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May 23, 2014

Re: Recommendations for the revision of the New Approach to Country Engagement

Dear Ana,

We were recommended your name by Ms Yvonne Tsikata at a recent meeting between UK civil society and Yvonne in her capacity as Chief of Staff for Dr. Kim. We discussed with her in that meeting some concerns that we had regarding the proposed New Approach to Country Engagement, and she recommended that we contact you directly to provide and explain our recommendations. We would very much welcome an opportunity to discuss with you our recommendations and concerns, if this is possible at any point prior to the Board discussion on these papers. This letter also forms the basis for a separate submission into the formal consultation process.

First, we would like to say that we welcome the opportunity to provide detailed inputs into the on-going revisions and discussions on the draft proposed new approach to country level engagement in the World Bank change strategy. In this submission we will be referring to two key documents under public consultation at the moment, the “World Bank Group: A New Approach to Country Engagement” (revised consultation draft), April 29, 2014 (herein ‘Country Engagement document’) and the “Interim Guidelines for Systematic Country Diagnostic” February 21, 2014 (herein the ‘Interim Guidelines’).

Forest People Programme (FPP), along with other civil society organisations, has previously provided input into the New Approach to Country Engagement with a focus on the critical requirement for effective participation and consultation during both the formulation of this new approach, and in the conduct of the assessments it requires.¹ With this submission, we are providing additional detail specifically with regards to establishing appropriate frameworks for understanding opportunity and risk in development interventions.

Common in the findings of both the Inspection Panel and the Compliance Advisor Ombudsman, and in the reviews conducted by the Independent Evaluation

¹ Joint Letter on the World Bank’s Proposed Systematic Country Diagnostic and Country Partnership Framework, 11 March 2014. Available at: <http://www.forestpeoples.org/topics/safeguard-accountability-issues/news/2014/03/joint-letter-world-bank-s-proposed-systematic-c>

Group, is that a tendency exists in both the World Bank and the International Finance Corporation for staff to – at times – inadequately assess and consider the risks inherent in certain project types.² This can be due to the use of the wrong financing instrument³, to pressures to get funds out of the door and lower risk assessments for that purpose⁴, and to a general disinclination to express or address concerns about human rights risks.⁵

The Bank claims that taking political considerations into account when deciding on development activities is prohibited under the Articles of Association of the World Bank Group. However the impact that Bank lending decisions have on the enjoyment of human rights is unmistakable and that the political landscape of a given country at a given moment in time is of fundamental importance to assessing effective development interventions. This creates an imperative for the Bank to assess and understand context and human rights risk.

This position is echoed by the largest single shareholder in the Bank, the United States of America, which states clearly “We believe the World Bank has a role to play in protecting human rights where development activities and human rights are interrelated. There are wide zones of overlap between substantive areas covered by international human rights treaties and areas in which the Bank operates. We recommend that the Bank explicitly commit to respect human rights, include relevant human rights issues in environmental and social assessments, and guard against human rights violations and abuses in its projects and programs. We believe these human rights issues should be addressed throughout the project cycle, not only in impact assessment and

² This is a long-held critique from civil society. See Steve Berkman, *The World Bank and the Gods of Lending*, 2008 for an account of failures to take into account economic risks, and Independent Evaluation Group, “The World Bank Group Program of Support for the Chad-Cameroon Petroleum Development and Pipeline Construction”, Report N^o 50315, The World Bank Group, November 20, 2009 for failures regarding environmental and social risks, among others.

³ In particular the case of the Transitional Support for Economic Recovery Credit Operation (TSERO) loan to the Democratic Republic of Congo (DRC), where support was provided to the forestry sector under a Development Policy Loan (DPL) is informative for the problems caused by “inadequate consideration of the many important socio-economic and environmental issues of forest use”. Inspection Panel, Investigation Report, Democratic Republic of Congo, Report No. 40746-ZR (Aug. 2007), para. 360 (hereinafter Inspection Panel, DRC Report), p xv (emphasis added)

⁴ This finding is particularly stark under the CAO Audit of IFC loans in which it was observed that “because commercial pressures dominated IFC’s assessment process, **the result was that environmental and social due diligence reviews did not occur as required**”. Compliance Advisor Ombudsman (CAO) Audit of the International Finance Corporation, C-I-R6-Y08-FO96, June 19, 2009. (Emphasis added)

⁵ See, for instance, the on-going situation in Badia East where the World Bank has proved reluctant to confront the Lagos authorities on systematic failures to meet the Bank standards on resettlement. Amnesty International, 2013/2014.

For reference, <http://www.amnesty.org/en/news/nigeria-world-bank-dragging-its-feet-resettlement-package-after-massive-forced-eviction-2014-02>; <http://www.amnesty.org/en/library/info/AFR44/006/2013/en>; and <http://www.amnesty.org/en/library/info/AFR44/003/2014/en>

mitigation planning, but also project supervision, monitoring, reporting, and evaluation.” Furthermore ensuring human rights are respected within activities financed by the Bank not only can improve development effectiveness but also avoid the Bank to face reputational damages.

It is our view that the Bank should expand its use of human rights language from preambular statements of objectives (as in current OP4.10) to operational requirements. Regardless of terminology used, however, the central challenge remains the same: for the Bank to develop effective tools to enable its staff members to provide advice and make decisions based on ‘informed risk’.

Safeguard policies are obviously critical to this, intended as they are to provide a systematic and effective approach to ensuring appropriate risk assessments take place on a project level, and civil society has been vocal in pointing out how these assessments and requirements could be improved and changed.⁶ However such risk assessments cannot be confined to a project level, and therefore necessarily piecemeal approach. Instead social and environmental factors (including where relevant human rights factors) must be assessed and incorporated into Bank thinking from the earliest stages of development planning.

It is our view that the new approach of dividing the country-level assessments into two distinct documents, the Systematic Country Diagnostic (SCD) and the Country Partnership Framework, provides the opportunity to address these past weaknesses by establishing a separation between the initial diagnostic understanding of the context of a country’s development challenges, constraints and opportunities and the negotiation of a possible investment or lending portfolio. In particular, the conduct of the SCD, as a document authored by Bank staff, can provide space of a broad human rights, social and environmental risk assessment that would be fit for purpose in underpinning an effective programme of development interventions yet this is absent in the draft document.

⁶ Submission to the World Bank: 'Effective Implementation: the Key to Safeguard Reform', Forest Peoples Programme, Urgewald, Bank Information Center, April 2013; 26 April, 2013. See also **8 Minimum Elements for a Safeguards Framework that Protects People and Communities**, Bank on Human Rights Coalition (forthcoming) May 2014.

New Approach to Country Engagement

We welcome the intent of establishing the SCD in advance of development planning in a country, namely to provide “**a systematic and evidence-based assessment of the constraints a country has to address and the opportunities it can embrace** to accelerate progress toward the goals of ending extreme poverty and promoting shared prosperity in a sustainable way”.⁷ It has long been the view of many civil society organisations and of independent reviews of Bank work that the risks taken by the Bank in investment decisions (throughout the One World Bank group) must be informed risks, based on sound analysis separated from the incentives for disbursement which have undermined Bank funding decisions in the past. The SCD has potential to address this concern by providing Bank staff at a national level the opportunity to adequately assess ‘critical constraints and opportunities’ separate from immediate financing decisions.

However we are concerned that this potential risks remaining unfulfilled due to the Bank’s reluctance to adequately consider certain types of risk, in particular risks to basic or fundamental human rights stemming from State action or inaction (including weak rule of law). In the overview description of the SCD provided in the Country Engagement Document, a variety of sources of information are listed as needing to be (where appropriate) reflected in the SCD.⁸ Nowhere in these paragraphs is social, human rights or environmental risk mentioned.

Instead the introduction of a new systematic risk assessment tool appears only at the Country Partnership Framework (CPF) stage. However this places risk assessment at a secondary stage of the analytical process, and in a process that is a joint exercise between the World Bank and the borrower country. The experience of the CAS has shown how risk assessments can be jeopardized when carried out by the borrower, who has an interest in minimizing the risks in order to receive the investments (funds) Whilst risk assessment at the *programme* level is appropriately integrated in the CPF where programmes are designed, it cannot be divorced from wider social, environmental and human rights assessment and analysis such as the SCD should be able to provide.

Recommendations:

- The New Approach to Country Engagement must be reviewed and revised to ensure that the necessary emphasis on appropriate risk assessment, including human rights risk assessment, is provided to staff. This includes ensuring that risk assessment is an integral part of each stage of Country Engagement, mandated by strong central requirements contained in these policy documents, and risk assessment guidance is provided tailored to both the SCD and CPF stages of analysis and planning.

⁷ Interim Guidelines, 2014. Para. 3 (emphasis in the original)

⁸ Interim Guidelines, 2014. p. 6 para. 25-28.

- The new, as yet vague, systematic risk assessment must be developed to encompass both the SCD and the CPF to enable analysis of a country context in the appropriate framework of both opportunities and risks. This may take the form of distinct risk assessment processes and guidance for the two steps, or may be an integrated model. At a minimum, it would require guidance to be developed on risk assessment specific to each analytical step.

Interim Guidelines

Although clearly intended to be a short and concise description of an evolving new tool, the Interim Guidelines risk losing the detail necessary to ensure that they provide an effective tool for Bank staff, providing the financial and apolitical space needed to adequately assess risks and opportunities. The guideline questions as currently formulated are as follows:

“Frame the issues/challenges with respect to achieving the country’s development goals (ones that are aligned with the WBG goals), in terms of the current trends and patterns in poverty reduction, inclusion and sustainability.

What are the critical factors driving or constraining **aggregate growth**?

What are the critical factors determining the **inclusiveness of growth**, namely increase in welfare of the poor and less well-off?

How sustainable (environmentally, socially and fiscally) is the **current pattern of growth**, distribution and poverty reduction?”⁹

It is clear in a cursory glance at this list of guide questions that critical attention on wider social, environmental and/or human rights considerations is not asked for, and presumably will not be provided in the same depth as the attention paid to the ‘aggregate growth’ and ‘the current pattern of growth’.

The formulation of these guide questions should be guided by the needs that World Bank staff have in terms of guidance for their own analysis of the countries in which they work. Whilst economic growth patterns are clearly central to achieving the Bank’s twin goals, they are also well understood by Bank staff. Adequate assessment of human rights, social, environmental and other potentially sensitive risks and constraints is an area in which staff could benefit from additional guidance and assistance.

Recommendations:

- Guide questions for the Interim Guidelines must address factors outside of economic growth models to adequately understand the nature of opportunities and risks at the national level.

⁹ Interim Guidelines, 2014.

- At a minimum the questions should include assessment of (a) the critical factors influencing enjoyment of basic human rights, include housing rights and access to basic services; (b) national level trends that may lead to increased instability or fragility and associated risks; (c) identification of key social groups facing historical marginalization from the development process (d) threats to freedom of expression, including the ability to express dissent to project proposals or activities; and (e) groups at risk of marginalization from required consultation and participatory processes.
- Analysis of these risks should be carried out through a robust human rights due diligence process, which explicitly uses the international human rights framework as a consolidated assessment tool.

Best regards,

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