RE: The IFC and Lessons Learned Friday 13th June 2014,

Dear Executive Directors,

We are writing regarding the 'lessons learned' presentation given by IFC to the Board on 4 April and to civil society on 8 April[1].

While we welcome much in that document, on balance, as civil society organisations that have engaged with the IFC over many years, we feel a deep concern that **this exercise will not produce the changes needed to avoid future harm to communities and the environment from IFC investments and to ensure a better impact of IFC projects on development.**

This concern arises from two specific issues: a number of **serious omissions in the content** of the lessons learned document; and a lack of clarity about the **future process** of how these lessons will be followed through, to implementation, as well as monitoring and evaluation.

We are writing in a genuine spirit of openness and constructive engagement and hope you will consider these comments and criticisms in this light. We are sending this letter both to you and to Executive Vice-President Cai as we believe a continued engagement between ourselves as civil society, the IFC and the Board can help to build a constructive dialogue and promote accountability. Our common interest is to ensure the IFC does not end up embroiled in future cases as painful – for the IFC as well as affected communities – as Dinant, Chad Cameroon or NSEL and that its investments have a better impact on the lives of the poorest people.

Positive elements in the Lessons Learned document

There is much to welcome in the Lessons Learned paper. In particular, it is encouraging to see acknowledgment of the need to improve in several areas including spotting and managing risk; improved consultation with communities as a way to avoid conflict; and increased attention to legacy issues, country context and security/conflict context. Additionally, we broadly welcome the commitment from the IFC to share lessons across the institution; and the intention to introduce a number of new tools and mechanisms, including the Guidance Note on Land, risk screening of agribusiness and forestry investments and the creation of the 'High Risk' list.

We look forward to engaging with IFC and the Board to ensure that these new instruments and processes truly capture and manage risk to avoid harm to communities and increase the IFC's development impact, and do not become rubber stamps to expedite damaging investments.

Also, although not explicit in the lessons learned document, the IFC did commit verbally to "*elevate social and environmental risk*" to the same level as credit and financial risk in its presentation to civil society on 8 April. We encourage the Board to support the IFC's request for the increased resources and staffing to achieve this.

[1] http://www.ifc.org/wps/wcm/connect/557c4180438e1ed48f72bf869243d457/IFC_EnvironmentalSocialLessonsLearned-042014.pdf?MOD=AJPERES

What is missing from the Lessons Learned document

Having assessed the lessons learned document in detail, we are concerned at the number of fundamental omissions. These include:

- **Institutional culture and incentives:** In the recent WBG staff survey, only 30 per cent of IFC staff said they consider development as their main objective, regarding loan volume as more valued by the institution. Furthermore, in its Dinant audit, the CAO found that the failures identified arose, in part, from staff incentives "*to overlook, fail to articulate, or even conceal potential environmental, social and conflict risk*", and that staff felt pressured to "*get money out the door*" and discouraged from "*making waves*"[2]. Staff did not feel that they had the support of senior managers to raise problems. This fault-line in the institutional culture and incentives at the IFC is exhaustively evidenced by the CAO in interviews with staff. Yet in the Lessons Learned document, which was triggered by this very case, there is no mention of reform to institutional incentives or culture to elevate the emphasis on environmental and social due diligence. This is a glaring omission and we believe the IFC will not succeed in changing if these underlying issues are not addressed.

- **Miscategorisation of risk**: Another key finding of the Dinant audit was how problems could have been anticipated and managed better if the project had been categorised as high instead of medium risk. This is an issue which has continued to dog the IFC, including in the Wilmar case[3], and also links to the issue of staff culture and practices around how to correctly identify high risk projects, as opposed to assigning a lower risk catergorisation in order to meet volume targets as mentioned above. Again in the lessons learned document, this basic means of risk management is not mentioned, raising serious questions about the IFC's understanding of which lessons need learning. This is further called into question by *current* IFC proposals in the pipeline such as Banco Davivienda in Honduras[4] and Yoma Bank in Burma[5], which are both classified as FI2 (medium risk), despite their potential to involve investments or land acquisitions in highly risky and conflict-prone political contexts (please see the attached annex for more details).

- **Identifying other high-risk cases:** The Lessons Learned exercise should have aimed not only to prevent future cases like Dinant, but also to identify any dormant 'Dinants' in its current portfolio. IFC should ensure that there are no outstanding issues in its current portfolio, including those cases referenced in the Lessons Learned presentation that require its immediate attention. This would be particularly true for the CAO cases which only involve mediation and so where there is no formal mechanism to require IFC's response.

- **Failure to place people at the center of IFC investments:** Sustainable development is not merely about managing social and environmental risks but more fundamentally about placing people at the center of the development process. "*Putting people first*" has been a

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[2] http://www.cao-ombudsman.org/cases/document-links/documents/DinantAuditCAORefC-I-R9-Y12-F161_ENG.pdf
[3] http://www.cao-ombudsman.org/uploads/case_documents/Combined%20Document%201_2_3_4_5_6_7.pdf
[4]http://ifcext.ifc.org/ifcext/spiwebsite1.nsf/651aeb16abd09c1f8525797d006976ba/7577c4d058cb5aa185257c9f00628ae1?opendocumen
t
[5]http://ifcext.ifc.org/ifcext/spiwebsite1.nsf/vwAllDocumentsByUNID_NL/0F9946856D675C8385257CD2004C6949?opendocument

recurring mantra at the World Bank for over thirty years[6], however, it is unclear to us how the IFC puts people first in selecting its investments, particularly in its financial sector portfolio. Job creation is often cited as the development rationale for IFC investments, but frequently the job opportunities made available to local communities are seasonal, short-term and poorly paid. In the case of agriculture projects that involve acquisition of land from local farmers and communities, the plantation jobs created do not come close to compensating for the autonomy lost over lands and livelihoods, as we have seen, for example, in the case of IFC's sub-client Hoang Anh Gia Lai's activities in Cambodia and Laos[7]. IFC must reorient its project appraisal processes to ensure it only invests in projects that reflect local and national sustainable development aspirations and that have a genuine poverty reduction rationale. In the future the IFC must anchor its work into the poverty reduction objectives of the World Bank Group Country Partnership Framework.

- **Scant reference to human rights:** One finding of the CAO in the Dinant case was that IFC staff failed to undertake adequate due diligence although the risks were publicly documented. Cases such as Dinant underscore the need to overhaul the IFC's—and the World Bank Group's—approach to identifying, managing and avoiding human rights risks, including those related to land conflicts and security. In the absence of clear guidance and empowerment for IFC staff to take human rights into account and in the context of President Kim's call to invest in more fragile conflict affected states, problematic cases are only certain to follow. To avoid future harm to communities and the environment, the IFC must place human rights front and center. The IFC should commit to carry out human rights impact assessments in high risk countries, consider the findings of UN human rights monitoring bodies and regional human rights bodies, and include an analysis of human rights in the systematic country diagnosis.

We would like also to point out that we found it surprising and disappointing that the IFC invited Dinant onto a panel at the 2014 Sustainability Exchange last month to speak about how to manage security and human rights issues[8]. Given the considerable sensitivity around the Dinant case at the moment, this sends a very poor signal to affected communities who continue to live in an atmosphere of threat and tension in the Aguan Valley.

Finding a way forward

One of our deepest concerns relates to the question of what happens next with this Lessons Learned exercise. We have not seen any indication that there will be a formal process to take this exercise forward. Without firm commitments to a time-bound process, without benchmarks, without monitoring and evaluation, without consultation with CSOs or affected communities, without a report-back to the Board on progress and implementation, the IFC risks consigning this lessons learned exercise to the shelf to gather dust.

[6] http://documents.worldbank.org/curated/en/1991/08/439990/putting-people-first-sociological-variables-rural-development
[7] http://www.globalwitness.org/rubberbarons/
[8] http://100r.org/2014/05/company-linked-to-death-squads-addresses-world-bank-panel/

This concern is underlined by our experiences with past commitments to learn lessons which have not been realised. For example it is striking that in 2014 the IFC says it needs to learn how to consider the country governance context, particularly in conflict or high-risk areas, when this lesson was identified over a decade ago by both the Extractive Industries Review and the Operations Evaluation Department, and are now seemingly being forgotten in the growing agribusiness and infrastructure sector.[9] In the wake of the Wilmar audit from 2009[10], the IFC committed to learn lessons about project risk miscategorisation; again something we see reiterated in CAO's Dinant audit in January 2014.

In 2010,[11] IFC agreed, in part, with the Independent Evaluation Group's recommendation that the IFC: "Make use of independent/third-party or community monitoring and evaluation for its projects, particularly for projects with involuntary resettlement and higher-risk financial intermediary and agribusiness projects." IFC committed to, "explore how to strengthen community engagement, participatory monitoring and how, in selected high-risk cases, third party monitoring or advice can be incorporated." But as Dinant and other cases show, IFC is still failing to ensure communities' engagement and incorporate their feedback into its project monitoring.

Our experience tells us that there is a degree of institutional amnesia each time things go wrong. At the same time the Bank is about to embark on more high-risk projects and more transformational projects, and the IFC to increase engagement in fragile and conflict states by 50 per cent. **This is why we believe the time has come for the IFC to demonstrate its commitment to ensuring lessons are not only learned but that they influence decision-making, transform project risk management, and ensure better outcomes for communities.**

To this end, we hope the Board can urge the IFC make a public commitment to a **time bound plan** for the Lessons Learned exercise, which explicitly includes:

1. Mid- and end-term reviews by the Board and the CAO;
2. Benchmarks to assess progress on each of the key problem areas including: changing the institutional culture and incentives, including by eliminating lending volume targets for staff and judging them on development results and environmental and social outcomes; revising the Environmental and Social risk categorisation system for all projects; incorporating meaningful human rights risk assessments; and monitoring and evaluation of the lessons learned exercise, by a specialist internal team and involving CAO;
3. Consultation with CSOs and affected communities on progress against these benchmarks, the new tools and mechanisms being developed, and implementation;
4. Proposals on how to hold staff and senior management accountable for spotting and managing risk, and for sanctions when harm occurs;
5. Assessment of the current portfolio, including active projects referenced in the lessons learned presentation, to identify any high-risk projects that have not received adequate attention from IFC; and a comprehensive assessment of the IFC's conduct in cases where the CAO has successfully concluded conflict resolution but no compliance audit was produced;

[9] Extractive Industries Review "*Striking a Better Balance, the World Bank Group and Extractive Industries" (2003)* and the Operation Evaluation Department "*Evaluation of the World Bank Group's Activities in the Extractive Industries – Factoring in Governance" (2004)*
[10] http://www.cao-ombudsman.org/uploads/case_documents/Combined%20Document%201_2_3_4_5_6_7.pdf
[11] Independent Evaluation Group, *Safeguards and Sustainability Policies in a Changing World*, Management Action Record, p. xli (2010), *available at* http://siteresources.worldbank.org/EXTSAFANDSUS/Resources/mgmt_response_mar.pdf.

6. Directives on how IFC lending will be in line with the Country Partnership Framework as a mechanism to factor in broader governance and legacy challenges;
7. Proposals on how new requirements will be built into project appraisals to ensure that IFC only invests in projects and sub-projects with a genuine poverty reduction rationale based on local and national sustainable development priorities.

We attach a more detailed annex about the Lessons Learned document, including reference to some past and ongoing IFC projects, and past learning reviews carried out by the WBG which we believe are highly pertinent to this issue.

Thank you for your attention to this matter. We look forward to your response and to engaging further with the IFC and the Board on this crucial issue.

Yours sincerely,

On behalf of the following organisations:

11.11.11 – Coalition of the Flemish North-South Movement (Belgium)

Accountability Counsel (USA)

Asia Indigenous Peoples Pact (Thailand)

Both ENDS

Center for International Environmental Law

Centre national de coopération au développement, CNCD-11.11.11 (Belgium)

Debt and Development Coalition (Ireland)

Eurodad

Forest Peoples Programme

Global Witness

Human Rights Watch

Inclusive Development International

Indigenous Peoples Links

International Accountability Project

International Rivers

Jamaa Resource Initiatives (Kenya)

KOO- Coordination office of the Austrian Bishop’s Conference for Development and Mission

KOSID (Kosovo)

Oxfam

Public Interest Law Center (Chad)

Social Justice Connection (Canada)

Solidaritas Perempuan (Indonesia)

The Bretton Woods Project

The Center for Research on Multinational Corporations SOMO (Netherlands)

The Ecological Justice (Indonesia)

Ulu Foundation

Urgewald (Germany)

US Campaign for Burma

Annex on the IFC Lessons Learned document

Positive elements

Aspects that civil society welcomes in the document include:

1. **Lessons learned from the Dinant case** including that the IFC underestimated the broader risks in the Aguan Valley (land conflict, security issues, political instability) and that when acute problems emerged, neither IFC nor client was prepared. That IFC's project supervision was not commensurate with level of risk and that a narrow focus on use of IFC financing or direct project impacts can mean missing broader country or sector operating risks material to meeting PS requirements or project success. Also welcome is the recognition that it is essential to look at legacy issues (competing land claims, public to private land transfer, government-led resettlement, etc.) and understand stakeholders' interests, especially with respect to investments involving a land component.

2. We agree with the **IFC's findings based on Dinant and cases in Indonesia, Mexico, and India** that: "Weak regulatory implementation and/or gaps between PS and host country law may present problems for client's PS compliance; and that due diligence must include more focus on the use of security forces in conflict areas and more guidance for clients in this area is necessary. " We also agree with the broader IFC findings that: " Lack of adequate communication and consultation can lead to or exacerbate community conflicts"; that "clients still struggle with concept of 'meaningful' and 'ongoing' engagement and need more capacity and guidance"; that "Ineffective grievance mechanisms leave communities without means to seek redress, particularly when governance is weak ."

3. It is also potentially encouraging to see the **IFC making suggestions about how it will improve performance**, including: the need to "share these lessons broadly across the IFC"; that the "scope of appraisal must include assessment of tenure rights and conditions of public to private land transfer in land investments"; the creation of a new Guidance Note on Land; the new requirement for disclosure of contract terms related to public to private land transfer; the new Guidance on Risk Screening for Land Intensive Agriculture and Forestry Investments for IFC business developers; the increased attention from senior management on high risk transactions, and use of "High-Risk List" to prioritize supervision and brief IFC management; the commitment to report more information to the Board on risks, possible limits of IFC leverage and resulting residual risks; collaboration with external partners (Community of Learning, industry associations, academia) and ongoing dialogue with stakeholders, Board and civil society ; and that due diligence must include more focus on the use of security forces in conflict areas and more guidance for clients in this area is necessary. We welcome the opportunity for more details to be provided on all of these new initiatives and work to ensure that they are indeed truly impactful and beneficial to the affected communities.

However, as civil society groups that have worked with communities on a range of IFC projects around the world for many years, we would like to share with you our questions and concerns relating to specific experiences, including the Indonesia Forest Investment Program, the Chad Cameroon Pipeline, the Nicaragua Sugar Estates Limited project, and current proposal for financial intermediary support in Burma and Honduras.

1. **The Chad-Cameroon Petroleum Development & Pipeline Project**

This mega-project with a total cost of over US$7 billion in one of Africa's most impoverished regions was meant to be "transformational" and was hailed by the World Bank Group as model public-private partnership. Yet it has led to increasing poverty and worsening governance conditions in Chad. While the overall population is worse off, the affected communities in the oil-producing region have been left without land, water and freedom of movement. Before the project they were poor, now they live in a desperate state of destitution.

Although IBRD/IDA withdrew from the project in 2008 after the government of Chad anticipated repayment of the respective loans, the IFC remained in the project until it was fully repaid in December 2012.

It is disturbing that there appears to be institutional amnesia on the impacts of this relatively recent and controversial project. Especially in view of the IFC's intention to focus on more high risk and so-called transformational projects and its growing engagement in fragile and conflict states, it is absolutely critical that it draw lessons from why this project has failed to meet poverty reduction objectives while contributing to devastating land and water problems for some of the world's poorest people.

In this regard it would be extremely helpful to revisit the findings and recommendations of two previous World Bank Group initiatives that continue to be highly relevant to this date in light not only of the IFC's investments in extractive industries, but also in agribusiness and infra-structure development more broadly.

Revisiting the Recommendations of Previous World Bank Group Initiatives

The EIR's (Extractive Industries Review) "*Striking a Better Balance, the World Bank Group and Extractive Industries" (2003)* and the OED's "*Evaluation of the World Bank Group's Activities in the Extractive Industries – Factoring in Governance" (2004)* should have helped to inform future IFC extractives industry investments and to prevent impacts on poor people's lives.

Yet during the past decade, the World Bank has largely ignored the recommendations of these reports – which the Bank itself had commissioned or carried out in-house.

The EIR findings included**:**

- Where basic conditions of good governance are absent, extractive industries have neither a record nor a hope of contributing to poverty reduction.

- The World Bank should adopt **a phased approach**: Basic human rights protections and some level of demonstrated institutional capacity to manage revenues as well as the environmental and social impacts must be in place **before** launching large-scale extractive industry investments.
- No World Bank promotion of increased private investment in Extractive Industries where governance is inadequate.
- Key EIR criteria for investments in EI should include**:** quality of the rule of law; absence of armed conflict or risk of such conflict; respect for labor and human rights; protection of the rights of indigenous peoples

The OED findings included**:**

- "…good governance is the prerequisite for enhancing the positive linkage between increased fiscal revenue flows and sustainable development."[12]
- **"**Without the rule of law, the government is unable to implement legal, regulatory and policy solutions that would allow it to control the costs and the risks. There does not seem to be much of an argument in favour of developing or expanding the EI sectors in such environments." [13]

2. Learning lessons from Nicaragua?

IFC says that what it has learned from the NSEL project[14] relates to project-level grievance mechanisms. Instead, the lesson that the IFC should have learned from NSEL is similar to that from Dinant, namely that it must take into account the risks of the project context.

Contrary to the IFC's assertions in the recent article in the New York Times[15], it was known that sugarcane workers were dying from chronic kidney disease in Nicaragua and elsewhere in Central America at the time the IFC approved its loan to NSEL in 2006. As the CAO process generated more information showing that the disease is related to working conditions, the IFC continued to invest in the sugar industry in the region without requiring its clients to take precautionary measures to protect the health of the workers. Furthermore, not only has IFC failed to learn the *right* lessons from this case, it has failed to do anything to help those suffering from this disease.

3. Lessons unlearned in the Indonesia Forest Investment Programme?

The IFC's planned approach to its proposed investment in industrial logging through the Forest Investment Program on as much as 700,000 hectares of intact forest in Kalimantan and high-conflict West-Papua, Indonesia, potentially has resonance with past mistakes documented in the April 4, 2014 technical briefing for the Board[16] without, however, lessons learned, including those above.

[12] OED, Extractive Industries and Sustainable Development – An Evaluation of World Bank Group Experience, World Bank, 2003, p. 7
[13] OED, Evaluation of the World Bank Group's Activities in the Extractive Industries – Factoring in Governance, World Bank, 2004, p.23.
[14] http://www.cao-ombudsman.org/cases/case_detail.aspx?id=82
[15] http://www.nytimes.com/2014/05/09/world/americas/deadly-illness-in-nicaragua-baffles-experts.html?hpw&rref=world&_r=0
[16] IFC, "IFC's Environmental & Social Lessons Learned," Technical Briefing for the Board: "This presentation was delivered to IFC's Board on April 4, 2014. The purpose was to brief interested Executive Directors on lessons learned from project implementation experience in the last few years including recent CAO cases, particularly the CAO Audit of IFC's investment in Corporacion Dinant." April 4, 2014

Not only is the proposed logging of 700,000 hectares of intact forest a violation of FIP requirements[17], but it occurs in a context of a long history of military and paramilitary attacks on forest communities in Indonesia. Indonesian CSOs have repeatedly requested that analyses of the presence of official and unofficial armed forces and military funding channels via the Ministry of Forestry and private sector be part of the risk assessment. They have repeatedly requested meaningful consultations on the design of the FIP (including again last week[18]), the provision of documents, a project schedule reflecting public consultations, as well as answers, in writing, to questions regarding risk, including risk associated with potential funding of armed forces directly or indirectly as a result of the project, the choice of private sector partners in the high-risk, high-crime sector forestry sector (as identified by INTERPOL), a sector also widely known for human rights violations.[19]

The IFC's presentation to the Board on "Lessons Learned" indicated that, in the case of Dinant, the "IFC underestimated the broader risks in the Aguan Valley (land conflict, security issues…)" and concluded, based on the Dinant, Wilmar (Indonesia), Tata Mundra and Agrokasa cases that "Due diligence must include more focus on the use of security forces in conflict areas and more guidance for clients in this area is necessary."[20] The IFC also presented the following findings: "Lack of adequate communication and consultation can lead to or exacerbate community conflicts …Ineffective grievance mechanisms leave communities without means to seek redress, particularly when governance is weak."

As the IFC has now committed to share the lessons learned from Dinant and other cases – including the necessity of evaluating of the role of security forces in high risk environments - "broadly across the IFC", how will this apply to the Indonesian FIP case?

When will the IFC respond, in writing, to the questions (summarized above) which have been continually raised by CSOs, including most recently on June 1 2014?

Given IFC claims made during the technical briefing for the Board that there is a "high risk list" – would the IFC FIP project fall under this categorization and be on this list?

4. Miscategorisation of risk: An ongoing problem

In the wake of the Dinant case, and while the Ficohsa audit is underway, it is deeply concerning that the proposed **IFC loan to Banco Davivienda** in Honduras was categorised as medium risk, or FI2. Given the risk of human rights violations and the history of land conflicts in Honduras, we find it

[17] Climate Investment Fund, FIP Design Document, "VI. CRITERIA FOR FIP INVESTMENT STRATEGIES, PROGRAMS AND PROJECTS **…**g) **Safeguarding the integrity of natural forests.** Consistent with its objectives, the FIP should safeguard natural forests and should not support the conversion, deforestation or degradation of such forests, *inter alia*, through industrial logging, conversion of natural forests to tree plantations or other large-scale agricultural conversion." Page 9. https://www.climateinvestmentfunds.org/cif/node/111, DESIGN DOCUMENT FOR THE FOREST INVESTMENT PROGRAM, A TARGETED PROGRAM UNDER THE SCF TRUST FUND, 2009

[18] Letter from 66 CSOs, "Protest of Civil Society to WB-IFC regarding FIP Process in Indonesia", See Annex I: Questions for the World Bank and the International Finance Corporation", specifically pages 3 – 9 which consist of questions for the IFC for which answers have been repeatedly sought during the development of the FIP 6/1/14; See also," A Letter of Concerns and Continuing Unanswered Questions About Indonesia FIP", where similar questions were also raised, 10/30/13

[19] INTERPOL, CHAINSAW PROJECT: An INTERPOL perspective on law enforcement in illegal logging. 2010, published with World Bank; World Bank, "Justice for Forests: Improving Criminal Justice Efforts to Combat Illegal Logging", March 2012.

[20] IFC, op cit, "Understanding the Broader Context: What we are learning" slide 14. Also "Weak regulatory implementation and/or gaps between PS and host country law may present problems for client's PS compliance."

disturbing that this project is even being considered, and is not classified as high risk given that the IFC admits it could provoke land disputes and affect vulnerable communities.

The IFC's proposed $30 million loan to **Yoma Bank in Burma**, which is due before the Board in June this year, raises similar concerns. A financial intermediary investment in a context such as Burma, where there is both a lack of transparency and weak governance, and which could potentially involve agribusiness sector investments, should be categorised as higher risk, or FI1, as this could prompt enhanced supervision of the investment's impacts.

Such cases demonstrate that failure to spot risk is neither isolated to the Dinant case, nor a past problem that has been resolved at the IFC, but a real and continuing fault-line at the institution. Any lessons learned exercise must demonstrate not only that project risks are now appropriately categorized but that they actually guide investment decision-making.