

IFC must demonstrate its commitment to respect human rights

Joint Civil Society Statement on IFC's Draft Sustainability Framework

March 2011

In December 2010, the International Finance Corporation (IFC) published the final proposed draft of its revised Sustainability Framework, which is intended to manage social and environmental risks associated with IFC activities. The undersigned civil society organisations are writing to express our deep concern that the current draft does not include adequate safeguards to ensure that the human rights of people and communities affected by IFC's activities are respected and protected. Indeed, the removal of references to human rights that were included by IFC in its previous draft creates an impression that IFC is willing to pursue investment and development at the expense of human rights.

We believe this lack of attention to human rights is not consistent with IFC's stated commitment to fighting poverty and improving people's lives, and unacceptable for an institution governed by states that are parties to international human rights treaties. We strongly urge IFC to reconsider its current approach in the final phase of its review. IFC's role in setting standards for risk management, that are adopted by other financial institutions worldwide, requires it to show a clear commitment to respecting human rights in its activities. This includes being consistent with emerging standards on business and human rights.

We therefore urge IFC and its governing board of member states to ensure that:

- There is a clearly stated commitment by IFC that it will not support activities that are likely to cause, or contribute to, human rights abuses;
- There is a clear requirement that IFC and its clients undertake human rights due diligence – in particular by ensuring that potential impacts on human rights are assessed and addressed;
- The revised Performance Standards reflect, and are fully consistent with, international human rights standards.

Despite the welcome inclusion of the standard of Free Prior and Informed Consent affecting Indigenous Peoples, the standard only applies to a narrow set of 'special circumstances'. Furthermore, IFC's current approach does not include a clear commitment to ensuring that human rights are respected and protected in the context of its activities. IFC's approach is also inconsistent with, and undermines, the emerging international consensus on the responsibility of companies to take concrete actions to ensure that they respect human rights - following the work of the *Special Representative of the UN Secretary-General on the issue of human rights and transnational and other business enterprises (UN SRSG)*, Professor John Ruggie. This outlines that a human rights due diligence framework is necessary for corporate actors to discharge their responsibility to respect human rights. While IFC acknowledges companies' responsibility to respect human rights, the due diligence requirements that it outlines fall short of standards recommended by the UN SRSG in his 2008 report, *Protect, Respect and Remedy: a Framework for Business and Human Rights*.

While IFC acknowledges the need for an effective grievance mechanism for those affected by activities it supports, it does not require that its clients' grievance mechanisms conform fully to principles outlined by the UN SRSG that such mechanisms be legitimate, accessible, predictable, equitable, transparent and compatible with internationally recognised human rights standards. IFC's proposed draft also fails to

refer to the need for IFC and its clients to respect the right to an effective remedy, despite the fact that private actors can hinder access to legal and other remedies for affected communities.

1) Failure to ensure human rights due diligence by IFC and its clients

IFC's proposed draft fails to require its clients to carry out a human rights due diligence process, allowing, instead, purely voluntary assessments of potential human rights impacts for high risk activities. IFC implies that its requirement for social and environmental due diligence demonstrates its commitment to respecting human rights. This approach is flawed. In the impact assessment stage, environmental and social impacts do not cover the range of human rights impacts a project is likely to have. This point was expressly recognised by the UN SRSG, who has stated that, "While these assessments can be linked with other processes like risk assessments or environmental and social impact assessments, they should include explicit references to internationally recognized human rights". Both IFC's Policy on Social and Environmental Sustainability and its Performance Standards should explicitly include a requirement to carry out human rights due diligence.

IFC's current approach also fails to include a clear and explicit commitment by IFC to carry out its own due diligence. At a minimum, IFC must commit to not supporting activities that lead, or contribute, to human rights abuses, and to ensuring respect for human rights in all its activities. The removal by IFC, from the previous draft, of the statement that some risks - including complicity in gross human rights violations – may require IFC to refrain from supporting some activities, is extremely worrying.

Also troubling, is the inaccessibility of basic information about Financial Intermediary (FI) sub-projects that would enable an assessment of their potential impacts on human rights. Despite the fact that activities funded through FIs represent nearly half of IFC's investments, IFC is proposing to disclose information related to its FI sub-projects only in very limited circumstances - restricting disclosure of information to so-called 'high risk' sub-projects and only 'periodically.' In this approach, there is great potential for significant human rights abuses that create community suffering and harm IFC's reputation and operations.

2) Failure to uphold human rights standards

Overall, IFC's current draft fails to reflect human rights standards in a number of key areas, despite the fact that IFC often invests in activities that can have serious impacts on a range of human rights:

- **Water:** There is no requirement for clients or IFC to assess the impact of activities on the right to water and to take necessary measures to ensure that this right is respected.
- **Gender:** Despite having stated that gender is a key cross-cutting issue, IFC's current draft merely requests clients to 'minimize' unintended gender differentiated impacts, and fails to include specific requirements to adequately assess and address potential impacts of IFC investment activities on the human rights of women and girls who are often disproportionately affected.
- **Forced evictions and resettlement:** While the additional requirement to avoid forced evictions in the context of displacement and resettlement is welcome, IFC's current approach seems to suggest that clients need to comply only with requirements under national law and contained in Performance Standard 5. IFC has not included a clear requirement that evictions must be carried out in conformity with relevant provisions of international human rights law. IFC must require its clients to comply with internationally recognised safeguards that are essential to avoid *forced* evictions. In many countries, governments have not adequately incorporated such safeguards in

their national law but are still bound under international law to comply with these standards. While evictions per se are not necessarily a violation of human rights law, in order for evictions not to result in human rights violations, certain mandatory safeguards - such as adequate notice, genuine consultation to explore all feasible alternatives to evictions, adequate alternative housing and compensation – must be in place. IFC has also failed to include a clear requirement that resettlement sites should comply with all seven criteria for adequacy of housing under international law.

- **The impacts of pollution and environmental damage:** IFC's approach to the prevention of pollution and to possible risks for the health and safety of affected communities fails to consider – and to require clients to identify and address - the potential impacts on the rights to food, water, housing and health. This approach is inconsistent with the recognition by human rights monitoring bodies and international regional and national courts of the causal link between environmental damage and human rights violations.

This statement is endorsed by the following organisations:

1. Accountability Counsel
2. Alliance for Holistic and Sustainable Development of Communities (AHSDC), India
3. Alliance Sud
4. Alyansa Tigil Mina (ATM), Philippines
5. Amazon Watch
6. Amigos da Terra – Amazônia Brasileira
7. Amnesty International (AI)
8. Bank Information Centre (BIC)
9. BankTrack
10. The Berne Declaration, Switzerland
11. Both ENDS
12. Bread for All
13. Bretton Woods Project
14. Bridges Across Borders, Cambodia
15. Campagna per la Riforma della Banca Mondiale (CRBM), Italy
16. Canada Tibet Committee
17. Centro de Estudios Aplicados a los Derechos Económicos, Sociales y Culturales (CEADESC), Bolivia
18. Center for Education and Documentation, India
19. Centro de Derechos Humanos y Ambiente (CEDHA), Argentina
20. Centre for International Environmental Law (CIEL)
21. Christian Aid
22. CIVICUS
23. Coalition québécoise sur les impacts socio-environnementaux en Amérique latine, Canada
24. Corporate Accountability International
25. Crude Accountability, USA
26. Danish Society for Nature Conservation
27. Defensa y Conservacion Ecologica de Intag (DECOIN), Ecuador
28. Derecho Ambiente y Recursos Naturales (DAR), Peru
29. Earthworks
30. European Network on Debt and Development (EURODAD)
31. Fastenopfer (Swiss Catholic Lenten Fund)
32. Friends of the Earth – US

33. Guatemalanetz Bern, Switzerland
34. The Halifax Initiative
35. Ingniería Sin Fronteras - Asociación para el Desarrollo, Spain
36. Indigenous Peoples Links
37. International Accountability Project (IAP)
38. International Federation for Human Rights (FIDH)
39. International Rivers
40. JUSTE – Justice transnationales extractives, Canada
41. Justice and Peace Commission, Mexico City
42. Observatorio de RSE de la Unión General de Trabajadores (UGT) de España
43. Lumière Synergie pour le Développement, Senegal
44. Niza (in association with ActionAid), The Netherlands
45. Progressio
46. Regroupement pour la responsabilité sociale des entreprises (RRSE), Canada
47. Rights Action, USA and Canada
48. Rights and Accountability in Development (RAID)
49. Sawit Watch, Indonesia
50. Seattle chapter of the Committee in Solidarity with the People of El Salvador (CISPES)
51. Social Justice Committee of Montreal
52. Society for Threatened Peoples - Switzerland
53. Solifonds
54. South Asia Network on Dams, Rivers and People, India
55. Swissaid
56. Swiss Working Group on Colombia
57. Tax Research LLP
58. `Ulu Foundation, Hawaii
59. The United Church of Canada
60. Urgewald.