

Forestry Safeguard Review and the No Dilution Commitment

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Indonesian Forest

- Threatened with degradation, fragmentation and destruction. In recent years, Indonesia has been losing up to 2 million hectares annually, mainly due to illegal logging and land conversion. This loss is caused by poor forest governance, poor law enforcement, which only destroys the balance of rural livelihoods and ecosystem services.
- We have repeating problems which we still cannot solve until today such as forest burning, other forest related crime like money laundering, tax evasion, armed violence against people who live in the forested areas, etc

Indonesian Context

- Lack of functional rule of law – problems with judiciary (bribing of judges, low functioning judiciary);
- Police/ military/private armed attacks against communities on behalf of companies;
- Lack of law enforcement – i.e. even where there is good language in laws
- Lack of consultation or consent

“Sosialisasi” instead of Consultation or Consent

- General practice of “socialization” of government plans/ campaigns;
- Outreach to communities about policies and projects affecting their lives is normally in the form of a propaganda campaign backed up by presence of armed representatives of various security forces;
- Especially in remote regions – i.e. where forests are located;

No Dilution Commitment

- President Kim's commitment to "no dilution" of safeguards BUT
- Concerns about dilution through Bank move away from:
 - Clear, mandatory safeguards, including for consultation, participation according to highest international standards;
 - Replacement of Bank oversight of safeguards implementation by client self-reporting;

WB and Indonesian Forest

WB significant portfolio in Indonesia

The World Bank is looking at Indonesian forest as a potential economic sector to tackle poverty

the Climate Investment Fund's Indonesian Forest Investment Program (FIP) which -- in November 2012 -- despite the FIP prohibition on support for conversion of natural forests -- approved an IFC project plan in Indonesia designed to support industrial logging on up to 700,000 hectares of intact forest in high conflict zones including West Papua, Sumatra and Kalimantan.

Lessons Learned?

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 conservation.

(IEG. (2013), *supra* note 1 at p. 31-32, 38.)

Lessons Learned?

The World Bank's Justice for Forests study also has significant implications for the Bank's forest policy. The report underscores risks of weak forest governance, which the Bank must proactively address through safeguard policy. The report calls for urgent action to strengthen criminal justice systems and anti-money laundering measures to combat illegal logging.

The "*Justice for Forests*" study estimates that the trade in illegal timber generates between US\$ 10 – US\$ 15 billion annually

So why is Safeguards are of critical importance?

Safeguard Review include the revision of WB Policy on Natural Habitat (OP 4.04). This current policy bans the Bank from involvement in projects which will cause significant conversion or degradation of critical natural habitat.

But the revision of OP 4.04 and potential Bank support for the drafting of National Offset Plans, could make it possible for the Bank to be involved in activities which will further harm Indonesia's forests, so long as they are backed up by a so-called "offset" plan

Safeguards Review outcomes?

In a place where rule of law is weak, where corruption prevails, any move to a country systems-type approach, a weakening of safeguards or country assessment tools, Systematic Country Diagnostic (SCD) , Country Partnership Framework (CPF) accompanied by a reduction in Bank due diligence, consultation, supervision and reporting requirements could lead to **a substantial increase in corruption and to significant harm to communities and the environment.**

Safeguard for Indonesia Context

- Weak forest governance
- Poor law enforcement
- Overlapping interest and policies
- Deforestation and degradation continues
- Climate projects complicate the situation
- The socio cultural conflict arising from the loss of the forest and natural habitats

Recommendations on the Review of Forestry Safeguard

Upward Harmonization

Must be mandatory – contractually and legally binding

(OP 4.10) is requiring a *“Free Prior and Informed Consultation leading to Broad Community Support.”* So this is not really the common FPIC as we all understand. Consent must be defined also as the right of the people to accept and to reject, to determine their own life.

Strengthened impact assessment, including risk and gender assessment, for safeguard implementation

Recommendations

Environmental and social standards (Safeguards) only apply to the shrinking portfolio of WB Projects but not for other lending instruments. **This scope shall be broadened to include all Bank activities.**

Revisiting definitions of the terms ‘critical,’ ‘forest,’ and ‘degraded lands.’

Biodiversity offsets should not be used to compensate for adverse impacts on critical natural habitats

Recommendations

Safeguards Must Target the Financial Backers of Illegal Logging and other Forest-Related Crimes; companies that pay bribes, involved in organized crime, money laundering measures, tax evasion, etc

EBRD standard is not a model for Safeguard

No Dilution Commitment



“What we are doing to the forests of the world is but a mirror reflection of what we are doing to ourselves and to one another.”

Mahatma Gandhi