

Biotani Bahari Indonesia, CAPP Ecological Justice Foundation (Indonesia), DebtWATCH Indonesia, Ecological Justice Indonesia, ELSAM Institute for Policy Research and Advocacy (Indonesia), Indonesian Corruption Watch, Indonesian Legal Resource Center / ILRC, Institute for National and Democratic Studies (Indonesia), Lembaga Bantuan Hukum Semarang (Indonesia), Swandiri Institute (Indonesia), TUK Indonesia, WALHI – Friends of the Earth Indonesia, WALHI East Kalimantan, WALHI South Sulawesi, WALHI West Java, PILNet – Public Interest Lawyer Network (Indonesia), 11.11.11 Coalition of the Flemish North-South Movement (Belgium), Both ENDS (Netherlands), Bretton Woods Project (UK), Center for Human Rights and Development (Mongolia), Development Observer (Mongolia), Forest Peoples Programme (UK), Friends of the Earth – US, Indian Social Action Forum – INSAF, Jamaa Resource Initiatives (Kenya), Labor Health and Human Rights Development Centre (Nigeria), Legal Rights and Natural Resources Center (Philippines), MISEREOR, Catholic Bishop’s Organisation for Development Cooperation (Germany), NGO Forum on ADB (Philippines), Pakistan Fisherfolk Forum, Rainforest Action Network (USA), Sri Lanka Nature Group, Stiftung Asienhaus (Germany), Ulu Foundation (USA), Urgewald (Germany)

5 October, 2016

Mr. Jim Yong Kim, President, World Bank

Mr. Philippe Le Houérou, Executive Vice President, International Finance Cooperation (IFC)

Cc: Rodrigo A. Chaves, Country Director, World Bank. Indonesia
Vivek Pathak, Director IFC, East Asia Pacific Region
Executive Directors, Alternate Executive Directors World Bank / IFC
Finance Ministries, Shareholder Countries, World Bank / IFC

Subject: Continued concerns about World Bank Group Support for the Infrastructure Sector in Indonesia and reply to your letter dated 26 April 2016.

Attachments:

Annex I: PT. IIGF Risk Assessment Matrix for Land Acquisition
Annex II: Anatomy of a Fake Consultation

With respect,

We are writing this letter to raise continued concerns about World Bank Group funding for Indonesian infrastructure projects. We write in response to your letter of reply on 26 April 2016, in response to the civil society letter sent to President Kim and Executive Vice President of IFC Le Houerou on 12 April 2016, raising significant concerns about existing and planned World Bank and IFC projects in Indonesia’s infrastructure sector.

On April 26, 2016 we received a reply letter signed by Mr. Rodrigo A, Chaves Country Director of the World Bank in Indonesia and Vivek Pathak, IFC Director, East Asia Pacific Region.

Regarding the above letter, we convey our opinions and attitudes, as follows:

1. In 2015, civil society groups submitted a written request for information World Bank and IFC-supported infrastructure investment and guarantee funds to the regional offices of IFC and World Bank. Although some NGOs did meet with some of the World Bank and IFC staff directly, we never received a written reply to our questions and concerns, many of which still remain unanswered.

Given the lack of written response by the regional offices, on 12 April 2015, we addressed another letter of concern directly to the Presidents of the WB and IFC and expected a reply from central WBG headquarters.

Unfortunately, the letter of reply came merely from the regional offices of the BD / IFC, and was very vague and did not respond to our principal demands nor answer the majority of questions, among others, the following matters:

- Lack of public disclosure on documents relating to projects in the pipeline;
- The absence of documents or materials in Indonesian (see specifics in enclosed Annexes);
- Lack of public consultation, including mandatory public consultations on environmental and social assessment before appraisal (about 120 days before the decision of the Board); lack of public consultation on projects in the pipeline;
- Violations and failures in implementing WB environmental and social safeguards and IFC Performance Standards, including those relating to the content and the process of consultation for the social and environmental assessment, forced displacement, indigenous rights, the requirements of diligence prior to the use of Country Systems (CSS);
- Incorrect categorization of environmental and social risks; failure to identify, respond to, protect against the high risk of social and environmental damage associated with infrastructure financial intermediaries.
- The absence of track record of implementation of safeguards by funding and implementing agencies currently supported or proposed for support by the World Bank and IFC in Indonesia, including in PT. IIF and PT. IIGF.
- A request to postpone support for new infrastructure financial intermediaries prior to the resolution of safeguards violations and other problems, including those related to consultation, land rights, forests, Indigenous rights, access to information at the existing WBG-supported infrastructure financial intermediaries, including PT. IIF and PT IIGF.
- A request to discontinue support by the IIGF against coal power plant project Batang, given the violation of environmental and social safeguards and the World Bank's commitment to end support for coal-fired power plant project large scale.
- Evidence of compliance with environmental and social requirements of the World Bank and IFC - including World Bank requirements for a **complete assessment of the country system equivalence with World Bank safeguards** before any decision to use country systems for projects including PT IIF and PT IIGF, developed or approved under the World Bank Safeguards, prior to the adoption and implementation of the new ESF.
- Failure to implement safeguards that require early disclosure and meaningful consultation.

2. Regarding the contents of the letter from Mr. Rodrigo A, Chaves, Country Director of the World Bank Indonesia Office and Vivek Pathak, IFC Director, East Asia Pacific Region, we herewith present the following concerns:

2.1 In response to the repeated civil society request to make the Operations Manual of PT. IIGF public, the WB/IFC letter stated (page 1) that "all guarantees provided by IIGF must comply with its Operations Manual (OM), which is fully compliant with the World Bank's social and environmental safeguards." HOWEVER this claim is impossible to verify given that the Bank has continually refused to make the OM public. Civil society has repeatedly demanded the publication of PT. IIGF's OM, which until now has remained secret.

Oddly, some of the "Guidance Notes" to the OM have been made public (in Indonesian language only, as far as we can tell) and they clearly demonstrate that the IIGF OM cannot be in compliance with the terms and conditions of the World Bank.

For example, the IIGF "Guidance Notes" on land acquisition, states that indigenous lands, forest areas, land without a certificate are recommended to IIGF clients as low risk and "easy" to be seized for a project. (See Appendix 1 and

“Social and Environmental Safeguards for Infrastructure Finance supported by MDBs: The case of Indonesian Infrastructure Financial Intermediaries, Funds, and Investments.”)

The IIGF’s risk assessment guidance indicates that obtaining Indigenous and forest lands presents low risk to a project developer and is “easy” because of the “weakness of proof of ownership of land and indigenous land.” According to PT IIGF’s Guidance Notes, to obtain Indigenous lands or untitled land, all a project proponent must do is have an “agreement/dialogue” (which, of course, are two different things) with stakeholders “about the pattern of land ownership and the status of indigenous lands.”

This is a blatant violation of safeguards of the World Bank and IFC which require specific protections for indigenous peoples, specific consultation measures, public notice, development of Indigenous Peoples plans, etc.

Therefore, we demand:

- (1) PT IIGF to immediately publish PT IIGF’s Operations Manual and all Guidance Notes;
- (2) Provide a substantial period of public comment on the Operations Manual and ensure that it meets WB Safeguard requirements under which the OM was financed as well as IFC Performance Standards, with the strongest standards prevailing;
- (3) Make public the track record of IIGF’s implementation of the OM to date (audit, assessment);
- (4) Withdraw the Guidance Notes and rewrite them in accordance with the WB requirements under which the project was funded, to ensure that they promote full protection for Indigenous lands, forests and lands of impoverished resource-dependent communities;
- (5) Given the current violations promoted by the existing Guidance Notes, submit the new Guidance Notes for robust public comment.
- (6) Establish a two year review period for a public evaluation for the public evaluation of implementation of PT IIGF OM.

2.2 On the first page of the WB/IFC letter, it is stated that *"Any guarantees directly backed by the World Bank-funded guarantees are required to receive a 'no objection' from the World Bank and would need to be fully compliant with all World Bank policies."*

In that regard, we demand the publication of information on the projects that have received a "no objection" from the World Bank and the history of the compliance with WB safeguards of all projects.

2.3 Related to Central Java Power Plant (Batang Project), on page 1 the April 26 WB/IFC letter states that: "This guarantee has not taken place yet. " Page 2 states that: "Since October 2011, IFC's support [for Central Java Power Project] has been limited to providing ad hoc advice to PLN towards fulfilling documentation conditions required for the financial closing of the project."

Our questions are:

(1) Given the apparent “financial closure” of the project, has the IIGF guarantee taken place by now? If so, please provide a copy of the details of the guarantee.

(2) What is the role of IFC? During the NGO meeting with IFC’s CAO in April 2016 in Washington, the CAO stated that, at that time, IFC still had a role in the power plant. The IFC’s own documentation of the CJPP “Success Story” (enclosed) claims a significant role for IFC but the answers provided in the WB/IFC letter appear to minimize IFC's role in Batang - which is far different from what is claimed by the IFC itself.

2.4 In response to the repeated civil society request for the publication of Operations Manual for PT. Indonesian Infrastructure Finance, the WB/IFC letter states: "The [US \$ 100 million] World Bank loan supported IIF to develop its Operations Manual (OM) in line with World Bank environmental and social safeguards and fiduciary requirements. Under the loan, the IIF is required to comply with all WB project requirements, including those related to environmental and social safeguards, technical and fiduciary aspects.”

This information not what was requested by civil society which has long demanded the publication of the Operations Manual of PT IIF, but until now this has not been done.

Therefore, we demand:

- (1) publication of the PT IIF Operations Manual and all Guidance Notes,
- (2) a robust public comment period to enable civil society to comment on the content of the OM and ensure that it meets WB Safeguard requirements under which the OM was financed;
- (3) the revision of the OM, as needed, to comply with the World Bank Safeguards under which it was funded;
- (3) publication of the track record of implementation of the OM to date, with specific attention to consultation, access to information and land rights (evaluation reports);
- (5) Set up a public review period for review of the implementation of the OM.

2.5 Use of Indonesia's Country System: In response to civil society concerns regarding PT IIF's operations and the use of Indonesia's country systems, the letter from the Bank and IFC regional offices regarding the IFC loan to PT IIF which was approved in 2014 and 2015 stated: "IFC assisted the Company in ensuring that its environmental and social management system has incorporated IFC's Performance Standards ... Environmental and Social Impact Assessments (ESIAs) are Disclosed in Indonesian to local communities according to local requirements."

However, the disclosure and consultation requirements of BD / IFC are significantly stronger than those the Indonesian EIA or "AMDAL" and environmental permitting system (country system) which provides very little room for public comment and certainly not for meaningful consultation, free of coercion. A project could meet the increasingly weakening Indonesian national requirements of environmental assessment and environmental permitting and be in direct violation of World Bank, IFC safeguard standards. Surely, your regional office is familiar enough with the WB safeguards and IFC Performance Standards under which PT IIF was financed to know this.

- 1) Kindly inform your "field teams" at the regional level regarding the difference between World Bank, IFC environmental and social impact assessment, including disclosure, consultation requirements, requirements for the protection of forests, biodiversity, indigenous rights compared to those under Indonesian law, including the AMDAL and environmental permitting system.
- 2) Please publish your assessment of the **equivalency between WB and IFC requirements and the content and track record of implementation of Indonesian laws pertaining to safeguards requirements** – an assessment which must surely have preceded the decision to use Indonesia's borrower system "according to local requirements."

2.6 On page 2 the WB/IFC letter states that: "IFC's sub-project disclosure requirements do not apply to the IIF, as it is a non-bank financial institution (established by the government) and this requirement Applies to sub-projects in IFC-invested private equity funds."

Given that PT. IIF has begun to release data on its projects/subprojects, including environmental and social assessments and analyses of gaps between WB/IFC/ADB requirements and Indonesian country system, it is astonishing that the WB and IFC are attempting to push PT. IIF to introduce *less* transparency than the small amount of transparency that has recently begun. This recommendation to degrade information rights is astonishing and unacceptable.

Demand: It is precisely because of the high level of environmental and social risk in infrastructure financial intermediaries that the IFC must make sub-project disclosure requirements mandatory for "non-bank financial institutions" and others, including the IIF.

2.7 Civil society concerns about the proposed Regional Infrastructure Development Fund to be implemented by the Ministry of Finance-supported PT Sarana Multi Infrastruktur (PT. SMI), an entity created by the Indonesian Finance Ministry upon recommendation by the WBG. According to the Bank, PT. SMI - despite being founded in

2009 – still needs to hire “a social safeguards expert” and still needs to develop an Operations Manual in accordance with international standards.¹ The WB Bank/IFC letter indicates that the RIDF project will now be postponed for Board consideration until FY17 – FY18.

Decrease in Finance: After civil society concerns were raised about the RIDF, the Bank reduced the size of the entire project. The Bank’s initial proposal for RIDF was for a \$1,015 billion project with the Bank providing \$500 million, the Swiss government providing \$5 million and the Indonesian government providing \$510 million.² According to the Bank’s website, accessed 30 August 2016, the entire project has been reduced to a total of \$400 million (a decrease of \$615 million), of which the Bank will provide a loan of \$200 million.³ The earlier proposed \$5 million contribution from the Swiss government for a Project Development Facility does not seem to be featured in the on-line summary.

Questions:

1. Will the Bank be seeking additional co-finance for this project?
2. Is the Swiss government still involved in this project?

2.8 The WB/IFC reply letter also stated that RIDF "would need to be fully compliant with all World Bank policies, including safeguards and procurement policies."

Since the project was **designed under the World Bank’s Safeguards** and not the ESF and given the **lack of safeguards track record and staff at PT. SMI**, we reiterate the importance of requiring robust compliance with Bank Safeguards and not the new and untested new ESF. Please confirm that, if this project is to be funded, it will utilize the Bank’s Safeguards under which it was designed, including those for Country Systems equivalence.

2.9 Unfortunately, to date, the materials provided on this project are still in English and still need to be translated to Bahasa Indonesia. Therefore, we demand for translation into Indonesian and publications RIDF projects.

2.10 In page 3, paragraph 2, the WB/IFC claim that there was a public consultation on the RIDF organized, regulated and documented by the Ministry of Finance (MoF). This is not true. This statement is a false claim about a fake consultation, instead of a meaningful consultation. As has been the common pattern with these infrastructure funds, invitations to these fake consultations are provided with very short advance notice, the materials are provided primarily in English and only shortly prior to the “consultation”, the agenda is very short and provides merely for a series of “socialization” lectures by project supporters and little time for meaningful public input. In no way can this be considered a consultation. The same pattern was repeated by PT SMI in Public Consultation Framework Preparation of an Environmental and Social Management on June 22, 2016. Please see Annex 2 of this letter, “Anatomy of a Fake Consultation” and the enclosed joint civil society report.

2.11 **Fix existing problems, before starting new infrastructure FIs.** As stated before in the earlier civil society letter, and not yet responded to by Bank and IFC management:

Given the high risk of environmental and social harm associated with infrastructure financial intermediaries, the weak to non-existent track record of safeguard implementation at the funds and implementing agencies currently supported by the World Bank, IFC and bilateral donors in Indonesia, including at IIF and IIGF, we request that the Bank and the Board of Directors ensure that the problems in existing funds, programs and activities, including IIF and IIGF, are fully remedied before providing any further financial, equity or guarantee support, including support for similar planned projects in the pipeline.

We underscore that as a public financial institution, supported by public taxpayers in many countries, WB and IFC need to provide an explanation on various matters relating to the interests of the taxpayer and the various communities potentially affected by development financed by the WB and IFC.

¹World Bank, Regional Infrastructure Development Fund (P154947). Integrated Safeguards Data Sheet, Concept Stage, 2/5/16.

²World Bank, Regional Infrastructure Development Fund (P154947). Integrated Safeguards Data Sheet, Concept Stage, 2/5/16

³<http://www.worldbank.org/projects/P154947/?lang=en&tab=overview>, accessed 8/30/2016

Regarding developments like these, and the tendency to impose policies that harm the interests of society, men and women, environmental sustainability and protection, we hereby urge the WB and IFC to stop practices / projects which already clearly violate safeguards.

Thank you for your attention

- Ecological Justice Indonesia
- Indonesian Legal Resource Center / ILRC
- TUK Indonesia
- WALHI – Friends of the Earth Indonesia
- WALHI West Java
- Indonesian Corruption Watch
- ELSAM Institute for Policy Research and Advocacy (Indonesia)
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- Mongolian CSO Coalition “Development Observer”
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