



Bank Policy

OP 7.30 - Dealings with De Facto Governments

Bank Access to Information Policy Designation

Public

Catalogue Number

Issued

Effective

April 2, 2013

Content

N/A

Applicable to

IBRD, IDA

Issuer

Senior Vice President and General Counsel, LEGVP

Sponsor

Associate General Counsel, LEGOP

Home	News & Events	Countries	Topics	Units	myHR	Operations & Knowledge	Services & References	People	Documents & Data
-------------	---------------	-----------	--------	-------	------	------------------------	-----------------------	--------	------------------

Search:

[Home](#) > [Operational Manual](#) > [Table Of Contents](#) > **OP 7.30 - Dealings with De Facto Governm...**

[Email](#)  [Print](#)

Search in Manual

- Table Of Contents
 - OPs
 - Policies
 - BPs
 - Definitions
 - Directives
 - OpMemos
- Archived Statements

Selected Translations

OP 7.30 - Dealings with De Facto Governments

These policies were prepared for use by World Bank staff and are not necessarily a complete treatment of the subject.

OP 7.30
July, 2001

Note: This Operational Policy was revised on April 2013 to take into account the recommendations in "Investment Lending Reform: Modernizing and Consolidating Operational Policies and Procedures" (R2012-0204 [IDA/R2012-0248]), which were approved by the Executive Directors on October 25, 2012. As a result of these recommendations, a number of OP/BPs have been consolidated and are now reflected in [OP/BP 8.60, Development Policy Lending](#), [OP/BP 9.00, Program-for-Results Financing](#), and [OP/BP 10.00, Investment Project Financing](#), while other OP/BPs, including [OP/BP 13.40, Suspension of Disbursements](#), have been retired. This OP has consequently been updated to reflect these changes.

Questions may be addressed to the Chief Counsel, Operations Policy.

Revised April 2013

Disclosure

Contact Us

1. A "de facto government" comes into, or remains in, power by means not provided for in the country's constitution, such as a coup d'état, revolution, usurpation, abrogation or suspension of the constitution.

2. A decision to make a loan¹ to, or to have a loan guaranteed by, a country with a de facto government, or to continue disbursing under existing loans to or guaranteed by such country, or to provide a guarantee in respect of a project in the territories of such country, ² does not in any sense constitute Bank "approval" of the government, nor does refusal indicate "disapproval". The Bank under its Articles is required to refrain from interfering in the political affairs of any member; moreover, its decisions may not be influenced by the political character of the member country concerned.³

3. In many cases, a de facto government either suspends the constitution or abrogates it. In other instances, the constitution and other basic laws remain partially or wholly in force. In either situation, the Bank when continuing disbursements under an existing loan or making a new loan or issuing a guarantee ascertains that (a) a proper legal framework exists to secure approval of the Bank loan or the Bank guarantee and the related counter-guarantee of the country, to permit the project to be carried out, to allow the project objectives to be achieved and to allow the loan to be repaid or any required payments under the country's counter-guarantee of the Bank guarantee to be made; and (b) all parties to the agreements with the Bank in respect of the project have taken or will be able to take all actions necessary to carry out their respective obligations under their respective agreements with the Bank. The Bank also ascertains that these obligations are or will be valid and binding.⁴

Existing Operations

4. The Bank may not unilaterally suspend disbursements under existing loans ⁵ or suspend or terminate its obligations under guarantees provided by it unless there are grounds for such suspension or termination based on existing agreements. Thus, the Bank deals with a de facto government with respect to loans made by the Bank before the government assumed power, provided that:

(a) the Bank is satisfied that the government is in effective control of the country (an issue requiring more careful assessment when two or more political or military factions claim to be in control of the national government);

(b) the government generally recognizes the country's past international obligations;

(c) the government states that it is willing and able to assume all of its predecessors' obligations to the Bank;

(d) the government is able to ensure the continued implementation of the relevant project or program; and

(e) the government duly authorizes a representative for the purpose of requesting withdrawals.

New Operations

5. In considering whether to extend a new loan to a country with a de facto government, to make a new loan with the guarantee of such country, or to provide a guarantee in respect of a project in the territories of such country, the Bank first allows a certain time to pass to weigh:

(a) whether a new loan or guarantee would expose the Bank to additional legal or political risks associated with the country's financial obligations and obligations to carry out the project, given the government's de facto nature;⁶

(b) whether the government is in effective control of the country and enjoys a reasonable degree of stability and public acceptance;

(c) whether the government generally recognizes the country's past international obligations, in particular any past obligations to the Bank (in this regard, the Bank examines the country's record; one indicator is whether past governments have generally recognized the obligations incurred by the de facto governments that have preceded them);

(d) the number of countries (particularly neighboring) that have recognized the government or dealt with it as the government of the country; and

(e) the position of other international organizations toward the government.

1. "Loan" includes IDA credits and IDA grants; "Bank" includes IBRD and IDA; and "project" includes a development policy lending program supported under a Bank loan or guarantee, and a program supported under Program-for-Results financing.

2. For information regarding Bank guarantees, see [OP 14.25, Guarantees](#).

3. See IBRD Articles of Agreement, Article IV, Section 10, and IDA Articles of Agreement, Article V, Section 6.

4. The issues addressed in this OP may arise in the context of a country emerging from conflict. For a general discussion of the Bank's assistance to countries emerging from conflict, see [OP 2.30, Development Assistance and Conflict](#).

5. See, depending on the instrument involved, [OP /BP 8.60, Development Policy Lending](#), [OP/BP 9.00, Program-for-Results Financing](#), and [OP/BP 10.00, Investment Project Financing](#); see also, the applicable General Conditions for standard events giving rise to the right to suspend disbursements.

6. Agreements between the Bank and its members are governed by international law. International law also prescribes certain principles with respect to de facto governments. Under a general but not unqualified principle of international law, obligations entered into by de facto governments, purporting to be binding on the state, must be honored by successor governments. The qualifications of the general principle may relate to the nature of both the de facto government and the obligation it entered into. For instance, a successor government may question the power of a de facto government that had characterized itself as an interim government to enter into long-term obligations not connected with the immediate needs of the country concerned.

Permanent URL for this page: <http://go.worldbank.org/Q1V4MV43C0>

Home | Countries | Topics | Units | myHR | Operations | Services & References | People | Documents & Data

Help • Feedback • Site Map • Publishing Guidelines • IFC • MIGA • IDA • ICSID • WB External Site