

July 24th, 2014

Committee on Development Effectiveness (CODE)

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Ref: LAC CSOs Concerns on Environmental and Social Policy and ESSs First Draft

Dear CODE Members and World Bank Executive Directors,

We hope this email finds you well. We are writing to you with regards to the ongoing Safeguards Review process, specifically the first draft produced by Management. We have been following this process since 2012 and have witnessed in different occasions public statements and promises not only by management but also by World Bank President Dr. Jim Yong Kim that this review would not lead to any “dilution” of current Bank safeguard policies. Despite over two years of stakeholder input recommending ways the Bank might strengthen, expand, ensure more comprehensive and consistent application of safeguards across a wider range of social and environmental issues, the first draft proposal clearly represents an unacceptable weakening of those standards. **Therefore, we strongly recommend that CODE members send the first draft back to Management. Without structural changes to the Safeguard Policy proposal, we question if the second phase of consultations and the review process will be meaningful.**

Dilution of the current Bank Safeguards Policy is evident throughout the draft. Basic World Bank requirements to assess and manage environmental risks and impacts before approval are now relaxed by providing the unbounded deferral of appraisal of significant environmental and social risks or impacts to implementation. This adoption of IFC's open-ended compliance eliminates strict requirements in current Bank Safeguards that full EIAs for high-risk projects are disclosed prior to appraisal. There is no clarity on what an Environmental and Social Commitment Plan is, when it would be disclosed, or how implementation is to be reported, particularly if corrective actions are needed and how and when compliance will be met. The draft removes Bank's major oversight functions by relying on the recently revised OP 10.0 of investment lending, which already diluted supervision from a policy requirement to a voluntary guidance. The first draft eliminates the automatic trigger for independent panel of experts for high-risk projects, it provides narrower definition of the project's area of influence and vague requirements for projects classified with “substantial risk”, and there are no explicit commitments to independent monitoring.

A second major concern is that the draft proposed Social and Environmental Policy and ESSs significantly shift responsibility for safeguards implementation to borrowers, but provides less clarity than current exists on when/how the use of borrower systems would be preferable and acceptable. It remains unclear how the proposed draft will help the Bank and Borrowers make decisions to prepare or use borrower systems to effectively implement safeguards in countries where major dilutions of national social and environmental frameworks are being proposed or recently approved. In Peru for instance, new laws significantly weakens the authority and capacity of the sanctioning and assessment of the Environmental Control Agency (OEFA), and the inter-sectorial coordination and quality control for the approval of environmental impact assessments of the recently created National Institute for the Environmental Certification of EIAs (SENACE). Meanwhile Mexican Congress has recently approved the first package of regulations of the

energy reform, prioritizing oil and gas and energy over any other use of the land, opening the door to fast track expropriations of land, and potentially ignoring recognition of natural protected areas. Similarly, in Bolivia, the recently enacted Mining Law allows mining activities in Protected Areas as National Parks and it excludes the right to free, prior and informed consent for indigenous peoples in exploration activities. And in Colombia, environmental licensing for infrastructure and extractive projects has been weakened during the last years. Without clarification, the draft will leave the Bank and Borrower less able to move with confidence toward a Safeguards approach that contributes more to building local risk management capacity.

The proposed draft misses opportunities to meet the highest international standards. The draft provides no binding language regarding international human rights standards and allows governments to “opt out” of compliance to the Indigenous Peoples Policy to protect Indigenous Peoples rights, which unequivocally undermines the international consensus regarding the specific and fundamental rights of indigenous peoples over their lands, resources and the course of their own development. The draft eliminates requirements for comprehensive baseline studies to inform protection for the right to land, livelihood and adequate housing. Furthermore, the first draft introduces “biodiversity offsets” into previous “no-go” critical natural habitats and protected areas. All these deficiencies are major concerns for Latin American countries with vast indigenous and tribal territories and critical natural habitats.

In a region like Latin America with the highest rates of inequality, the first draft provide inadequate requirements on how to ensure that poor communities and those who call themselves "vulnerable" or "marginalized” groups that may be disadvantaged because of age, disability, gender, or sexual orientation benefit equally from projects financed by the World Bank including other financial institutions, and they do not suffer disproportionate damage when projects involve forced evictions and economic and physical displacement. As it stands, the proposed draft is viewed to further disempower affected communities and offers them little protection or weak recourse.

The proposed first draft is not only opposed to the World Bank’s stated goal of eradicating extreme poverty and promoting shared prosperity, but actually lowers the standards for the entire international community. As the launch of the BRICS Bank this past week in Fortaleza makes ever more clear, the World Bank faces unparalleled competition. Instead of promoting an upward harmonization of standards, the first draft promotes a race to the bottom for other multilateral Banks, international financial institutions, national development banks like Brazil’s National Development Bank (BNDES) as well as initiatives like the Green Climate Fund; and what's more, encourages countries in the region to pursue further weakening of its environmental frameworks.

Therefore, we reiterate to CODE members to send the first draft back to Management, so they can modify, at least, the above-mentioned deficiencies.

We thank you in advance for your support on the matter. We look forward to hearing from you.

Best regards,

1. Alianza Mesoamericana de Pueblos y Bosques (AMPB) – Regional
2. Alianza Sustentabilidad Ecológica y Justicia Social (AlianzaVerde) - Honduras
3. Amazónicos por la Amazonía (AMPA) – Perú
4. Articulación de los Pueblos Indígenas del Brasil (APIB) - Brasil
5. Asociación Ambiente y Sociedad (AAS) – Colombia
6. Asociación de Pueblos Amerindios de Guyana (APA) - Guyana
7. Asociación Interamericana para la Defensa del Ambiente, AIDA // Interamerican Association for Environmental Defense, AIDA - Regional

8. Asociación Interétnica de Desarrollo de la Selva Peruana (AIDSESEP) - Perú
9. Asociación Regional de Pueblos Indígenas de la Selva Central. Abarca las regiones de Junín, Pasco, Huánuco y Ucayali (ARPI SC) - Perú
10. Centro de Derechos Económicos y Sociales (CDES) – Ecuador
11. Centro de Estudios Laborales y Agrarios (CEDLA) – Bolivia
12. Centro de Incidencia Ambiental de Panamá (CIAM) - Panamá
13. Centro Mexicano de Derecho Ambiental (CEMDA) - México
14. Comunidades Negras en Colombia (PCN) - Colombia
15. Conectas – Brasil
16. Confederación de los Pueblos Indígenas de Bolivia (CIDOB) - Bolivia
17. Confederación de Nacionalidades Indígenas de la Amazonía Ecuatoriana (CONFENIAE) - Ecuador
18. Confederación de Pueblos Autóctonos de Honduras (CONPAH) - Honduras
19. Congreso de la Nación Tawahka-Asangni (C.N.T. A.) - Honduras
20. Consejo de Desarrollo de los Pueblos Indígenas de la región San Martín. Abarca la región San Martín. (CODEPISAM) - Perú
21. Consejo Machiguenga del río Urubamba (afiliado directo). Abarca la región de Cusco (COMARU) - Perú
22. Coordinación de las Organizaciones Indígenas de la Amazonía Brasileña (COIAB) - Brasil
23. Coordinadora Indígena de la Cuenca Amazónica (COICA) – Amazonia
24. Coordinadora Indígena de Mesoamérica y el Caribe (CIMCA) - Regional
25. Coordinadora Regional de los Pueblos Indígenas de Aidesep Atalaya. Abarca la provincia de Atalaya, región Ucayali (CORPIAA) - Perú
26. Coordinadora Regional de los Pueblos Indígenas de San Lorenzo. Abarca la región Loreto, provincias Yurimaguas y Datem del Marañón (CORPI SL) - Perú
27. Derecho, Ambiente y Recursos Naturales (DAR) - Perú
28. Ecoa – Brasil
29. Federación de Organizaciones Indígenas de Guyana (FOAG) - Guyana
30. Federación Nativa del río Madre de Dios y Afluentes. Abarca la región Madre de Dios (FENAMAD) – Perú
31. Foro Ciudadano de Participación por la Justicia y los Derechos Humanos (FOCO) – Perú
32. Fundación Ambiente y Recursos Naturales (FARN) – Argentina
33. Fundación MBiguá –Argentina
34. Fundación para el Desarrollo de Políticas Sustentables (FUNDEPS) – Argentina
35. Fundar, Centro de Análisis e Investigación – México
36. Grupo Propuesta Ciudadana - Perú
37. Instituto Brasileiro de Analises Sociais e Economicas (IBASE) – Brasil
38. Instituto de Estudos Socioeconômicos (INESC) – Brasil
39. Instituto del Bien Común (IBC) – Perú
40. Institutos Latinoamericanos para una Sociedad y un Derecho alternativos (ILSA) – Colombia
41. Organización de los Pueblos Indígenas de la Amazonía Colombiana (OPIAC) - Colombia
42. Organización de Pueblos Indígenas de Surinam (OIS) - Surinam
43. Organización Regional Aidesep Ucayali. Abarca la región Ucayali (ORAU) – Perú
44. Organización Regional de los Pueblos Indígenas del Oriente. Abarca la región de Loreto (ORPIO) – Perú
45. Organización Regional de Pueblos Indígenas de Amazonas (ORPIA) - Regional
46. Organización Regional de Pueblos Indígenas de la Amazonía Norte. Abarca las regiones de Cajamarca y Amazonas (ORPIAN – P) – Perú
47. Red Indígena de Turismo de México (RITA) - México
48. Red Mexicana de Organizaciones Campesinas Forestales, A. C. (RedMocaf) - México
49. RED MUQUI – Perú

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