First Peoples Worldwide is grateful for the opportunity to participate in consultation on the World Bank’s second draft Environmental and Social Framework (ESF). We share the concerns expressed by other civil society organizations about the weakening of protections for human rights, including the rights of Indigenous Peoples and other vulnerable groups, in the ESF. Aside from the obvious moral implications, it will jeopardize the Bank’s viability as a financial institution.

The same issues being addressed in the ESF are coming onto the radar of a growing number of investors. There is mounting consensus that a social license, defined as "acceptance or approval by local communities and stakeholders of companies and their operations", is paramount to the success of any development project. John Ruggie, who led the development of the UN Guiding Principles on Business and Human Rights, told Business Ethics that "for a world-class mining operation...there’s a cost somewhere between $20 million to $30 million a week for operational disruptions by communities" and that the time it takes to bring oil and gas projects online has "doubled over the course of the previous decade, creating substantial cost inflation." Additionally, "analysis by Environmental Resources Management of delays associated with a sample of 190 of the world’s largest oil and gas projects (as ranked by Goldman Sachs) found that 73% of project delays were due to "above-ground" or non-technical risk, including stakeholder resistance." In 2014, Ernst and Young elevated the "social license to operate" to the third place on its list of the greatest business risks to the mining industry. These figures come from research on extractives but they fall within a broader trend that applies to agriculture, renewable energy, infrastructure, and all forms of large-scale development with which the Bank is involved.

The strengthening connection between a company’s social and financial performance is prompting growing attention to environmental, social and governance (ESG) issues from the financial industry. Larry Fink, CEO of Blackrock, the world’s largest asset manager, recently released a letter calling on companies to strengthen their focus on ESG. According to the letter, "generating sustainable returns over time requires a sharper focus not only on governance, but also on environmental and social factors facing companies today." Additionally, investors representing over US$125 billion in assets under management have publicly called on the Bank to revise the ESF in order to be more consistent with international human rights laws and norms, including the UN Declaration on the Rights of Indigenous Peoples and the UN Guiding Principles on Business and Human Rights.

1 http://www.miningfacts.org/Communities/What-is-the-social-licence-to-operate/
Capital markets are clearly moving in a direction to be more penalizing of companies that violate human rights or fail to obtain community support for their operations. By weakening protections for human rights in the ESF, the Bank is moving in the complete opposite direction. Not only will this jeopardize the viability of the Bank’s own investments, it also discourages borrower countries from making the social and economic reforms needed to attract foreign investment. In response to the aforementioned market pressures, as well as their own internal risk assessment processes, more companies are looking for business environments that are suitable to the acquisition of a social license. By weakening its social and environmental lending criteria, the Bank is leading borrower countries towards unstable business climates that increase risk to the private sector and drive away foreign investment. As a financial institution owned by the world’s governments, the Bank must be accountable to both market trends and international human rights laws and norms. Weakening protections for human rights in the ESF goes against both.

In response to the Bank’s questions and concerns regarding implementation of the ESF, we suggest the use of risk metrics, and point to First Peoples Worldwide’s Indigenous Rights Risk Report as an example. The report is a quantitative assessment of 52 oil, gas and mining companies’ risk exposure to violating the rights of Indigenous Peoples. The report assessed risk using a methodology that was designed over two years of consultation with investment analysts, industry professionals and Indigenous Peoples, and included 21 quantitative indicators. It can be viewed at http://firstpeoples.org/indigenous-rights-risk-report. We suggest the development and application of similar risk metrics that can be applied to all current or prospective Bank projects to ensure compliance with each safeguard.