

CSO Submission on World Bank Forests and Natural Habitats Safeguards

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The World Bank safeguard review and update is a welcome opportunity to evaluate the Bank's current forest and natural habitat policies. Natural habitats, including forest ecosystems, are irreplaceable global goods. They offer invaluable ecosystem services including air and water purification, nutrient cycling, crop pollination, and hydrologic regulation; support biodiversity; and are principal in both mitigating and adapting to climate change. Forests are also a livelihood source for an estimated 1.6 billion forest dependent peoples, many of whom are indigenous¹. These forest dependent peoples comprise 90% of the world's people living in extreme poverty². As such, protection of natural habitats, especially intact forest ecosystems, is critical to achieving both environmental conservation and poverty reduction. The urgency of this task has become more apparent as pressures of a growing global population and economy increasingly drive unsustainable rates of deforestation and degradation of natural habitats.

Investments both within, and external to, the environment and natural resources sector have the potential to impact substantial expanses of land and the lives of many forest dependent peoples. Safeguards are of critical importance to protecting the integrity of our natural habitats and the livelihoods and rights of the people who depend on them. While we welcome President Kim's commitment to no dilution of the existing safeguards, the Bank must commit to addressing the weaknesses in the current system, making them even more robust and effective in order to respond to heightened threats to local and global ecosystem services and the impacts of these losses on forest dependent peoples.

Opportunities provided by the safeguard review

The safeguard review and update provides an opportunity to reform the forest and natural habitat policies to reflect international best practice and lessons learned. More robust safeguards can be created by learning from the Bank's own projects, through Inspection Panel cases and the 2013 IEG

¹ Independent Evaluation Group. (February 2013). *Managing Forest Resources for Sustainable Development: An Evaluation of the World Bank Group Experience*.

² The World Bank Group. (2002). *Sustaining Forests: A World Bank Strategy*.

evaluation of the World Bank Forest Strategy implementation¹, the World Bank Justice for Forests³ study, as well as related policy developments such as emerging REDD+ guidance and standards of other multilateral banks.

Past projects provide examples of both successes and failures in the implementation of existing forests and natural habitats safeguards, with relevant Inspection Panel cases serving as instructive examples. In particular, the Inspection Panel's report on the Bank's interventions in the Democratic Republic of Congo⁴ noted the Bank's tendency to focus on the value of forests for timber production over other more sustainable uses; a neglect of project impacts on those living in the forest or dependent upon it; and improper assessment and categorization of risk. In the same report, the Panel also noted serious concerns with the use of Development Policy Loans (DPLs) for highly sensitive sectors such as forests, due to weaknesses in the policy's assessment of social and environmental impacts.

The 2013 IEG Evaluation of the Bank's Forest Strategy implementation found that while the Bank has contributed to improved environmental outcomes, forest interventions have largely failed to properly balance the aims of poverty reduction and environmental conservation⁵. The safeguard review must respond to the IEG's conclusion that "poverty reduction, for the most part, has not been satisfactorily addressed⁶" in World Bank Group forest interventions. Important steps towards addressing the IEG's recommendations could be achieved by incorporating certain key concepts into safeguard policies, including expanding participatory forest management and community participation in forest sector interventions, and utilizing more refined outcome indicators to measure the sustainability of forest interventions.

The IEG Evaluation⁷ highlighted the insufficient evidence of positive outcomes resulting from the Bank's engagement in industrial timber concession reform in tropical moist forest countries with weak governance, and recommended that the Bank review its approach to sustainable forest management in such environments. One of Management's rationales for disagreeing with this recommendation was to avoid conducting an additional process parallel to the safeguard review, stating, "The on-going safeguards policy reform effort will take account of this IEG review in its work⁸." We encourage the Bank to live up to its assurances that its safeguard review process will address the poverty, social, and environmental issues raised in the IEG review. Given that much of the Bank's support for industrial timber concession reforms has come through policy lending, it is essential to include policy lending within the scope of the safeguard review. The revised safeguards will be expected to address the issues raised around the critical issue of Bank support for industrial timber concessions and the policy reforms that promote them.

³ Pereira Goncalves, M., et al. (2012). Justice for Forests.

⁴ Inspection Panel. (2007). Investigation Report, Democratic Republic of Congo, Report No. 40746-ZR.

⁵ There were some exceptions under participatory forest management projects. IEG. (2013), *supra* note 1 at p. 31-32, 38.

⁶ IEG. (2013), *supra* note 1, at p. 100.

⁷ IEG. (2013), *supra* note 1.

⁸ IEG. (2013), *supra* note 1 at p. xxxiii.

The World Bank's Justice for Forests study⁹ also has implications for the Bank's forest policy. The report underscores risks of weak forest governance, which the Bank must proactively address through safeguard policy. Consistent with the report's recommendations to combat illegal logging, the Bank should increase assistance to ensure compliance with laws, regulations, and policies that target illegal logging, including assistance for criminal justice systems and anti-money laundering measures.

Emerging best practices on safeguards in the REDD+ space are broadly applicable to forest lending outside REDD+. These best practices—some of which have been pioneered by the Forest Carbon Partnership Facility—include the application of a requirement for free, prior and informed consent (FPIC), enhanced stakeholder engagement and participation of indigenous and local peoples, upstream participatory planning processes for national policy and program development, more effective use of project-level accountability and grievance redress mechanisms, transparent and equitable benefit-sharing and proactive information disclosure.

Consistency with other World Bank strategies and policies should also be a priority for the safeguard review and for the Bank more widely. The revised policies must align with the goals of the World Bank's Environment Strategy 2012-2022¹⁰. The Strategy's Green Agenda, focused on sustainable management of natural resources and valuation of ecosystem services, could be advanced by strong natural habitat and forest safeguards. The Resilience Agenda would likewise be supported by safeguards with strong protections for ecosystem services.

Given the cross-cutting nature of forests and natural habitats, substantial overlap exists with other safeguard policies, including Indigenous Peoples, Involuntary Resettlement, and Environmental Assessment. Commonalities between these topics should be identified and strengthened, and emerging issues such as land tenure and climate change should also be incorporated.

In addition to looking inwardly at the World Bank's own experience, the safeguard review offers an opportunity to learn from, and harmonize upward with, the best standards of other multilateral banks. Select safeguard policies of the Asian Development Bank (ADB)¹¹, European Bank for Reconstruction and Development (EBRD)¹², and the IFC Performance Standards¹³ offer useful examples.

Recommendations

Key concerns and recommendations emerging from a review of World Bank Operating Policies 4.04 and 4.36 can be organized into four themes: 1) protection of the rights and livelihoods of local communities and peoples, 2) protection of ecosystem services and natural habitats, 3) strengthened

⁹ Pereira Goncalves, M., et al. (2012), *supra* note 3.

¹⁰ The World Bank Group. (2012). *Toward a Green, Clean, and Resilient World for All: A World Bank Group Environment Strategy 2012-2022*.

¹¹ Asian Development Bank. (June 2009). Safeguard Policy Paper.

¹² European Bank for Reconstruction and Development. (May 2008). Environmental and Social Policy. <http://www.ebrd.com/downloads/research/policies/2008policy.pdf>.

¹³ International Finance Corporation. (January 2012). Performance Standards on Environmental and Social Sustainability.

impact assessment and safeguard implementation, and 4) broad and uniform application of safeguards across the Bank's instruments. We request that these recommendations be considered and incorporated into the revised forest and natural habitat safeguard policies.

Ensure interventions protect the rights and livelihoods of local communities

An estimated 70 million people live in the world's forests, and a total of 1.6 billion people are dependent on forests for food, fiber, fuel, or income¹⁴. Countless others are dependent on non-forested natural habitats. Furthermore, an estimated 11% of the world's forests and 80% of its biodiversity are found in indigenous lands¹⁵. Consequently, it is critically important that forest and natural habitat policies not only acknowledge the vital role indigenous peoples and local communities play in environmental conservation, but also ensure that their rights are respected and their livelihoods are protected.

- **Free, prior and informed consent (FPIC)**, as required under the United Nations Declaration on the Rights of Indigenous Peoples¹⁶, must be the standard for approval of all projects impacting indigenous peoples. Furthermore, it is important to recognize the rights and needs of the 800 million forest-dependent peoples who are not indigenous, and thus not protected by OP 4.10¹⁷. Safeguards should address underlying issues of land tenure, and ensure that Bank interventions do not compromise local communities' customary rights or use of land and associated resources.
- **Local communities and indigenous peoples should be involved throughout the process** of project planning, implementation and monitoring, as well as in the identification of critical natural habitat. Critically, effective participation must be established as early as possible in project formulation, including during impact assessment, and continue throughout the project until assessment of long-term outcomes.
- Safeguard policies should **recognize the multiple values of natural habitats and forests**, including sociocultural and livelihood values for indigenous peoples and local communities. Investments must not adversely impact the resilience of natural habitats to climate change and their adaptation benefits to local communities. Such multiple values should be included in cost-benefit analysis and project planning, and safeguards must prevent adverse livelihood impacts. It is critical that the revised policy not restrict access to or use of natural resources that indigenous peoples or local communities depend on for their physical, economic, social, cultural, or spiritual well-being.

¹⁴ IEG. (2013), *supra* note 1.

¹⁵ Sobrevila, C. (2008). *The Role of Indigenous Peoples in Biodiversity Conservation: The Natural but Often Forgotten Partners*.

¹⁶ United Nations. (2008). *United Nations Declaration on the Rights of Indigenous Peoples*.

¹⁷ Chao, S. (May 2012). *Forest Peoples: Numbers across the world FPP briefing paper*.

<http://www.forestpeoples.org/topics/climate-forests/publication/2012/new-publication-forest-peoples-numbers-across-world>.

- Beyond recognizing the rights and livelihood practices of local communities, safeguards should **prioritize and promote community-based management of natural resources**. In light of the IEG finding that Participatory Forest Management has been effective in delivering livelihood enhancing benefits and positive environmental outcomes¹⁸, the Bank should scale-up existing community-based efforts. Furthermore, community-based natural resource management provides the additional benefits of community institution building and a minimum guarantee of predictable access to land for land-insecure communities. Safeguards should play a role in facilitating community-based natural resource management by, inter alia, ensuring that criteria for harvesting operations do not disadvantage local communities. Given the environmental and social shortcomings of industrial-scale logging articulated by the IEG Evaluation¹⁹, the External Advisory Group on Implementation of the World Bank’s Forest Strategy²⁰, and others²¹, alternative forest management models should be encouraged— community-based forest management principal among them.

Ensure safeguards protect environmental services and values of natural habitats

The current OP 4.04 and OP 4.36 recognize the key role forests and natural habitats play in sustainable development and poverty reduction. To support this role, it is critical that the safeguard review strengthen protection for natural habitats and forests, preserving their long-term value and the local and global environmental services they provide. Strong provisions must be in place to protect areas that contain globally, regionally, or nationally significant concentrations of biodiversity values or endemism; are in or contain rare, threatened, or endangered ecosystems; provide essential ecological functions; and are fundamental to meeting the basic needs of local communities or are critical to local communities’ cultural identity.

- Ensuring protection of such environmentally and culturally significant areas requires **revisiting definitions of the terms ‘critical,’ ‘forest,’ and ‘degradation.’**
 - Strong protection of the aforementioned areas will require a clearer, more inclusive and multifaceted definition of ‘critical natural habitat’ and ‘critical forest’. The definition must include all intact forests and other high conservation value areas, and take into account areas of socioeconomic and cultural value to local communities and indigenous peoples.

¹⁸ IEG. (2013), *supra* note 1.

¹⁹ IEG. (2013), *supra* note 1.

²⁰ Kaimowitz, David, EAG. (March 2008).

http://siteresources.worldbank.org/INTFORESTS/Resources/EAGletter_March2008.pdf.

²¹ For example, Greenpeace. (2007). *Forest reform in the DRC: how the World Bank is failing to learn the lessons from Cameroon*; Zimmerman, B. et al. (2012). *Prospects for Sustainable Logging in Tropical Forests*. *Bioscience*: 62 (5); Elson, D. (2013). *Guide to investing in locally controlled forestry*.

- The Bank should redefine ‘forest’ to distinguish between natural forests and plantations, consistent with FAO²², CBD²³, and CIFOR²⁴ definitions. This distinction is important given the reduced biodiversity, ecosystem services, and other values provided by plantations, and would ensure that conversion from natural forest to plantation is recognized as habitat conversion that is subject to safeguards. EBRD’s Environmental and Social Policy states that conversion to forestry is subject to due diligence²⁵, and IFC²⁶ and ABD²⁷ safeguard policies similarly distinguish between natural habitat and human modified habitat.
- The definition of ‘degradation’ should be scientifically-based, but also allow for traditional, ecologically sustainable livelihood uses.
- Revised safeguards must 1) **prohibit the conversion of critical natural habitats** and 2) **prohibit the degradation of critical natural habitats** conditioned on fully respecting the rights of indigenous peoples, as well as the economic and cultural practices and traditional knowledge systems of local communities and indigenous peoples that are compatible with ecological sustainability. Conservation of critical natural habitats is necessary for maintenance of biodiversity, ecosystem services, and cultural values. A prohibition on conversion of critical natural habitat is consistent with ADB²⁸ and EBRD²⁹ safeguard policies, as well as UNFCCC safeguards, which issue the more stringent standard of prohibiting conversion of all natural forest³⁰. Additionally, safeguards should prioritize siting interventions on previously converted or degraded land whenever possible, require restoration of all negatively impacted natural habitats, and prohibit industrial-scale logging in intact forests and other critical habitats.
- **Biodiversity offsets should not be used to compensate for adverse impacts on critical natural habitats.** Insufficient empirical evidence exists to support the effectiveness of biodiversity offsets in mitigating such impact on critical natural habitats, and a significant risk of failure exists when implemented in countries with weak governance. In the case of adverse impacts on non-critical natural habitats, offsets should only be used as a last resort and only where there is adequate governance, including a robust legal and administrative

²² Food and Agriculture Organization of the United Nations. (2010). *Global Forest Resources Assessment 2010: Main Report*. <http://www.fao.org/docrep/013/i1757e/i1757e.pdf>.

²³ Convention on Biological Diversity. *Definitions*. <http://www.cbd.int/forest/definitions.shtml>.

²⁴ CIFOR. (March 2002). *Typology of Planted Forests*. http://www.cifor.org/publications/pdf_files/Typology/John-typology.pdf; CIFOR. *Supporting document for developing a draft Typology of Plantation*. http://www.cifor.org/publications/pdf_files/Typology/Typology.pdf.

²⁵ EBRD. (2008), *supra* note 12., PR 6: para. 20.

²⁶ IFC (2012), *supra* note 13., para. 9, 11, 13.

²⁷ ADB. (2009), *supra* note 11., Appendix 1: para. 25.

²⁸ ADB. (2009), *supra* note 11., Appendix 1: para. 28 and Appendix 5: ix. Appendix 1: para 26.

²⁹ EBRD. (2008), *supra* note 12., PR 6: para. 11, 12.

³⁰ UNFCCC. March 2011. *Report of the Conference of the Parties on its sixteenth session, held in Cancun from 29 November to 10 December 2010, Appendix 1*. <http://unfccc.int/resource/docs/2010/cop16/eng/07a01.pdf>.

framework and sufficient capacity to implement a national conservation strategy—with regional considerations where necessary—that ensures offsets result in no net loss and/or a net gain with respect to species composition, habitat structure, ecosystem function and traditional use and cultural values associated with biodiversity. Offsets would need to be part of a national offset plan within a national conservation strategy that takes into account direct, indirect and cumulative impacts of development, is developed in a transparent manner with the full and effective participation of relevant stakeholders, and is reviewed by independent experts, including the incorporation of traditional knowledge where appropriate³¹. Offsets must be permanent- or last at least as long as the impacts they compensate for, include sustained funding where necessary to achieve this, be additional to what would have occurred in the absence of the offset, and include adequate long-term monitoring, verification and evaluation. Offsets should be in place prior to the realization of adverse impacts on a natural habitat, preferably with prior demonstration of their effectiveness³².

- Safeguards should clearly **outline standards and indicators by which to measure** whether operations are supporting natural resource management in an ecologically and socially sustainable manner. A clear process should also be delineated for determining whether significant conversion of natural habitat is warranted on a per project basis. In regards to the existing forest certification standards enumerated in OP 4.36, it is important to recognize the limitations of certification. Certification cannot substitute for social and environmental standards established and supervised by the Bank, nor does it address underlying issues such as land tenure and governance. Third party certification is also often unsuitable or infeasible for smallholders. The 2013 IEG Evaluation reveals poor implementation of forest certification requirements in the IFC, noting that “despite increased efforts by IFC to support certification... challenges remain in this area³³,” including the failure of the majority of projects producing or using wood from natural or plantation forests to achieve certification³⁴. These same challenges undoubtedly apply to World Bank public sector investments.
- Lastly, safeguards should **employ the precautionary principle to protect ecosystem services** and **prohibit adverse impacts to priority ecosystem services**. If there is suspected risk of harm or absence of scientific consensus, the precautionary principle places the burden of proof on the Bank to demonstrate that an action is not harmful. Protection of ecosystem services is consistent with both the pillars of the World Bank’s forest strategy and the Green Agenda of its environment strategy. Language on ecosystem

³¹ Kormos, R. and Kormos, C. (2011). *Towards a Strategic National Plan for Biodiversity Offsets for Mining in the Republic of Guinea, West Africa With a Focus on Chimpanzees*.

³² The Parliamentary Office of Science and Technology. (January 2011). *Biodiversity Offsetting*.

³³ IEG (2013), *supra* note 1, p. xviii.

³⁴ IEG (2013), *supra* note 1, p.73.

services in IFC's Performance Standards and associated Guidance Notes could be used as a model for mainstreaming ecosystem services into the safeguards³⁵.

Strengthen impact assessment and safeguard implementation

In addition to the social and environmental provisions required for strong and comprehensive safeguards, achieving positive outcomes requires that these safeguards be effectively implemented and supervised. It is pivotal that investments with both direct and indirect impacts on natural habitats trigger the relevant safeguards; that safeguards are comprehensively applied, monitored, and verified; and relevant information is publicly disclosed in a timely manner.

- The 2007 Review of Implementation of the World Bank Forest Strategy reported that forest-related safeguards were inadequately triggered and inconsistently applied, and that operational guidance on safeguard application was insufficient³⁶. In its analysis of 34 forest-related projects, the review found that only 79% of projects triggered OP 4.36, and 62% triggered OP 4.04—potentially failing to assess, avoid, or mitigate negative impacts for approximately a third of operations. **Implementation must be strengthened to trigger safeguards for all projects with impacts on natural habitats.**
- The 2013 IEG evaluation also reports that “the monitoring and reporting systems of the World Bank forest sector operations are inadequate to verify whether its operations are supporting forest management in an environmentally and socially sustainable way³⁷.” Inspection Panel reports have similarly noted deficiencies in the assessment of impacts on local communities and the environment, as well as due diligence and supervision in the implementation of current safeguards. It is apparent that **improved guidance and oversight of safeguard application** is necessary, including selection and monitoring of appropriate social and environmental indicators throughout the life of projects and programs. The Bank must also take into account governance risks when considering the potential for social and environmental harm from natural resource-related interventions, including governance risks in the forest sector, which are closely associated with illegal logging.
- It is imperative that the **Bank retain responsibility for supervision and oversight of safeguards** and limit the devolution of responsibility to borrowers or independent forest certification systems— particularly in cases of weak governance. To facilitate such responsibility and oversight of forest and natural habitat-related projects, the Bank must have ample, dedicated staff with expertise in forests and natural habitats. In the case of forest certification, the Bank should supervise and assess compliance with the forest certification criteria delineated in OP 4.36, regardless of whether third party certification is achieved. Where Bank-supported projects would entail the use of borrower country

³⁵ IFC. 2012, *supra* note 9. Performance Standard 6: para. 1-3, 24-25.

³⁶ Contreras Hermosilla, Arnaldo and Simula, Markku. (2007). *The World Bank Forest Strategy: Review of Implementation*.

³⁷ IEG. (2013), *supra* note 1, at p. 101

systems, it is important that the Bank evaluate the equivalency and acceptability of the country system, assess technical capacity, and assist the borrower in developing an action plan. In all cases, the Bank should retain monitoring and supervision responsibilities.

Ensure broad and uniform application of the safeguards in the World Bank's interventions

Forest and natural habitat safeguards should be applied not only to environment and natural resource sector investment lending, but to all sectors with impacts on natural habitats, and throughout the full range of the Bank's lending instruments. The Bank's lending and non-lending activities should seek consistent, unified goals and approaches to the protection of natural habitats. Such a unified approach requires incorporation of natural habitat conservation into country strategies and systems, in addition to individual project planning. The diverse tools and instruments of the Bank must also be used to address the key issues of rule of law and natural resource governance.

- A wide variety of economic sectors have the potential for significant impacts on forests and natural habitats, including agriculture, mining, energy, transportation, animal production, and waste management. Consequently, conservation of forests and natural habitats requires a truly intersectoral approach. **The evaluation of the potential impacts to forests and natural habitats must be standard for all impact assessments, for projects in all sectors**, and safeguards applied as appropriate. Furthermore, safeguards must be applied across the supply chains of agricultural, forest, mineral, energy, and other products involved in World Bank interventions, and the impact of such supply chains on natural habitats should be considered. For example, substantial literature exists on the far-reaching impacts of palm oil plantations on local communities and natural habitats³⁸.
- **Safeguards must also be expanded to programmatic loans such as DPLs**, which have the potential for significant and long-term environmental and social impacts, but are not bound by the same level of protective standards. The aforementioned Bank intervention in the DRC and the recent IEG Evaluation both support the need for more rigorous risk assessment to ensure that policy reforms avoid significant harm. Measures such as risk categorization, greater transparency and participation, and more robust monitoring and evaluation could be introduced through this safeguard review.³⁹
- Safeguards should support an **integrated landscape management approach**, which addresses land and natural resource management from an ecosystem scale; manages land for multiple objectives such as food and fiber, biodiversity, ecosystem services, and human well-being; incorporates actors in different sectors; and engages rights-holders and

³⁸ For example, Gilbert, D. (2009). *Duta Palma's Filthy Supply Chain- a Case Study of a Palm Oil Supplier in Indonesia*; Bretton Woods Project. (April 2011). *Open for business: World Bank to reinvest in palm oil amid criticism*.

³⁹ For more detailed recommendations, see Bank Information Center & Global Witness. (April 2013). *World Bank Safeguards & Development Policy Lending: A Primer on Why DPLs Should be Part of the Safeguard Review*. Available upon request.

stakeholders in participatory and multi-stakeholder decision-making⁴⁰. Such a landscape approach can be promoted by the forest and natural habitat safeguards by ensuring the safeguards apply to all sectors, respects livelihood uses, accounts for ecosystem service values and biodiversity values, and prioritize community participation and community-based forest management. For this purpose, the Bank should integrate the concept of Intact Forest Landscapes (IFL)⁴¹ into its landscape management approach, and the safeguard policy should ensure that its investments do not contribute to fragmentation and/or deforestation of IFLs.⁴²

Conclusion

We request that the World Bank take the recommendations put forth in this submission into serious consideration in its review and update of the safeguard policies. Additionally, we request the following actions in the next phase of the consultation.

First, there should be an opportunity for enhanced dialogue with civil society groups, indigenous peoples, and local communities in order to gain their respective expertise on effectively safeguarding natural habitats. Such dialogue could be fostered by creating a working group or holding a series of workshops with relevant stakeholders. This dialogue should be based on a concrete set of proposals from the Bank around which expert advice can be assembled (no longer a 'listening phase'). The manner of consultation must be broader, more transparent and more inclusive than in Phase I, and should explicitly address the recommendations received from affected peoples, communities and civil society at large in Phase I, including those set out in this submission.

Second, there should be additional research conducted on international best practice, including a comparative analysis of World Bank Operational Policies and UNFCCC guidance, a review of lessons learned from REDD+, or a global review of best practice. Such research could help establish a common understanding of how the safeguards can be harmonized with the best global standards.

⁴⁰ Landscapes for People, Food, and Nature Initiative (June 2012). *Landscapes for People, Food, and Nature: The Vision, the Evidence, and Next Steps*. http://www.conservation.org/Documents/LPFN-ReportLandscapes-for-People-Food-and-Nature_Eco-agriculture_2012.pdf.

⁴¹ For detailed information, definitions and data on Intact Forest Landscapes, see: <http://www.intactforests.org/>

⁴² For more scientific and technical background on the importance of IFLs and options for alternative land use and planning, see: Greenpeace (June 2011). *Intact Forest Landscapes: Why it is crucial to protect them from industrial exploitation*.

http://www.greenpeace.org/international/en/publications/reports/IntactForestLandscapes_TechNote/