the criteria should make it as easy as possible to engage, or very precautionary.

Suggested performance indicators/criteria for engagement, which one respondent felt should be developed with, and approved by, IUCN Council, were:

- not carrying out, or proposing to carry out, activities in or which directly threaten certain areas: protected areas; areas recognized as important for biodiversity (KBA, IBA, IPA, etc); world heritage sites; IUCN's indicative list of world heritage sites (two respondents)
- not carrying out, or proposing to carry out, activities which directly threaten a globally threatened species (one respondent)
- not being part of a no-go industry (one respondent)
- not having a bad record in human rights (one respondent)
- not having bad ethics (one respondent)
- having a mission in line with that of IUCN (one respondent)
- having a reasonable code of conduct that includes protection of the environment and demonstrated practices in keeping with this (one respondent)
- having published programs and goals are for reducing emissions (one respondent)
- being present in the Dow Jones Sustainability Index (DJSI) Top 20 (one respondent)
- being a member of the World Business Council and the Global Reporting Initiative (one respondent)
- for licensing agreements, having an exemplary environmental record and a product with at least no negative, and preferably a positive, effect on the environment (one respondent).

Suggestions for what to do when a private sector entity failed to meet engagement criteria or performance indicators were:

- Applying a hierarchy of engagement types depending on the level of controversy/risk or area of poor performance, starting with discussions then progressing to dialogues and limited project activities, and finally to partnerships/licensing agreements only with companies that meet the full due diligence criteria (six respondents)
- Setting company-specific performance objectives that need to be met prior to engagement, based on identified areas of concern (two respondents)
- Seeking higher approval before going further (two respondents)
- Applying the precautionary principle to companies with a history of poor performance, and preferably not engaging (one respondent)

The other main recommendation was for an assessment of what the private sector entity is doing on the ground to ensure there is no disparity between the policy and/or actions of the parent company, and activities in different subsidiaries and/or countries (five respondents).

→ *The 2006 Operational Guidelines already include guidance on due diligence. This should be further developed into a more objective process that ensures all Secretariat staff use the same methodology to assess and manage any risk surrounding potential partners. At the same time, the process cannot be so cumbersome that it prevents smaller or less formal engagements. Different types of engagement may therefore warrant different levels of follow up. Guidance should be developed on how to use the due diligence to make a decision of whether to engage and at what level. Improved guidance should be developed on indicators of good environmental performance, human rights performance, assessing risk, and managing risk.*

### **3.11. Greenwash**

Some (six) respondents specifically mentioned the importance of avoiding greenwash when engaging with the private sector, while three others commented that the statement on page 17, "Ensure finds do not lead to greenwash", needs expanding.

Suggestions for helping to prevent greenwash included:

- Articulating what is meant by greenwash (two respondents)
- Defining objective indicators for greenwash and linking this to the due diligence process (one respondent)
- Reserving use of the IUCN name and logo only for the best companies (two respondents)
- Having strict ground rules to ensure that paid-for advice is still independent (one respondent)
- Conducting an objective evaluation of the engagement by people not involved in the engagement (one respondent)
- Ensuring that IUCN, particularly local offices, only commit to what they can actually do (one respondent)
- Clearly defining and communicating which part of a private sector entity the engagement involves (one subsidiary, one region, etc), to avoid giving the impression of a stamp of approval to the entire entity (one respondent)
- Working with the private sector entity on strategies and solutions to avoid greenwash (one respondent)
- Creating a communications protocol for informal engagements that includes phrases for how the engagement can be described, to prevent a company saying they are "working" with IUCN if there is no signed agreement (one respondent).

In a similar vein, two respondents cautioned against companies using partnerships to silence IUCN, which they feel is currently happening.

→ *Many of the suggestions made for other issues contribute to preventing greenwash. Further guidance should also be developed on specific indicators of greenwash and how to avoid greenwash.*

### **3.12. Transparency & information sharing**

A number of respondents (13) felt that there was not enough transparency, timely information sharing, or communication between the Secretariat and IUCN members on the engagement process, leading to issues such as a lack of trust between members/Council and the Secretariat, a lack of understanding among members of what the Secretariat is trying to achieve, and the possibility of members contacting the same private sector entities as the Secretariat.

Suggestions for the types of information that should be shared were:

- documentation involved in engagement decisions/developments (two respondents)
- factual (i.e., not news items with a positive spin) information about the engagement process, such as meetings held (one respondent)
- contacts for further information (one respondent)
- engagement objectives and deliverables (two respondents)
- the added value of a partnership to both parties (one respondent)
- the types of projects and activities a private sector entity has in different countries and how it or the partnership is dealing with environmental issues (one respondent)
- positive outcomes of the engagement (one respondent)

Suggested mechanisms for keeping members informed were:

- a website (three respondents)
- a regularly updated place in the members portal where new developments are notified, together with an alert that something new has happened (one respondent)
- email (one respondent)
- a database of engagements where all engagements recorded and documented (three respondents))

One respondent also commented that there needs to be an indication of when the Director General informs Council and members of an engagement.

Three respondents, including two private sector representatives, highlighted the difficulty of full public disclosure when it comes to commercially sensitive information. One respondent said that clear guidance should be provided on the legitimate boundaries between confidentiality and transparency, while another emphasized the need for an understanding by both parties that any due diligence exercise, in some form, should be made publicly available or available to IUCN membership to avoid the danger of "commercial confidentiality" being used to hide things.

Three respondents commented that guidance on communicating engagements externally, beyond press releases and positive news items, would be useful.

One private sector representative commented that, as an interviewee in a due diligence process, it would be good to receive feedback on any decisions made from the process.

*→ The 2006 Operational Guidelines already require transparency on all aspects of the engagement process leading up to the signing of an agreement. A workable system for recording, storing, and alerting members to this information should be established. Care needs to be taken that the provision of this information is not too time-consuming or burdensome. The Guidelines should clearly indicate when this information must be provided. The Guidelines should also require that information on engagement implementation is also made available to IUCN Council and members, and indicate when this should be provided. The Secretariat and Council should agree to what level of transparency is required in the case of commercially sensitive information.*

### **3.13. Involvement of IUCN membership and Council**

A number of respondents (14) stressed the need for IUCN members and Council to be actively involved in the engagement process, for example to advise on controversial engagements and providing expertise or access to resources that would be useful in the engagement process and for implementation of engagement activities. One respondent also mentioned that an engagement between a private sector entity and IUCN could be an opportunity for smaller NGOs, as IUCN could act as an intermediary between them and large companies.

A number of specific member concerns were highlighted, including:

- Risk to members arising from an engagement (four respondents)
- Participation of members in meetings (one respondent)
- When to engage members (one respondent)
- Taking into account minority views within the membership (one respondent)
- Competition with members (three respondents); however one mentioned that competition is not a problem
- Consent for engagement from members (three respondents); however several (seven) respondents warned against taking power away from the Director General or having too much involvement of IUCN Council

No specific suggestions were made as to how to better involve IUCN members and Council in the engagement process or seek their consent beyond providing a platform for members to comment on the process and the engagement activities (one respondent) or some kind of vetting instrument (one respondent). The latter respondent also urged that systems for consulting members be explored and agreed to.

One respondent also indicated that there should be guidance on how IUCN could discuss the engagements of its members.

*→ The engagement process should, at the very least, involve consultation with members and Commissions operating in countries or regions in which the engagement will be active and in which the due diligence identifies any concerns about the company. The Secretariat could also develop a system whereby members could signal their interest in being involved in discussions relating to a particular engagement.*

*→ As stated above, authority for the Secretariat's engagement with the private sector rests with the Director General, therefore it is not appropriate for IUCN Council to have any approval power for engagements.*

### **3.14. Involvement of other stakeholders**

Three respondents indicated that additional guidance is needed on how to ensure the adequate participation of other stakeholders, including local communities affected by the engagement and keeping the private sector entity itself informed.

→ *Guidance could be developed on how to identify and involve relevant stakeholders beyond IUCN members and those identified by IUCN members.*

### **3.15. Building, negotiating, implementing, and managing engagements**

Some respondents called for additional guidance on specific aspects of building, negotiating, implementing and managing engagements.

Four respondents called for more guidance on business drivers, business processes, and understanding engagement from the business perspective. Another urged for more detailed guidance on how to integrate biodiversity conservation within all aspects of business, including culture, so as to realise IUCN's overarching goal of improving the way business works.

One private sector respondent mentioned that IUCN and the company need consider how to decide what's fair and equitable when it comes to investing resources in specific engagement activities; that is, whether activities should be funded more by the partner who receives the most benefit.

The same respondent also mentioned including guidance on how to set up engagement governance, such as with a steering committee with high level people on both sides and/or dedicated project managers, saying that in his company's experience, the results and success of the partnership relies on having a good set up. The respondent also highlighted the need for both parties to jointly create a communications protocol for the engagement that includes use of logo and name.

The same respondent additionally mentioned confidentiality issues, asking for consideration that it is difficult for a company if IUCN works with a competitor.

One respondent suggested that the Guidelines should also address crisis management. Similarly, another mentioned that agreements should contain a closure cause for the case where a company does not meet agreed environmental objectives.

More generally, one respondent called for guidance on how to terminate partnerships when they come to a natural end.

→ *Guidance on business drivers, the business perspective, engagement governance, crisis management, and termination could be developed.*

### **3.16. Monitoring and evaluation**

Some (nine) respondents indicated the importance of monitoring and evaluation, auditing and reporting. A few (three) called, in particular, for the evaluation process to be more substantive (i.e., based around environmental performance objectives rather than the fulfilment of administrative aspects like money provided, meeting held, etc), to better capture lessons learned, and better assist decision-making on whether a given relationship should continue or not. One also asked how reputational risk can be factored into project evaluations.

At the same time, one respondent urged for IUCN to be “parsimonious” and asked “what do we absolutely need to have, in addition to the existing system, to deal about the specific concerns with dealing with the private sector interaction?”

→ *Private sector engagements should be subject to monitoring and evaluation, auditing and oversight as required for all other work carried out by the Secretariat. Although this falls outside the scope of revising the Operational Guidelines, the monitoring and evaluation procedure should consider how to include reputational risk in project evaluations.*

### **3.17. Encouraging/enabling the use of the Guidelines**

In addition to improving user-friendliness, a number of respondents (12) made suggestions as to how use of the Guidelines could be further encouraged:

- Make them more widely available and known (five respondents), including through embedding them in induction courses and other relevant HR training (one respondent) and orientation for members (one respondent)
- Incentivize staff to carry out the process correctly providing support and encouragement and building a “business case” for using the Guidelines (one respondent)
- Carry a regular audit on whether they are being used properly and followed strictly (one respondent)
- Draft an action plan, translating the Guidelines into concrete actions which would lay out the capacities that are required, where IUCN wants to be in four years, and outlines the contribution of the Business and Biodiversity Programme (one respondent)
- Include members more actively in the whole process (one respondent)
- Involve staff in the drafting process (one respondent)
- Translate them into French and Spanish (one respondent)
- Create a Commission on business (one respondent)

→ *Given the fact that the current Guidelines are not always being used as intended and concern about this amongst the respondents interviewed (see section 2), the Secretariat should explore ways of communicating the mandatory nature of the Guidelines and making them available to all staff. The Secretariat could also consider changing the name of the document: the term “Guidelines” does not indicate a mandatory process.*

Four respondents also mentioned capacity and financial issues surrounding private sector engagements. Three asked for increased capacity within and from the Business and Biodiversity Programme (BBP), asking for:

- increasing the capacity of the BBP, for example developing a helpline/email system to help guide people through an engagement process
- the BBP to continue “to build capacity and raise awareness and provide hand holding and support to the other programmes.”
- a centralised approach, through BBP, to provide harmonisation, and a central fund to carry out some of the exercises covered by the Guidelines, notably due diligence.

→ *The role of BBP should be better articulated in the Operational Guidelines.*

→ *Guidance could be developed on how to cover incurred costs of the engagement process, such as due diligence.*

## 4. Recommendations for revision of IUCN's *Operational Guidelines for Private Sector Engagement*

Taking into account the feedback and suggestions collected during the review, we have developed the following recommendations for revision of the 2006 Operational Guidelines for Private Sector Engagement:

### 1. Create a concise policy document outlining a high-level set of directions and expectations for IUCN's engagement with the private sector

This short document should clearly outline why the procedures have been developed, key elements of the Private Sector Strategy, the intended audience, the circumstances in which it is to be used, and the expectations and general process for engaging with the private sector. It should not contain any technical information on *how* to carry out mandatory procedures, but should clearly indicate *when* such procedures are required and direct Secretariat staff to the companion handbook (see below) and other existing documents for the actual procedure to be followed.

The policy document should:

- **be as concise and practical as possible**

- remove all elements in the current Guidelines covered by other IUCN guidelines, rules, and tools, and instead make reference to these as necessary

- as far as possible, remove all non-mandatory elements in the current Guidelines

- indicate where people can get additional information

- **clearly articulate the context**

- place the policy document more explicitly in the context of an agreed policy framework, including the Private Sector Strategy, Council decisions, and the Intersessional Programme 2009-2012

- explain why the document has been developed

- indicate that it has been approved by IUCN Council

- **clearly articulate the scope, intended audience, and circumstances for use**

- clearly articulate that the policy document must be used by all Secretariat staff, together with the other IUCN policies and procedures including those set out in the companion handbook (see below)

- clearly articulate what is expected from Commissions, National Committees and members

- clearly articulate the role of the Business and Biodiversity Programme

- rename in such a way as to leave no room for ambiguity as to the mandatory nature of the document

- clearly articulate that the policy document applies to the development, implementation and management of any engagement with the private sector that seeks to influence the behavior of business in ways that contribute to the IUCN Mission and Programme, including both new and established engagements

NOTE: This definition of engagement (taken from the Private Sector Strategy) does not obviously include sponsorship or licensing, and indeed, under the Strategy fundraising from the private sector is not considered to be the main goal of engagement. However, the Strategy does include fundraising to the extent that it affects IUCN's credibility, independence and ability to achieve its programmatic goals, and the IUCN Statutes state that the Director General may "within policy guidelines laid down by Council, accept from individual or corporate supporters, funds or other forms of support for the work of IUCN". In addition, while a 2008-2012 Fundraising Plan has been developed, there is no fundraising strategy providing a process for developing sponsorship and licensing engagements. The policy document should therefore include sponsorship and licensing. At the same time, a strategy for fundraising could be developed as a separate document.

NOTE: This definition for engagement excludes IUCN's own corporate social responsibility to some extent, although one could argue that IUCN's should also be driving changes in the way business is done through the products and services it purchases. In addition, since the 2006 Operational Guidelines were published, IUCN has published a Policy on Procurement of Goods and Services, making it unnecessary to include procurement as a type of engagement in the policy document. Care should be taken however that the

procurement policy is consistent with the revised Operational Guidelines: it would be inconsistent, for example, to refuse to have a partnership with a company but at the same time buy its products (through the supply chain) or invest in it (through the staff pension fund). In addition, mention of IUCN's own corporate social responsibility should still be made.

- **clearly articulate IUCN's overall objectives for engaging with the private sector**
  - *explicitly and succinctly summarize the objectives of the Private Sector Strategy*
- **clearly articulate priorities for engagement**
  - *more explicitly state the Private Sector Strategy's priorities for engagement*
  - *more explicitly state that the Private Sector Strategy does not specifically exclude engagement with any business or sector*
- **highlight different types of engagement and associated opportunities**
  - *briefly describe the different types of possible engagements with the private sector*
  - *articulate the conditions under which IUCN accepts money from the private sector*
  - *briefly describe opportunities associated with each type of engagement*
- **clearly articulate risks associated with engagement**
  - *clearly articulate the risk associated with each type of engagement*
  - *clearly articulate the risk associated with the priorities for engagement*
- **clearly articulate the expected conduct and general process for engaging with the private sector**
  - *clearly articulate the requirement for engagement objectives and expected outcomes to be explicitly linked to the IUCN programme*
  - *clearly articulate the requirement to assess and manage risk, with an indication of when and how to do so*
  - *clearly articulate the requirement for transparency, with an indication of what information should be released to who and when*
  - *clearly articulate the requirement to involve relevant IUCN offices, members and Commissions in the engagement process, with an indication of how*
  - *clearly articulate the requirements for implementing and managing engagements*
  - *clearly articulate the requirement for monitoring and evaluation both during the engagement and after it has finished*

NOTE: The general process could possibly be illustrated as a flow chart.

NOTE: All mandatory actions must be measurable and objectively verifiable.

NOTE: Not too much detail should be provided on the procedures for carrying out for these requirements: this is a high-level policy document that applies to many types of engagements with many types of private sector entities, so it is not possible to provide procedures that can practically apply to all situations. In addition, approving technical procedures runs the risk of not being able to update them later in line with industry standards, as well as of cluttering the document so that the overall essence is lost (for example, including a procedure for due diligence runs the risk of reducing the process only to due diligence). Furthermore, Council may not be the best entity to provide advice on technical issues surrounding these procedures. Instead the document should indicate what is broadly expected and the critical junctures at which decisions need to be made, and by who. It should then direct staff to the companion handbook (see below) and other IUCN documents for the appropriate detailed procedure.

NOTE: An objective procedure needs to be developed that ensures all Secretariat staff use the same methodology to assess and manage any risk surrounding potential partners. However, requiring the same level of due diligence for all engagements – from partnerships with large multinationals with a history of questionable practices to small one-off projects with companies with a good reputation – is not practical, and indeed could prevent the latter from ever developing. The procedure therefore needs to allow different levels of due diligence as well as guidance on how to make the decision as to what level is required.

One way this could be done is through a simple risk checklist or score card (or alternatively an online tool; see recommendation 2 below), where the answers to set questions (such as the type of engagement being

considered, the amount of money involved, the industry, the existence of known issues with members surrounding the company or the industry, certain types of activities carried out by the company, etc) would provide an early assessment of risk and hence whether a preliminary due diligence is required and what should be included in it. This decision would then be validated (see note below for a mechanism for this), with the preliminary due diligence informing the decision of whether further due diligence is required. This checklist/scorecard should be included in the companion handbook (see below). Its development will require extensive consultation to ensure it is workable for all types of engagement. Similarly, the development of an objective due diligence procedure, with different levels that are progressively applied according to the ongoing risk assessment, will require extensive consultation to ensure it is workable for all types of engagement.

NOTE: Guidance is needed on how to develop a risk management strategy from the due diligence.

NOTE: A formal mechanism within the Secretariat for reviewing/vetting engagements could be useful to ensure that engagements cover all mandatory elements of the process, to identify potential problems early on, and to facilitate decision making. As IUCN is a fairly decentralised organisation, the workability of such a committee needs careful consideration. In order to minimise bureaucracy and the risk of bottlenecks, careful attention should particularly be given to (a) the types of requests that may be forwarded to the body; (b) the timing for such requests to be forwarded; (c) the composition of the body; (d) the communication of decisions, internally and externally.

NOTE: A workable system for keeping IUCN members and Council informed of developing engagements needs to be developed. The Secretariat and Council should agree to what information must be provided and when. The Secretariat and Council should also agree to what level of transparency is required in the case of commercially sensitive information. Care needs to be taken that the provision of this information is not too time-consuming or burdensome. This system could be included in the online tool for risk assessment mentioned above.

NOTE: The development of a platform for allowing members to express their interest in participating in the engagement process could be considered. Members need to take some responsibility for this: the Secretariat can make sure all information is provided as required; however, it is unreasonable to expect Secretariat staff to individually contact all members to check whether they wish to be involved or not.

- **clearly articulate delegation of authority, accountability, and the approval process**

- refer to the *IUCN Delegation of Authority (December 2008)*

- indicate accountability

- outline the decision-making and approval process

NOTE: Article 79F of the IUCN Statutes states "The Director General shall be authorised to sign all obligations on behalf of IUCN and to delegate such authority"; thus the ultimate authority for approving an engagement rests with the Director General. This should be clearly indicated.

NOTE: See above note on a review committee.

## **2. Create a companion handbook providing the procedures for carrying out the overall engagement process, as well as comprehensive guidance on all aspects of the engagement process**

This document should provide a comprehensive articulation of IUCN procedures for engaging with the private sector, relating back to the general process outlined in the high-level policy document, as well as detailed guidance on all aspects of engagement, from informal discussions to signature through to termination. It should also contain a compendium of key reference documents. Given that this is a technical and guidance document for implementing the policy document, it should not be subject to approval by IUCN Council, and should be regularly updated as necessary.

NOTE: One way to ensure the handbook is kept up-to-date in a timely manner would be to create it as an online document/tool. An online system could also aid staff in the decision of what to include in the due diligence and how to manage risk: the system could ask for certain information about the proposed engagement/company and then indicate what is required (replacing the risk checklist/score card mentioned above).

The companion handbook should:

- **be as user friendly as possible**

- use clear language

- make use of imaginative layout, including flow charts, to facilitate understanding

- **include detailed procedures for carrying out the process described in the policy document**

- **include comprehensive guidance on all aspects of engagement with the private sector**

- contain all guidance removed from the revised *Operational Guidelines* as well as that included in the policy document

- contain additional guidance, for example on:

- what different types of engagements entail, and when and how they might be used to achieve a specific objective
    - how to apply the Guidelines at a regional, national and project level
    - how to develop engagements with small and medium enterprises (SMEs)
    - how regional, national and project offices can implement global partnerships
    - indicators of good environmental and human rights performance
    - how to assess and manage risk
    - how to cover incurred costs of the engagement process, such as due diligence
    - how to negotiate with companies
    - specific indicators of greenwash and how to avoid greenwash
    - how to identify and involve relevant respondents beyond IUCN members and those identified by IUCN members
    - engagement governance
    - how to deal with crises
    - how to terminate engagements

NOTE: A few respondents also called for guidance on substantive issues, such as business drivers, particularly in relation to certain business sectors. This kind of information, which would need to be periodically revised, could be made available through another document or mechanism that allows a more rapid response to emerging issues and changing market forces.

- **contain templates for MoUs and other relevant documents**

- **provide real-case examples to help illustrate the guidance**

- **contain key policy documents such as relevant Congress resolutions and Council decisions**

### **3. Involve IUCN members in the revision process where applicable**

Some elements of the revised Guidelines will probably need to be developed in consultation with IUCN members, in particular, the elements required for due diligence for different types of engagement and the system for keeping members and Council informed of engagement developments.

### **4. Inform staff of and train staff on the new documents**

The Secretariat should explore ways of communicating the mandatory nature of the policy document and procedures in the companion handbook, and making them available to all staff.

The Secretariat could also consider advising existing partners of the new documents, explaining the reasons for their development, what has changed, and how this affects the engagement.

## Annex 1: Terms of Reference

### Review of the Application of the Operational Guidelines for Private Sector Engagement 24 October 2008

#### **Background**

The *Operational Guidelines for Private Sector Engagement* were launched in 2006, after having been presented to and noted by the IUCN Council (May 2006), as a response to Resolutions 3.061 from the Bangkok World Conservation Congress which "Calls on the IUCN Director General to initiate an open and participatory process to strengthen the principles of engagement and develop guidelines to guide further dialogues, partnership agreements and other interactions with the private sector.

The 2006 version of the *Operational Guidelines* draw on the findings and recommendations of a survey of existing guidelines for not-for-profit / private sector interactions carried out in August-December 2005, and on a report on IUCN engagements with the private sector (March 2006).

#### **Context of this review**

The Operational Guidelines have been available to staff, commission members, and member organizations of IUCN to guide their activities engaging the private sector. This Terms of Reference has been prepared, in part, to ensure that the lessons and experiences from the use of the Guidelines to date are captured to inform further development and revision of the guidelines.

Barcelona resolution 4.086 "Guiding and improving IUCN's involvement with the private sector" reconfirms the crucial role that the Operational Guidelines play in establishing agreements with the private sector and calls on the Director General to "conduct all interactions with the private sector in full compliance with the Guidelines when approved by Council". The resolution also "calls on IUCN's Council as soon as possible, in consultation with the Director General, to approve Operational Guidelines and to establish and implement effective mechanisms for consultation and communication with members and Commissions on issues related to private sector engagement".

#### **Objectives of the review**

The purpose of this review is to gather information necessary for the revision of the Operational Guidelines in order to strengthen and increase transparency of IUCN's engagement with the private sector.

The specific objectives of the review are to:

- Gather feedback on the usefulness of the guidelines in implementing the Private Sector Strategy; and
- Gather specific recommendations for the revision of the Guidelines, including comments on specific elements, gaps, inconsistencies and structure.

#### **Commissioning authority and intended use**

The review has been commissioned by the Office of the Deputy Director General for use by the Business and Biodiversity Programme in revising the Guidelines.

#### **Methods**

Feedback and suggestions will be collected by telephone interview from identified respondents using a small number of focused questions. Parallel to this process, a technical revision of the Guidelines will be completed by BBP, in particular to update outdated references and sections and identify the new tools and systems that need to be linked to the Guidelines. Technical revisions to the Operational Guidelines will initiate in October and continue throughout November. Further revisions to the guidelines will be made in response to feedback from the review process based on the information submitted in the Summary Report.

#### **Timeline and deliverables**

31 October	TORs, questions and interview protocol finalized
21 November	Interviews completed
28 November	Analysis completed and Summary report submitted
15 December	Operational Guidelines revised

#### **Roles and responsibilities**

Responsibility for conducting the review will be shared by Emma Duncan and Nicolas Bertrand. Responsibility for revising the Guidelines will be shared by Emma Duncan, Giulia Carbone and Andrea Athanas. Responsibility for managing the review will be Alex Moiseev with the support of the Business and Biodiversity Programme.

## Annex 2: Respondents identified for the review

### *Interviewed stakeholders*

Asanka Abayakoon	Business And Biodiversity Program, IUCN Sri Lanka Country Office	Protocol 1
Juan Marco Alvarez	Executive Director, SalvaNATURA	Protocol 2
Joshua Bishop	Chief Economist, IUCN	Protocol 1
Steven de Bie	Shell International	Protocol 3/2
Gerard Bos	Holcim	Protocol 3
Richard Cellarius	Vice President for International Affairs, Sierra Club	Protocol 2
Antonio Claparols	President, Ecological Society of the Philippines	Protocol 2
Christine Copley	Programme Director - Environment, Health & Safety, International Council on Mining & Metals (ICMM)	Protocol 3/2
Francisco Dallmeier	Director, Conservation Biology, Smithsonian Institution	Protocol 2
Ali Darwish	IUCN Councilor	Protocol 2
Arzu Rana Deuba	IUCN Councilor	Protocol 2
Barbara Dubach	Holcim	Protocol 3
Holly T. Dublin	South African National Biodiversity Institute; former IUCN Councilor	Protocol 2
Mark Eadie	JPMorgan	Protocol 3
Willem Ferwerda	Executive Director, IUCN National Committee of the Netherlands	Protocol 1
Hans Friederich	IUCN Partnership	Protocol 1
Yolan Friedmann	IUCN Councilor	Protocol 2
Alistair Gammell	Director of International Operations, Royal Society for the Protection of Birds; former IUCN Councilor	Protocol 2
Marcus Gilleard	Head of Corporate Partnerships, Earthwatch Institute (Europe)	
George Greene	IUCN Councilor	Protocol 2
James Griffiths	Managing Director: Sustainable Forest Products Industry, Ecosystems Focus Area, Water Project, World Business Council for Sustainable Development (WBCSD)	Protocol 3/2
Pascal Girot	Coordinator, Programme Coordination Area, UICN ORMA	Protocol 1
Lynn P. Holowesko	Holowesko and Company; former IUCN Councilor	Protocol 2
Philippa Howard	Director, Corporate Partnerships, Fauna & Flora International (FFI)	Protocol 2
Silvia Sanchez Huaman	Directora Ejecutiva, c/o Asociación Peruana para la Conservación de la Naturaleza - APECO; Former IUCN Councilor	Protocol 2
Javed Jabbar	IUCN Councilor	Protocol 2
Vilmos Kizsel	IUCN Councilor	Protocol 2
Huguette Labelle	Former IUCN Councilor	Protocol 2
Nikita Lopoukhine	Chair, World Commission on Protected Areas	Protocol 2
Carl Gustaf Lundin	IUCN Marine	Protocol 1
Stewart Maginnis	IUCN Forest	Protocol 1
Aroha Te Pareake Mead	Chair, Commission on Environmental, Economic and Social Policy	Protocol 2

Christine Milne	IUCN Councilor	Protocol 2
Russell A. Mittermeier	IUCN Councilor	Protocol 2
Patti Moore	Head, Regional Environmental Law Programme, IUCN Asia Regional Office (ARO)	Protocol 1
Emmanuel Obot	Chief Executive, Nigeria Conservation Foundation	Protocol 2
Gonzalo Oviedo	IUCN Social Policy Senior Advisor	Protocol 2
Andrew Parsons	Environmental Policy Advisor, AngloGold Ashanti (formerly Programme Director, ICMM)	Protocol 3/2
Miguel Pellerano	IUCN Councilor	Protocol 2
Deric Quaile	Group Environmental Manager, Shell International (formerly seconded to IUCN)	Protocol 3/2
David Richards	Formerly Principal Advisor, Environment, Rio Tinto Plc.	Protocol 2
Rami Salman	IUCN Mediterranean	Protocol 1
Diana Shand	IUCN Councilor	Protocol 2
Henk Simons	IUCN National Committee of the Netherlands	Protocol 1
Jane Smart	IUCN Species	Protocol 1
Simon Stuart	Chair, Species Survival Commission	Protocol 2
Virpi Stucki	IUCN secondee to Shell International	Protocol 1
Tensie Whelan	Executive Director, Rainforest Alliance	Protocol 2
Clive Wicks	Commission on Environmental, Economic and Social Policy, SEAPRISE	Protocol 2
Sebastian Winkler	Head, Countdown 2010, IUCN Regional Office for Europe (ROfE)	Protocol 1
Shiranee Yasaratne	Head of Business & Biodiversity Programme, IUCN Asia Regional Office (ARO)	Protocol 1
Marija Zupanic-Vicar	Former IUCN Councilor	Protocol 2

***Stakeholders contacted but not interviewed***

Paul de Clerck	Coordinator Corporate Campaign, Friends of the Earth	Organization did not want to participate
Taghi Farvar	Chair, Board of Directors, CENESTA, Centre for Sustainable Development; former IUCN Councilor	Unavailable
Lionel Gibson	IUCN Councilor	Unavailable
Annelise Grigg	Fauna Flora International	Recommended another person
David Hillyard	Head of Corporate Programmes, Earthwatch Europe	Unavailable
Robert Hofstede	IUCN SUR	Unavailable
Jean Paul Jeanrenaud	WWF International	Unavailable
Cláudio Carrera Maretti	IUCN Councilor	Unavailable
Sebastien Moncorps	IUCN French Committee	Unavailable
Glen Prickett	Conservation International / CELB	Unavailable
Rick Steiner		Unavailable

## **Annex 3: Interview questions**

### ***Protocol 1 (users)***

- To what extent have the Operational Guidelines been useful as a tool for implementing the Private Sector Strategy? How many times have you applied the Operational Guidelines?
- How could the Operational Guidelines be revised to make them more useful as a tool? Does the structure of the Operational Guidelines facilitate their use?
- In your experience using the Operational Guidelines did you encounter any elements missing or inconsistencies?
- From reading the Guidelines, is it clear to you what steps must be applied as opposed to examples of guidance and best practice?
- Are the instructions in the Operational Guidelines clear and easily applied?

### ***Protocol 2 (non-users)***

- Do you see the Operational Guidelines as a useful tool for implementing IUCN's Private Sector Strategy?
- If you are a member, have you used IUCN's Operational Guidelines for your own private sector engagement activities?
- What would make the Operational Guidelines more useful?
- Are there barriers in the structure or content of the Guidelines that prevent you from using them in your context?
- From reading the Guidelines, is it clear to you what steps must be applied as opposed to examples of guidance and best practice?
- Are there areas, issues or steps missing in the Guidelines and, if so, how would you address them?

### ***Protocol 3 (private sector representatives)***

- Do you use Operational Guidelines or other policies and procedures to guide your engagement with non-governmental organizations or civil society groups? Can you share them with us, or provide us with a summary of their content?
- From your experience of working with IUCN, is the application of the IUCN Operational Guidelines reasonable and useful?

## Annex 4: Recommendations, Diana Shand report (October 2008)

The following recommendations are reproduced verbatim from paragraph 68 of the following document: Diana Shand, October 2008. "Final Report on review of existing agreements between IUCN and the business sector compared to IUCN's private sector Strategy and Guidelines".

**With regard to a lack of process for other than the Secretariat to review decisions:**

...that for potential private sector engagements that are controversial and political there is a process for advice and review by council. (Paragraph 12)

**With regard to adequate consultation with members and commissions in the development of private sector engagements:**

...that systems for consultation in private sector engagement are to be addressed with some urgency to ensure adequate, timely, equitable, transparent and comprehensive consultation. (Paragraph 18)

**With regard to issues of due diligence:**

... that due diligence and risk assessment outcomes need to be kept updated on a regular basis and made available on the members website as specified in the Guidelines and in keeping with transparency requirements. (Paragraph 21)

**With regard to the need for a more strategic approach:**

... that following analysis of experience to date, and analysis of the strategic options to leverage the One Programme in each region, and consultation with members and stakeholders, a careful and thoughtful proactive strategy be devised to achieve genuine, sufficient and consistent environmental gains through engagement with the private sector. (Paragraph 28)

**With regard to the perceived lack of leverage for change in the sector:**

... that full reviews of key engagements and up-to-date due diligence of major partners are expedited as soon as possible. (Paragraph 33)

**With regard to issues of staff secondment**

... that the risks of staff exchanges be covered in any relevant diligence assessments and sources of obtaining business skills through business engagements be considered according to a scale of risks and vulnerability for IUCN. (Paragraph 36)

**With regard to the Operational Guidelines for Private Sector Engagement**

... that the IUCN Private Sector Strategy be reviewed taking into consideration, inter alia, the issues raised, subsequent Council discussion, the experience of working with business, and consultation with Members and stakeholders. (Paragraph 57)

...that the database of private sector agreements and MOUs needs to be updated, regularly maintained and accessible through the IUCN Website. (Paragraph 59)

... that, as stated in the Guidelines, all the information listed under accountabilities and responsibilities needs to be available on the IUCN public website including:

- how the engagement is in explicit pursuit of the IUCN Mission and programme.
- how the engagement does not undermine existing efforts.
- clear definition of the overall purpose and specific objectives.
- matching the nature of the engagement to the nature of the business.
- agreed performance milestones, outcome and output indicators, regular reporting against performance milestones.
- how the engagement will complement the efforts of IUCN members and Commissions.
- how to involve and consult with vulnerable stakeholders and promote broader stakeholder engagement.
- what was recommended on the engagement, how and why and where it is relevant to IUCN's mission and Programme. (Paragraph 61)

... that the process of identifying the risks of engagement (due diligence) and on going engagement is ensured, reported and accessible through the Members Website following the principles of transparency, inclusiveness, open communications, ongoing monitoring and external verification (paragraph 63).