

To: Ms. Satu Santala, Executive Director, the Nordic and Baltic countries, World Bank Group
(ssantala@worldbank.org)

September 24th 2014

Joint CSO letter to the Nordic-Baltic ED on the occasion of the World Bank annual meetings 2014

Dear Ms. Santala,

We, Nordic civil society organizations working for the eradication of poverty, just distribution of power and resources, and for democratization of global governance, would like to raise a few issues of concern to us prior to the up-coming annual meetings.

Safeguards

The current safeguards draft represents a major dilution of existing World Bank safeguards, and a breach of President Jim Yong Kim's promise not to weaken the Bank's policies. A weaker set of safeguards will make it more difficult to achieve the Bank's twin goals of eradicating extreme poverty and promoting shared prosperity. A number of concerns have been raised by civil society organizations, affected communities and indigenous peoples worldwide, and we would like to draw your attention to some of these. We hope that you, as the representative of the Nordic and Baltic countries, will take up these concerns in the World Bank board.

Abdication of Bank responsibilities and less oversight. The draft allows for more open-ended compliance and deferred appraisals, by allowing compliance in a "manner and timeframe acceptable to the Bank" (See ESP, paragraph 13). This means Bank staff will have much greater discretion, and the appraisal of significant environmental and social risks can be deferred to the implementation stage of the project. For example, the current requirement that environmental assessments must be disclosed to the public before appraisal for significant risk projects has been eliminated, which could make consultations meaningless. Similarly, there is no requirement for public disclosure of the new Environmental and Social Commitment Plan prior to Board approval.¹ This appears to be a serious dilution of the oversight of the Board over the environmental and social impacts. Most of the responsibility for monitoring implementation of the safeguards has been outsourced to borrowers, representing an eschewal of responsibility by the Bank.

Excludes nearly half of the Bank's portfolio. The narrow application of the proposed safeguards to traditional investment projects would exclude the growing share of Bank lending channelled through other lending instruments, which account for nearly half of Bank lending, increasing the fractured nature of safeguards in the World Bank. This will lead to further weakening of a safeguard system that is already underfunded and lacking in independence, effective supervision and support for borrowers during implementation and real monitoring of impacts on the ground.

Undermining the rights of indigenous people. We are particularly worried about a proposal related to indigenous peoples, which could effectively undermine the individual and collective rights of these very vulnerable groups. Although the rights of indigenous peoples are included and partly strengthened in the draft (such as the important reference to Free Prior Informed Consent and protection of indigenous peoples living in involuntary isolation), the policy also allows for an "alternative approach" that effectively opens up for completely disregarding the rights of indigenous peoples. Such an "alternative approach" will be particularly relevant in Africa, where many countries do not recognize indigenous peoples and their special rights, despite the fact that these are established by a number of international human rights instruments. Such an opening for ignoring the rights of indigenous peoples in the World Bank's safeguard policies could have

¹ See briefing by Bank Information Centre: "Five Ways in Which Pelosi Amendment Protections will be Undermined under the Updated Safeguard Policy Framework", <http://www.bicusa.org/wp-content/uploads/2014/08/Five-ways-WB-SG-Undermine-Pelosi-7.25.14.pdf>.

serious negative consequences and is completely unacceptable. We also believe this would be in breach of the Nordic countries' longstanding support for human rights and in particular indigenous peoples. Thus, we urge you to state that the safeguard review process must not lead to reduced focus on human rights and in this context especially indigenous rights. The opening provided to borrowers to ignore the rights of indigenous peoples in the current draft should therefore be deleted.

Concerns on how unique impacts on children will be considered: We appreciate the references to children in the draft, particularly those requiring that social assessments look at the impacts of projects on vulnerable groups, including minors, as well as the inclusion of provisions requiring consultation with children in ESS 10 on citizen engagement. We are very concerned however about the lack of detail in terms of how impacts on vulnerable groups must be examined in social assessments. It is not clear whether unique impacts on children will have to be considered separately from impacts on other vulnerable groups, which is necessary to ensure that their particular interests are protected. We also recommend that children must be addressed specifically in ESS 4 (Community Health and Safety) and ESS 5 (Resettlement) to ensure that their unique needs are protected in situations where they may be displaced by a project or where a project may pose a threat to their health.

Fails to protect the rights of workers. While it is positive that the draft has included a standard on labour and working conditions, it is a great weakness that the draft does not make reference to the ILO labour standards. We are very concerned that the draft excludes obligations to ensure the rights of contract, sub-contracted and third party workers. The draft states that “Environmental and Social Standard 2: Labor and Working Conditions (ESS 2) applies to workers employed directly by the Borrower to work specifically in relation to the project.” While almost all of the provisions of the IFC, EBRD and AfDBs are applicable to contract, sub-contracted and third-party workers, the World Bank draft appears not to apply to these groups of workers. It also limits the application of the labour safeguard with regards to public servants. This means that ESS2 would apply to almost no-one. Further, the draft indicates that some core labour standards must always be complied with in Bank-funded projects, while others depend on whether or not national law recognizes them. This means that freedom of association and the right to collective bargaining will only be required where there is a provision for it in national law (ESS2, paragraph 11). Other multilateral development banks, such as the EBRD and the AfDB have labour standards requirements that include the obligation to comply with the ILOs core labour standards, regardless of whether they have been ratified in national law.²

Diluted biodiversity standard. The proposed Environmental and Social Standard (ESS) 6 on Biodiversity is significantly diluted compared to the current Natural Habitat and Forest policies (OP 4.04 and OP 4.36) and we ask you to make sure the following concerns are amended before a revised standard is sent back to the board: The definition of critical natural habitats is narrowed to consider only biodiversity. This is a problem as it means both protected areas and areas important to traditional communities are removed from the category ‘critical’ and hence not covered by the standard. Furthermore the new standard will permit projects within protected areas (para 20), and criteria for sustainable forest management are eliminated, leaving it to the borrower to define sustainability (para 25). Thirdly, considerations for forest-dependent peoples are removed as the new policy does not include local communities or forest dependent peoples in its scope, nor does it call for local involvement throughout the project cycle. Only "where applicable" does the policy require consideration of affected communities' use of natural resources (para 13). Finally we regret to see independent certification of industrial-scale commercial harvesting operations (plantations) no longer required, and new language in ESS6 allowing land clearing and salvage logging to proceed if the operation is unable to follow a certification scheme (para 30).

Weaker resettlement policies. While the current Bank procedures on resettlement (OP 4.12 Annex A) require comprehensive household baseline data and other socio-economic studies to be conducted in the early stages of project preparation, this has been omitted in the draft version of the new

² See briefing by the International Trade Union Confederation: “Major weaknesses in World Bank’s draft labour standards safeguard”, <http://www.ituc-csi.org/major-weaknesses-in-world-bank-s?lang=en>.

Safeguards (ESS5, paragraph 16). Proper baseline data is essential to ensure that resettled communities receive full restitution. Resettlement plans are also no longer required prior to the Bank's review and project approval.³

No stand-alone safeguard on climate change. There is a need to include a specific safeguard policy on climate change. Over 100 NGOs have already submitted a detailed proposal for this to the World Bank as part of the review process.⁴

Lack of meaningful consultation. The process of drafting the new safeguards framework has been weakened by repeated delays, change of staff and direction, exclusion and a lack of transparency. Crucially, the revision process has also been marked by a failure to incorporate the comprehensive inputs by civil society organisations, indigenous peoples, and project-affected communities. A meaningful process of multi-stakeholder consultation around how to operationalize and implement international standards in an effective way is needed: one that takes the time to solicit and build on successful models of safeguards that recognize human rights and sustainability as fundamental components of development that must be mainstreamed, or indeed “upstreamed,” for the Bank to achieve its twin goals of eliminating extreme poverty and raising shared prosperity.

Principles for Responsible Lending

We reiterate our call for all the Nordic and Baltic countries to endorse the UNCTAD Principles on Responsible Lending and Borrowing, and for the Nordic-Baltic constituency to promote and advocate for the application of these principles to World Bank lending. The Bank should also audit/assess their outstanding loans according to these principles.

We look forward to your response.

Best wishes,

Changemaker, Diakonia, Digni, FIVAS, FOKUS, Forum for Development and Environment, Kepa, YWCA-YMCA Global Norway, Norwegian Church Aid, Rainforest Foundation Norway, Save the Children Norway, SLUG – Debt Justice Network Norway, The Development Fund



³ See briefing matrix by Inclusive Development: “Involuntary Resettlement, Land Acquisition and Restrictions on Land Use – Major Dilutions Matrix,” http://www.thehindu.com/multimedia/archive/02032/Involuntary_Resett_2032970a.pdf.

⁴ See Bank Information Centre, “Model Proposal: Climate Change Assessment (CCA) Safeguard Policy Submission to the World Bank Safeguard Policy Review May 2014”, <http://www.bicusa.org/wp-content/uploads/2014/05/Climate-Change-Safeguard-Model-Policy-for-the-World-Bank.pdf>.