

Joint CSO statement – World Bank Safeguards Consultation Oslo 12.11.2014

The current safeguards draft represents a major dilution of existing World Bank safeguards, and a breach of President Jim Yong Kim's promise not to weaken the Bank's policies. A weaker set of safeguards will make it more difficult to achieve the Bank's twin goals of eradicating extreme poverty and promoting shared prosperity. A number of concerns have been raised by civil society organizations, affected communities and indigenous peoples worldwide, and we would like to draw your attention to some of these.

Abdication of Bank responsibilities and less oversight. The draft allows for more open-ended compliance and deferred appraisals, by allowing compliance in a "manner and timeframe acceptable to the Bank" (See ESP, paragraph 13). This means Bank staff will have much greater discretion, and the appraisal of significant environmental and social risks can be deferred to the implementation stage of the project. For example, the current requirement that environmental assessments must be disclosed to the public before appraisal for significant risk projects has been eliminated, which could make consultations meaningless. Similarly, there is no requirement for public disclosure of the new Environmental and Social Commitment Plan prior to Board approval.¹ This appears to be a serious dilution of the oversight of the Board over the environmental and social impacts. Most of the responsibility for monitoring implementation of the safeguards has been outsourced to borrowers, representing an eschewal of responsibility by the Bank.

Excludes nearly half of the Bank's portfolio. The narrow application of the proposed safeguards to traditional investment projects would exclude the growing share of Bank lending channeled through other lending instruments, which account for nearly half of Bank lending, increasing the fractured nature of safeguards in the World Bank. This will lead to further weakening of a safeguard system that is already underfunded and lacking in independence, effective supervision and support for borrowers during implementation and real monitoring of impacts on the ground.

Undermining the rights of indigenous people. We are particularly worried about a proposal related to indigenous peoples, which could effectively undermine the individual and collective rights of these very vulnerable groups. Although the rights of indigenous peoples are included and partly strengthened in the draft (such as the important reference to Free Prior Informed Consent and protection of indigenous peoples living in voluntary isolation), the policy also allows for an "alternative approach" that effectively opens up for completely disregarding the rights of indigenous peoples. Such an "alternative approach" will be particularly relevant in Africa, where many countries do not recognize indigenous peoples and their special rights, despite the fact that these are established by a number of international human rights instruments. Such an opening for ignoring the rights of indigenous peoples in the World Bank's safeguard policies could have serious negative consequences and is completely unacceptable. We also believe this would be in breach of the Nordic countries' longstanding support for human rights and in particular indigenous peoples. Thus, we urge you to state that the safeguard review process must not lead to reduced focus on human rights and in this context especially indigenous rights. The opening provided to borrowers to ignore the rights of indigenous peoples in the current draft should therefore be deleted.

Concerns on how unique impacts on children will be considered. We appreciate the references to children in the draft, particularly those requiring that social assessments look at the impacts of projects on vulnerable groups, including minors, as well as the inclusion of provisions requiring consultation with children in ESS 10 on citizen engagement. We are very concerned however about the lack of detail in terms of how impacts on vulnerable groups must be examined in social assessments. It is not clear whether unique impacts on children will have to be considered separately from impacts on other vulnerable groups, which is necessary to ensure that their particular interests are protected. We also

¹ See briefing by Bank Information Centre: "Five Ways in Which Pelosi Amendment Protections will be Undermined under the Updated Safeguard Policy Framework", <http://www.bicusa.org/wp-content/uploads/2014/08/Five-ways-WB-SG-Undermine-Pelosi-7.25.14.pdf>.

recommend that children must be addressed specifically in ESS 4 (Community Health and Safety) and ESS 5 (Resettlement) to ensure that their unique needs are protected in situations where they may be displaced by a project or where a project may pose a threat to their health. Safeguards should prohibit the use of child labour in Bank funded projects in line with International Labour Organization (ILO) Convention 138 on the minimum age for admission to employment and work and ILO Convention 182 on the worst forms of child labour. We support the Bank's recognition that children under the age of 18 can and do work, but this must exclude work that is hazardous, interfere with the child's education or is harmful to the child's health or physical, mental, spiritual, moral or social development; and involve a careful risk assessment and regular monitoring. A limitation of draft ESS 2 is that it only applies to project workers. We strongly recommend that the provisions around forced and child labour extend to all contractors and suppliers associated with the project.

Fails to protect the rights of workers. While it is positive that the draft has included a standard on labour and working conditions, it is a great weakness that the draft does not make reference to the ILO labour standards. We are very concerned that the draft excludes obligations to ensure the rights of contract, sub-contracted and third party workers. The draft states that "Environmental and Social Standard 2: Labor and Working Conditions (ESS 2) applies to workers employed directly by the Borrower to work specifically in relation to the project." While almost all of the provisions of the IFC, EBRD and AfDBs are applicable to contract, sub-contracted and third-party workers, the World Bank draft appears not to apply to these groups of workers. It also limits the application of the labour safeguard with regards to public servants. This means that ESS2 would apply to almost no-one. Further, the draft indicates that some core labour standards must always be complied with in Bank-funded projects, while others depend on whether or not national law recognizes them. This means that freedom of association and the right to collective bargaining will only be required where there is a provision for it in national law (ESS2, paragraph 11). Other multilateral development banks, such as the EBRD and the AfDB have labour standards requirements that include the obligation to comply with the ILOs core labour standards, regardless of whether they have been ratified in national law.²

Diluted biodiversity standard. The proposed Environmental and Social Standard (ESS) 6 on Biodiversity is significantly diluted compared to the current Natural Habitat and Forest policies (OP 4.04 and OP 4.36) and we ask you to make sure the following concerns are amended before a revised standard is sent back to the board: The definition of critical natural habitats is narrowed to consider only biodiversity. This is a problem as it means both protected areas and areas important to traditional communities are removed from the category 'critical' and hence not covered by the standard. Furthermore the new standard will permit projects within protected areas (para 20), and criteria for sustainable forest management are eliminated, leaving it to the borrower to define sustainability (para 25). Thirdly, considerations for forest-dependent peoples are removed as the new policy does not include local communities or forest dependent peoples in its scope, nor does it call for local involvement throughout the project cycle. Only "where applicable" does the policy require consideration of affected communities' use of natural resources (para 13). Finally we regret to see independent certification of industrial-scale commercial harvesting operations (plantations) no longer required, and new language in ESS6 allowing land clearing and salvage logging to proceed if the operation is unable to follow a certification scheme (para 30).

Weaker resettlement policies. While the current Bank procedures on resettlement (OP 4.12 Annex A) require comprehensive household baseline data and other socio-economic studies to be conducted in the early stages of project preparation, this has been omitted in the draft version of the new Safeguards (ESS5, paragraph 16). Proper baseline data is essential to ensure that resettled communities receive full restitution. Resettlement plans are also no longer required prior to the Bank's review and project approval.³

² See briefing by the International Trade Union Confederation: "Major weaknesses in World Bank's draft labour standards safeguard", <http://www.ituc-csi.org/major-weaknesses-in-world-bank-s?lang=en>.

³ See briefing matrix by Inclusive Development: "Involuntary Resettlement, Land Acquisition and Restrictions on Land Use – Major Dilutions Matrix," http://www.thehindu.com/multimedia/archive/02032/Involuntary_Resett_2032970a.pdf.

No stand-alone safeguard on climate change. There is a need to include a specific safeguard policy on climate change. Over 100 NGOs have already submitted a detailed proposal for this to the World Bank as part of the review process.⁴

Fails to mainstream gender and include SOGIE concerns. The draft lacks clarity on how women, girls, and sexual and gender minorities affected by the project will receive social and economic benefits from the project in a manner equal to the benefits received by other members of the community. Steps on how adverse effects based on SOGIE will be identified, and then avoided, minimized, mitigated, or compensated are absent. Women and sexual and gender minorities are mentioned as groups the Bank will take into “due consideration” yet they fail to outline what such a consideration might look like. The Bank needs to make clear what it will require from projects and staff through the whole project cycle beyond looking over a borrower-prepared assessment. No mandatory social assessment that is Gender and SOGIE-responsive is required and there is no requirement for the formulation of baseline gender and SOGIE disaggregated indicators for every project that has potential impacts. Preparation of a Gender and SOGIE Plan or a Gender and SOGIE Planning Framework is not included in the draft. There are no requirements mentioned for how meaningful consultations with all stakeholders and local civil society organizations (CSOs) are conducted at each stage of the project, in an environment that ensures confidentiality and security for participants. The draft does not require special efforts to include women, girls, sexual and gender minorities in all consultations. With the continued promise to mainstream gender throughout Bank policies and procedures, the safeguard draft fails to address the different needs between the genders. They are not addressed in issues of redress, land use, or facilities for employees, etc.

Thank you for the opportunity to participate in the consultations, and we look forward to your response.

Best wishes,

Changemaker, Church of Sweden, Digni, FIVAS, FOKUS, Forum for Development and Environment, IWGIA – International Work Group for Indigenous Affairs, KULU - Women and Development Denmark, LLH – Norwegian Lesbian, Gay, Bisexual and Transgender Organisation, Plan Norway, Rainforest Foundation Norway, Save the Children Norway, SLUG – Debt Justice Network Norway, The Development Fund, WWF Norway and WWF Sweden.



⁴ See Bank Information Centre, “Model Proposal: Climate Change Assessment (CCA) Safeguard Policy Submission to the World Bank Safeguard Policy Review May 2014”, <http://www.bicusa.org/wp-content/uploads/2014/05/Climate-Change-Safeguard-Model-Policy-for-the-World-Bank.pdf>.