

**COMMENTS RECEIVED ON
DRAFT MANAGEMENT RESPONSE TO THE FINAL REPORT OF
THE EXTRACTIVE INDUSTRIES REVIEW**

**OIL GAS, MINING AND CHEMICALS DEPARTMENT
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COMMENTS ON DRAFT WORLD BANK GROUP MANAGEMENT RESPONSE
TO THE FINAL REPORT OF THE EXTRACTIVE INDUSTRIES REVIEW

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Acknowledgement

We wish to acknowledge the comments on the Draft Management Response received from governments, NGOs, industry and others. Many individuals and groups have spent considerable time and effort in meeting with us and in preparing comments to send in. Any omission of comments is unintended, as is any failure to adequately summarize comments.

I. INTRODUCTION

The purpose of this note is to provide a summary of the key comments made on the Draft Management Response (MR) to the Extractive Industries Review (EIR) report (CODE2004-0044/11). As agreed with the Board, the MR was made available for comment on the web from June 19th. This summary includes all comments received up until Thursday 22, July. Comments were facilitated by an easy web-based response system and translation of the document into Spanish, French and Russian. Country offices and the Bank's civil society network were mobilized to encourage comments and make copies of the report more readily available.

Nearly 40 sets of comments were received in the form of emails, letters and other submissions. The largest number of submissions have come from NGOs, with others coming from governments¹, Northern parliamentarians², industry and individuals. Meetings were held with civil society to address questions of clarification prior to their submission of comments. Video conferences were used to collect comments from NGOs from a number of European countries and with representatives of Government, Industry and NGOs in Venezuela.

A full set of written comments, grouped by stakeholder, is being distributed to Executive Directors Offices as Annex B to this report. As was made clear at the outset of this part of the process, the objective was to receive comments on the Draft Management and it was not proposed to respond individually to all comments. At this stage, no changes have been made to the Draft Management Response pending discussion by CODE and the Board. In terms of the original agreed Terms of Reference of the EIR process, Dr. Salim's comments on the Management Response are attached separately as Annex A.

II. SUMMARY OF KEY COMMENTS BY ISSUE

1. Overall Response

Overall reaction to the MR as expressed in comments received was varied. Industry and governments typically advised that they considered it reasonable, although some reservations were expressed, and judgment withheld in areas pending other processes. NGOs, on the other hand, tended to express overall disappointment. While they recognized what they saw as an increased awareness of issues and some progress, in general, they stated that the MR was inadequate and its proposals were not specific enough. Particular comments included:

¹ From Azerbaijan, Chile and Peru

² From 3 German MPs, Bundestag resolution, Austrian MP and European Parliament MP

- a. MR a small step (welcome Management's increased understanding of issues) but fails to commit to most essential conditions. *(NGOs, Parliamentarian)*
- b. Response not specific enough and defers too many decisions to other processes. *(NGOs, Parliamentarian)*
- c. Apply moratorium on WBG EI investments until implementation of recommendations. Shift funds to renewables *(NGOs, Parliamentarian)*
- d. Where the WBG claims there was no consensus the MR has come down in favor of the views of industry and government, as opposed to those of civil society. *(NGOs)*
- e. Weak MR will negatively impact civil society relations. *(NGOs)*
- f. Welcomes WBG movement on renewables, transparency, governance etc. *(Parliamentarian)*
- g. Overall MR recognizes issues and is fair and balanced with some concerns about implementation *(Industry, Governments)*
- h. Some responses are conditional upon further decisions by the WBG, or other factors that will affect their content and need to wait for final judgment. *(Industry, Governments)*
- i. EI projects will be developed even if WBG is not involved, but WBG involvement ensures that projects have less environmental impact, and better social impacts. *(Industry, Governments)*

2. Promoting renewable energy and efficiency to combat climate change

In general, there was support for additional WBG efforts in the area of renewables, although stakeholders' comments were qualified in their support in a number of ways:

- a. Baseline figure of 20% p.a. growth of renewables should be set at \$400m (level achieved by WBG in FY96) and not \$200m as indicated (average of last three years). Set a minimum level of \$1bn by 2010. *(NGOs, Parliamentarian)*
- b. Climate change impact of lending should be transparently accounted for, including cost of CO2 emissions. *(NGOs, Parliamentarian)*
- c. Need to express objectives for energy lending in terms of overall carbon emissions. *(Industry)*
- d. WBG should phase out of oil investments, and maintain its moratorium on financing coal production projects. *(NGOs, Parliamentarian)*
- e. A special "Unit for Renewable Energy and Energy Efficiency" should be established in the WBG. *(Parliamentarian)*
- f. Support continued WBG engagement in oil and coal. *(Industry, Governments)*
- g. Clean coal is a key technology for WBG involvement and support. *(Industry, Union)*
- h. Need to be cautious about push for clean energy versus ultimate objective of poverty reduction. *(Industry, Governments)*
- i. The MR should list both advantages and disadvantages of renewables. *(Individual)*
- j. Renewable energy must be affordable, as renewables are often not economic. WBG must heed Kyoto agreement on policies for CO2 targets in developing countries. *(Governments)*

3. Strengthening Governance

Both Industry and NGOs endorsed the focus on governance given in the MR, including focus on EI issues in the CASs of resource rich countries. NGOs tended to argue that WBG criteria for engagement should be made more explicit and the process of addressing issues in CASs more participatory. Governments were concerned about possible infringements on sovereignty.

- a. WBG should broaden the use of governance indicators for engagement in EI projects beyond CPIA, to include all indicators in the EIR. *(NGOs)*
- b. Clear governance standards need to be set, monitored by an independent body. *(NGOs)*
- c. Need for rigid sequencing: when governance is judged inadequate then the WBG should not lend for EI and focus on TA. *(NGOs, Parliamentarian)*
- d. WBG should not distinguish between “resource rich” and “significant resource” countries in setting EI policies. *(NGOs)*
- e. Need to specify the process for consultation with stakeholders about CASs including EI issues. IPs should be included in consultations. *(NGOs)*
- f. The assessments of governance capacity and risks for projects should be made public, including for projects that are declined for financing. *(NGOs)*
- g. WBG should define conditions for disclosure of private sector contracts for EI. *(Parliamentarian)*
- h. WBG should implement the recommendations of Transparency International and EITI regarding transparency so as to prevent corruption. *(Parliamentarian)*
- i. In formulating and requesting governance reforms, the WBG must respect the sovereign right of each state to establish its laws and policies. *(Industry, Governments)*
- j. Broad support for MR in this area. *(Industry, Governments)*

4. Transparency

All stakeholders welcomed the MR’s proposals on transparency. However, some suggested that they needed to be broadened, and proposals for enforcement strengthened.

- a. The requirements for revenue transparency should be not only for new projects, but should be extended to existing EI projects. *(NGOs)*
- b. Transparency of all EI revenues should be made a condition of all Bank lending in resource-rich countries. *(NGOs)*
- c. The MR should clarify which project documents will be disclosed. *(NGOs)*
- d. Audits and independent monitoring should be employed to guarantee transparency. *(NGOs)*
- e. The MR should accept all EIR recommendations concerning transparency of documents and assessment reports. *(NGOs, Parliamentarian)*
- f. Transparency should extend to the use of funds. *(Industry)*

5. Ensuring that extractive industry benefits reach the poor

Industry, governments and NGOs commented that it was important that EI projects should contribute to local communities. Differences in views were mainly about the degree of specific poverty screening that was needed to ensure direct poverty impacts, with NGOs tending to focus on screening, and industry and governments on efforts within projects to enhance impacts. Both NGOs and industry expressed the view that the WBG should encourage allocation of EI revenues to local communities. Governments pointed out this was a role for the state to decide and may often depend on constitutions.

- a. WBG commitment to benefit sharing for communities is inadequate and lacks detail (*NGOs*)
- b. WBG should: screen projects for their contribution to poverty; develop and monitor poverty indicators in consultation with civil society; require social impact assessment – health assessments, gender issues etc; respond to EIR’s gender *recommendations* (*NGOs, Parliamentarian*)
- c. Natural resources are the property of the state under the Constitution, and the state must administer these resources taking into account all the interests involved. (*Governments*)
- d. The WBG must increase funding and staff resources of WBG’s CASM initiative if it is to be effective in dealing with artisanal and small scale mining problems. (*NGOs*)
- e. Integration of project and regional plans is important and can add value. (*Industry*)
- f. Support the focus of WBG on ensuring that communities benefit. (*Industry*)
- g. More information is needed about the proposed “Sustainable EI Development Facility” (*Industry*)
- h. WBG should take up EIR recommendation to persuade governments to share revenues with local communities. (*Industry*)

6. Mitigating environmental and social risks

In general, NGOs argued that the MR did not go far enough and was not specific enough in setting standards for various aspects of EI operations. Industry and governments tended to support the approach taken, and were not in favor of proscribing specific technologies or processes. In areas though, they would need to wait the outcomes of other reviews and processes. NGOs urged the WBG to adopt specific “no-go zones” areas whereas governments and industry, while recognizing some areas as too valuable or sensitive to develop, argued for a case by case evaluation and decision.

- a. Adopt as “no go zones” the World Heritage Sites; IUCN categories 1-4, and have a broader set of criteria (stakeholder driven) for additional “no-go zones”. (*NGO, Parliamentarian*)
- b. Recognize some areas off limits but need to be decided on a case by case basis. (*Industry*)
- c. No agreement at the international level of how “no go zones” should be defined. (*Governments*)

- d. Do not support riverine tailings or submarine tailings disposal. (*NGO, Parliamentarian*)
- e. Adopt precautionary principle for cyanide and EU standards. (*NGO*)
- f. Caution needed about “no go zones”. Precautionary principle has costs. (*Individual*)
- g. Support approach of not imposing blanket bans on technologies and processes. (*Industry*)
- h. Require fully funded financial guarantees, audits of closure plans. (*NGO, Parliamentarian*)
- i. WBG EI projects should all be category A. (*NGOs, Parliamentarian*)
- j. EIAs should be undertaken for policy-based lending that involves the EI sector. (*NGOs, Parliamentarian*)
- k. Expand WBG activities addressing environmental and social legacies of past EI projects. (*NGOs, Parliamentarian*)
- l. Recognize special issues of “compensatory offsets” and Indigenous Peoples, and need for explicit standards (not guidance notes) for issue of small scale mining. (*NGOs*)
- m. WBG activities in social and environmental areas should be subject to independent auditing. (*NGOs*)
- n. Concern about the WBG’s new approach to middle income countries and EI (*Parliamentarian*)
- o. Concerns about special needs to avoid EI damage to sites of cultural and archaeological value. (*Individuals*)

7. Disclosure

There was a desire for more detail about disclosure from NGOs. Other comments favored the use and disclosure of project sustainability indicators such as those of GRI.

- c. Access to information before approval is important, and assessment of governance for EI projects needs to be published more than 30 days before Board. (*NGOs*)
- d. Annual supervision reports and reports on impacts relating to poverty objectives should be published. (*NGOs, Parliamentarian*)
- e. The focus of the MR is on disclosure by IFC: what about MIGA and IBRD? (*NGOs*)
- f. WBG staff should be provided full protection if they become whistle blowers. (*NGOs*)
- g. Publication of common indicators of project performance may be useful but the individual circumstances of each project must be recognized. (*Industry*)
- h. Development of EI sustainability indicators with GRI is supported, as is principle of disclosure of project information to communities. (*Industry*)

8. Protecting the rights of people affected by extractive industry investments

There was a significant divergence of opinion about the approach to consultation of affected peoples, and about the application of Free Prior Informed Consent (FPIC) for EI projects.

NGOs rejected the MR’s proposals for “free prior informed consultation” and demanded FPIC, but there was not unanimity as to whether FPIC should apply to all affected

communities or only to indigenous peoples. Industry and governments tended to support the MR's approach., though called for clarification of key points All groups emphasized the importance of ensuring that consultation and information provision to affected peoples is objective and well monitored.

- g. The MR proposals for “prior informed consultation” and “broad community support” are not adequate, and the WBG should apply principle of FPIC for EI projects. *(NGOs)*
- h. There is a need for further meetings between WBG and indigenous peoples. The WB-IP Legal Roundtable promised has not been held. *(NGOs)*
- i. WBG should take a more pro-active approach to human rights and assess borrowers against their human rights performance. *(NGOs)*
- j. The MR does not address adequately the issue of forced resettlement, which should be subject to FPIC. *(NGOs)*
- k. FPIC is applicable to indigenous peoples, while for communities affected by EI projects the process of consultation and receiving broad support must be thorough and inclusive. *(NGOs)*
- l. FPIC should apply to both indigenous peoples and affected local communities. *(NGOs)*
- m. Communities should be involved in projects at an early stage, and the WBG should seek “at best” their FPIC. *(Parliamentarian)*
- n. The WBG must ensure that consultations with affected groups are held in an objective and fair manner, are not biased in their approach and provide correct information. *(NGOs, Industry, Governments)*
- o. Effective mechanisms for dispute resolution must be established at the local and regional levels. *(Parliamentarian)*
- p. The WBG should require compliance with Core Labor Standards for all projects that it supports. *(NGOs, Parliamentarian)*
- q. Support for MR proposal of free, prior, informed consultation, and the WBG's rejection of FPIC. *(Industry, Governments)*
- r. The concept of “broad community support” needs to be clarified to avoid conflicts and investor confusion. *(Industry)*

9. Ongoing learning and review

Stakeholders generally welcomed the proposal for a WBG EI Stakeholders' Advisory Group, although some were concerned about its composition and its Terms of Reference. NGOs tended to want more explicit details of the implementation process of the MR's recommendations and greater oversight of this.

- a. Specify reporting process for poverty impacts and implementation of changes such as Human Rights, CLS, mining standards, gender etc and strategy for phase out of fossil fuels. *(NGOs)*
- b. Expand WBG in-house expertise on environment, social issues and HR. *(Parliamentarian)*

- c. Transparency and independent monitoring will be needed in order to ensure the WBG proposed policies on EI are implemented. (*Parliamentarian*)
- j. Support Advisory Group - if balanced with well defined TOR/tasks. (*Governments, Industry*)