Submission of FIRST Union regarding World Bank Safeguard Policies – Workers' Rights Consultation

FIRST Union is a private-sector trade union based in New Zealand. While New Zealand is not a country where World Bank-funded projects occur, NZ firms may be involved in tendering for contracts. Moreover, we are acutely aware of some of the negative effects that past World Bank-funded projects have had in terms of worker and human rights and on the environment and rights of indigenous people. We are therefore heartened to see the progress made in these Safeguards.

Our union is actively involved in a number of global union federations (IndustriALL Global Union, UNI Global Union, the International Federation of Transport Workers, the International Union of Food Workers and the Building and Wood Workers' International) where many of our fellow affiliate unions have told us of the problems that they have experienced organising workers and implementing workers' rights in previous World Bank-funded projects. We have also recently worked to assist the establishment of Samoa First Union, the only private sector trade union in Samoa, and we expect to be involved with World Bank-funded projects through that work.

The current submission process is the third phase of public consultation for the Review and Update of the World Bank Safeguards Policies. We wish to applaud the change in direction that has taken place across the World Bank procurement standards (from favouring ‘lowest price’ to ‘best value for money’), and note that this attitude has made an impact on the Safeguards Policies. Further, we also support the significant improvements that have been made in the second draft consultation document published on 1 July (titled 'Environmental and Social Framework: Setting Environmental and Social Standards for Investment Project Financing', also known as ESS 2). These include support for the principles of freedom of association and collective bargaining, improved coverage for third-party, supply chain and community labour (although there remains room for improvement), information requirements for workers, specific prohibition of child labour, strengthened provisions around forced labour, and rights regarding health and safety.

We do however note that there are still a number of areas on the second draft consultation document that require attention.

Remaining Issues in draft ESS 2

1. Sadly, there is still no reference to International Labor Organization (ILO) Conventions, or the core labour standards, which are based on the ILO's 1998 Declaration on Fundamental Principles and Rights at Work. These prohibit child labour, forced labour and workplace discrimination, as well as protecting workers' rights to freedom of association and collective bargaining.

   **Recommendation:** Including explicit reference to the ILO’s core labour standards conventions. As a minimum, reference the ILO Declaration on Fundamental Principles and Rights at Work;

2. The provisions on freedom of association and collective bargaining continue to distinguish between countries that protect these rights, where borrowers must respect
them, and those that do not. For the latter, the revised draft now requires that borrowers “will not restrict workers from developing alternative mechanisms to express their grievances and protect their rights”. Unlike measures adopted by other development banks, it does not include the requirement that whatever be the recognition of those rights in national law, the borrower “shall not discriminate or retaliate against workers who participate or seek to participate in [workers’] organizations and engage in collective bargaining”.

**Recommendation:** Prohibit acts of discrimination and retaliation against workers who seek to freely associate and bargain collectively in Bank-finance projects, without distinction as to the status of these rights in national law.

3. We believe that there is too much reliance on self-reporting for borrowers, which involves giving borrowers the freedom to "identify the relevant requirements of ESS 2 and how they will be addressed in the project". There is no other safeguard measure that grants the borrower the freedom to pick and choose the requirements they believe relevant to the project.

**Recommendation:** Remove the right of borrowers to determine on their own which requirements of ESS 2 apply to the project and should be addressed.

4. Language is still ambiguous and confusing regarding the categories of project workers. It should make clear that contracted workers are to have full coverage of the provisions of ESS2, and that the Borrower must ensure that Contractors will comply fully with ESS2. There is only one mention of labour provisions in tender documents in ESS1.

**Recommendation:** Clarifying that all project workers, are subject to the full protection of ESS2; clarifying that clients must ensure contractors will fully comply with the provisions of ESS2; and ensuring that clients should be directed to include labour requirements in tender documents, including use of labour clauses in the World Bank Standard Bidding Documents and the MDBs Harmonised General Conditions of Contract for Construction as a minimum.

5. Health and Safety says nothing regarding worker’s participation and representation. It should include the requirement to have Workers’ Health and Safety Representatives and Joint workplace Health and Safety committees.

**Recommendation:** Ensuring that Health and Safety requirements should include Workers’ Health and Safety Representatives and Joint workplace Health and Safety committees.

**Contact for submission:**

Robert Reid  
General Secretary

[First Union](http://www.firstunion.org.nz)