

11.11.11. Coalition of the Flemish North-South Movement (Belgium), Alyansa Tigil Mina (Philippines), Bank Information Center (USA), Both ENDS (Netherlands), Bretton Woods Project (United Kingdom), ELSAM Institute for Policy Research and Advocacy (Indonesia), Ecological Justice (Indonesia), Fauna and Flora International, Forest Peoples Programme (UK), Gender Action (USA), Inclusive Development International (USA), Indonesian Legal Resource Center (Indonesia), International Accountability Project (USA), International Network on Displacement and Resettlement, International Planned Parenthood Federation (UK), Green Watershed (China), NGO Forum on ADB (Philippines/Regional), Social Justice Connection (Canada), Sri Lanka Nature Group, Transformasi untuk Keadilan (Indonesia), 'Ulu Foundation (USA), Urgewald, (Germany), WALHI West Java (Indonesia), Wildlife Conservation Society

To: Committee on Development Effectiveness
Executive Directors
World Bank Group

**Questions in Preparation for the July 20th CODE Meeting
on the World Bank's Third Draft Environmental and Social Framework**

We write to bring to your attention some critical issues that we would like you to raise at the upcoming CODE meeting on July 20th, 2016. We greatly appreciate President Kim's commitment to ensure that the Bank's new Safeguards Framework does not represent a dilution of existing social and environmental protections. Any draft which proposes dilutions of existing safeguards would be an abrogation of this public commitment.

We have attached here a 'checklist' of questions we encourage you to utilize in your analysis of the revised ESF and to pose to Bank Management prior to or during the CODE meeting in order to assess whether the present draft represents dilutions of existing safeguards, in violation of President Kim's commitment and the Bank's obligations to the communities that it is tasked with supporting.

If the draft contains policy dilutions, we urge CODE to send it back to Management for redrafting to ensure that project-affected communities and the environment will be protected to the same extent as under existing safeguards.

When compared with existing environmental and social protections, the World Bank's second safeguards draft represented a dangerous weakening of protections for the project-affected communities and environment. We urge CODE to be vigilant in ensuring that the third draft does not continue to propose dilutions to existing policy.

The experience of the last few decades has led to an increasing **recognition that sustainable development cannot be achieved through projects that impoverish communities and destroy the environment.**

This led to the establishment of the World Bank's Safeguards that were meant to ensure environmental assessment standards, information disclosure, consultation with affected communities, compensation and livelihood restoration, the protection of forests and biodiversity and other goals. Safeguard policies were designed to guarantee certain standards of environmental and social protection in World Bank projects, even if these protections are not provided in national law. Recognition of the power imbalances within countries, through which communities' rights are often subverted, was an important factor in the development of these policies as was the recognition that the use of World Bank funds often led to larger projects than otherwise possible and, therefore, to heightened environmental and social risks for local communities, compared to the "no project" scenario.

Although the Bank's failure to comprehensively implement the safeguard policies has hindered their effectiveness, they have established important global benchmarks as they have enabled other international financial institutions to adopt similar environmental and social policies.

The World Bank's proposed second draft Environmental & Social Framework largely wiped out the achievements of the last decades. While some new areas such as labor and non-discrimination have been included, these gains have been undone by the replacement of clear time-bound requirements by vague language, loopholes, flexible principles and national standards, relying on a "borrower system" to determine a project's social and environmental requirements. In order to address the **deteriorating environmental and social conditions in many of the Bank's client countries** (and globally), there is a need for the Bank to push for upward harmonization of environmental and social standards globally.

Instead, there are deep concerns that the proposed third draft E&S Framework is initiating a veritable race to the bottom, opting for the lowest common denominators in what can only be described as a **shameful scramble to eliminate requirements for careful environmental and social due diligence, thus failing to take the lives and livelihoods of affected communities into account.**

Serious dilutions of environmental and social standards will not reduce costs, but will lead the Bank to incur significant reputational risk. To date, the Bank has been able to claim that its investments "add value" because the projects it supports benefit from environmental and social protections that improve project quality and sustainability. This claim will no longer be viable should the latest draft continue to contain or enlarge upon the dilutions found in the 2nd draft E & S Framework where there were few mandatory policies for which the Bank could be held accountable.

By gutting the Bank's due diligence requirements, removing unambiguous time-bound disclosure requirements and mandatory procedural obligations for Borrower compliance, and significantly limiting the power of the Inspection Panel, the first two drafts effectively dismantled thirty years of environmental and social protections. In addition, these drafts failed to achieve upward harmonization with the strongest environmental and social standards of other multilateral and bilateral institutions. **For these reasons we ask you to ensure that the following proposed dilutions and problems have been rectified, including:**

- The overarching material dilution of safeguard protections through the introduction of vague and flexible wording on what safeguards will be applied to each project and when (including required content, timing, etc.) as well as the use of inconsistent and contradictory terms;
- Tremendous dilutions of due diligence and other requirements for the use of borrower systems;
- Dilution of requirements for financial intermediaries (FIs);
- Dilution of safeguards for critical habitat and protected areas;
- Introduction of increased barriers for affected communities accessing the Inspection Panel;
- Dilutions of safeguards for co-financed projects;
- Dilution of disclosure and consultation requirements;
- Dilutions in protections for indigenous peoples.

In addition, the last draft proposed substantial problematic concerns pertaining to labor (despite the welcome inclusion of new labor standards), indigenous peoples, gender, land rights and climate that are not necessarily considered dilutions of current policy, but that fail to respond to key civil society concerns raised repeatedly in consultations over the last 4 years.

During the consultations, much of the input from civil society was neither properly recorded by the Bank, nor did it make much of an impact on the structure of the draft, with some exceptions. Civil society has attempted to engage constructively with the Bank during the process of the safeguards review.

We remain very concerned that the third draft will continue to embody a significant dilution of existing protections, will fail to achieve upward harmonization with the highest safeguards found at other MDBs or bilateral institutions, and will fail to address the serious flaws that have been identified by civil society and safeguards experts over the past years of the review process. Our concerns arise from meetings we have had with many of your offices, with Bank Management and with government officials during and following the official consultation process.

We thank you for your time and consideration, and do look forward to hearing from you on the responses you receive from Management.

Contacts:

Stephanie Fried Ulu Foundation stephanie@ulufoundation.org	Korinna Horta Urgewald korinna@urgewald.org
David Pred Inclusive Development International david@inclusivedevelopment.net	Pieter Jansen BothENDS P.Jansen@bothends.org
Kate Geary Bank Information Center kgeary@bankinformationcenter.org	Petra Kjell Bretton Woods Project pkjell@brettonwoodsproject.org
Pol Vandervoort 11.11.11. Coalition of the Flemish North-South Movement Pol.Vandervoort@11.be	Derek MacCuish Social Justice Connection dmaccuish@sjc-cjs.org
Yu Xiaogang Green Watershed 758498717@qq.com	Rio Ismail Ecological Justice Indonesia rio.ismail@gmail.com
Andi Muttaqien ELSAM Institute for Policy Research and Advocacy andi@elsam.or.id	Elaine Zuckerman Gender Action elainez@genderaction.org
Uli Parulian Sihombing Indonesian Legal Resource Center ulipid92@gmail.com	Rahmawati Retno Winarni Transformasi untuk Keadilan wiwin@tuk.or.id
Meiki W. Paendong WALHI West Java meikipaendong@gmail.com	Rayyan Hassan NGO Forum on ADB rayyan@forum-adb.org
Jaybee Garganera Alyansa Tigil Mina nc@alyansatigilmina.net	Thilak Kariyawasam Sri Lanka Nature Group tkariya32@yahoo.com
Ted Downing International Network on Displacement and Resettlement	Jocelyn Medallo International Accountability Project jocelyn@accountabilityproject.org

	Helen Tugendhat Forest Peoples Programme helen@forestpeoples.org
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