

Key Findings and Recommendations of the World Bank Extractive Industries Review final report

What follows below is an unofficial collection of key findings and recommendations from Volume I of the final report of the World Bank Extractive Industries Review, entitled 'Striking a Better Balance', which was published in December 2003. These extracts are presented here under thematic headings. Compiled by Janneke Bruil, FoEI, janneke@foei.org, December 2003

Poverty alleviation

The historical record of extractive industries in contributing to economic growth has been mixed (...). While some resource-rich countries have outstanding records of growth and poverty alleviation, others have shown little economic growth or have even experienced negative growth. Most academic studies of what is known as the resource curse suggest that between 1970 and 2000, the number of states with disappointing outcomes was larger than the number with successful outcomes. (Chapter 1)

The WBG's leverage is also limited by a number of factors, however—some real, but some also self-imposed, arbitrary, and self-serving. It mainly works through other actors in the sector, such as governments and the private sector, by providing loans. With a few exceptions, therefore, it is limited to projects that will generate enough money to repay the loan. The WBG does not itself manage the projects that it supports, and it can only influence project management through loan conditionalities. Furthermore, the WBG does not have much influence over large member countries such as China and India. This also puts constraints on WBG influence once a loan has been repaid. (Chapter 1)

Data on real per capita gross domestic product (GDP) reveal that developing countries with few natural resources grew two to three times faster than resource-rich countries over the period 1960–2000. Of 45 countries that did not manage to sustain economic growth during this time, all but six were heavily dependent on extractive industries, and a majority of them also experienced violent conflict and civil strife in the 1990s. (Chapter 2)

The Operations Evaluation Department (OED) found that during 1990–99 there was a negative relationship between extractive industry dependence and economic growth for all WBG borrower countries. In relation to the Millennium Development Goals endorsed by the international community in September 2000, countries that depend on extractive industries for exports are likely to achieve only reduced child malnutrition; the other goals—most notably increasing access to clean water and reducing child mortality, maternal mortality, and HIV/AIDS—are less likely to be achieved. (Chapter 2)

Globally, oil, gas, and mining are important for the economies of over 50 developing countries. Yet up to 1.5 billion people in these countries are estimated to live on less than \$2 per day. Twelve of the most mineral-dependent nations and six of the world's most oil-dependent states are classified as Highly Indebted Poor Countries, with some of the worst rankings on the Human Development Index prepared by the U.N. Development Programme. (Chapter 2)

The WBG has not devoted enough attention to the developmental needs of poorly performing, resource-abundant countries, many of which experienced negative growth during the 1990s. (Chapter 2)

A multiproject analysis and case studies on community perspectives of IFC and MIGA investments and guarantees commissioned by EIR indicated that project funding in the extractive industries has not had poverty reduction as its main goal or outcome. And qualitative investigation reveals that the poorest do not benefit from extractive industries. (Chapter 2)

Qualitative research indicates that investments that do make contributions to poverty alleviation and capacity building through infrastructure (such as electrification of a region or potable water systems) do not benefit the poorest because tariffs are out of reach or distribution systems are not egalitarian. (Chapter 2)

Increased investments have not necessarily helped the poor; in fact, oftentimes the environment and the poor have been further threatened by the expansion of a country's extractive industries sector. (Chapter 2)

Incentives for WBG staff working in the extractive industry sector appear to favor brevity and inexpensive project preparation over safeguard compliance; There is a lack of coordination between the different arms of the World Bank Group. (Chapter 2)

The WBG should start by helping client governments assess the advantages and disadvantages of the oil, gas, and mining sectors compared with other development options. (Chapter 3)

The WBG should only support projects that benefit all affected local groups, including vulnerable ethnic minorities, women, and the poorest. The WBG should decline to finance projects where this is not the case or should redesign them to guarantee that the standards of living for local groups clearly improve. (Chapter 3)

Data on poverty alleviation in communities surrounding projects must be gathered; all WBG extractive industry projects should mandate the gathering of both baseline data and indicators. These will need to be monitored throughout the life of a project. (...) Much more data should be collected on resettlement as well as on occupational health and safety. The indicators should be simple, easily collected and of relevance and interest to the people concerned. (Chapter 3)

In order to discuss and design compensation and benefits that leave resettled groups genuinely better off, current livelihoods need to be evaluated using comprehensive assessments, including the value of informal activities and resources that are not captured through property rights—such as gathering nontimber forest products, fish, game, free water, and medicinal herbs. Compensation and project-derived benefits should lead to genuine improvement, assessed by independent reputable third parties, in situations where traditional subsistence patterns are being rapidly transformed by development. (Chapter 3)

The WBG does not appear to be set up to effectively facilitate and promote poverty alleviation through sustainable development in extractive industries in the countries it assists. In terms of staff and budget allocation, the institution does not appear to be as committed to the social and environmental aspects of sustainable development as it is to the economic aspects of development.

(Chapter 3)

Given the large potential positive and negative impacts of extractive industries, the CASs of countries with significant or potential extractive industries need to address the challenges posed by the sectors, regardless of whether the WBG is involved directly in the sector in a given country. The WBG should develop indicators—such as a high percentage of export earnings from the sector, high percentage of government earnings from the sector, or specific social and environmental challenges compared with the existing legislative framework—that would trigger an automatic discussion of the sector in the CAS. (Chapter 3)

The WBG has stated that EI projects are “high-risk” projects, which require higher levels of scrutiny to ensure that poverty alleviation and sustainable development are paramount considerations and that the rights of affected persons, communities, and indigenous peoples are respected. So-called transaction costs must be adequate and commensurate with the high-risk nature of EI projects, rather than reduced, and Safeguard Policies must account for and address the high-risk nature of EI projects. The precautionary principle must also be actively adhered to. (Chapter 3)

Human rights violations

In a number of countries, extractive industries have been linked to human rights abuses and civil conflict. Such abuses have been documented, for example, in cases where the army has been called in to guard extractive industries projects. Indigenous peoples and local communities may be forced off their lands to make way for projects, and those protesting the development may be locked up or physically harmed. The large economic rents generated by extractive industries may help provoke or prolong civil conflict. (Chapter 1)

The EIR received many testimonies concerning the military and police being involved in securing company control over territory and protecting their operations. In other cases, companies were reported to be using private militia. When conflicts arise between corporations and local community interests, human rights abuses and violations are often reported. In the case of indigenous peoples, when extractive industries operate on their traditional lands and territories without their consent, it is seen as a human rights violation in itself that, in turn, often leads to other human rights violations. (Chapter 2)

The EIR received reports of alleged human rights violations ranging from intimidation, torture, kidnapping, and detention to rape and killings. Women and children often are the most severely harmed victims. According to information received by the EIR, the incidents of human rights violations are mostly not acknowledged by governments and courts in many developing countries. Sometimes they are acknowledged, but none of the cases received by the EIR had received any compensation, creating deep resentment and distrust among communities toward extractive companies as a whole. There was also a strong element of fear: quite a few people testifying to the EIR required anonymity when describing human rights violations. (Chapter 2)

The WBG also needs to take a clear position on upholding and supporting human rights in the extractive industry sector—specifically on the issues of labor rights, indigenous peoples’ rights, and women’s rights. This position must reflect and be consistent with the WBG’s obligations as a subject of international law and account for the obligations incumbent on its borrowers by virtue of ratified human rights instruments and customary international law. (Chapter 2)

WBG and its clients have obligations under international law to promote,

respect, and protect all human rights. The EIR therefore recommends that WBG develop a system-wide policy that integrates and mainstreams human rights into all areas of WBG policy and practice and that WBG policies and operations must be, at a minimum, consistent with its obligations, as a subject of international law, in relation to international human rights law. (Chapter 3)

The EIR recommends that the WBG ensures that it does not undermine the ability of its member countries to faithfully fulfill their international obligations or facilitate or that it assists violation of those obligations. (...) This should be done in all phases of the project, with meaningful participation by rights-holders and including independent human rights reviews. Additionally, the WBG should systematically incorporate experienced, independent, and reputable third parties to verify the status of human rights in all relevant projects. A central Human Rights unit is essential, with regional counterparts, together with a clear policy and a mandate for monitoring, verification, and transparent annual audits. (Chapter 3)

The WBG should make explicit the human rights basis for each Safeguard Policy; where a policy may lie outside international human rights law, it should be brought into line with current thinking and standards. The Safeguard Policies should become an explicit tool for ensuring that the WBG respects human rights, and the staff in extractive industries should receive adequate training to be able to implement the human rights dimensions of these policies effectively. (Chapter 3)

IFC and MIGA (...) should assess the human rights records of these companies, including their policies on human rights and indigenous peoples, and ensure that WBG-funded projects are designed and implemented in a manner consistent with applicable international human rights standards. Adoption of and demonstrated compliance with human rights principles should be a prerequisite for companies seeking WBG support for extractive industries. (Chapter 3)

Finally, and ideally, the WBG should adopt a rights-based approach to development and ensure that its support for projects is directed toward fulfilling international guaranteed human rights and in particular addresses power imbalances that affect the full exercise and enjoyment of all human rights by the poor and most vulnerable. (Chapter 3)

Indigenous peoples

Indigenous peoples are particularly vulnerable. They have a strong connection to their land, and their unique way of life can be destroyed if they are displaced by a project. While indigenous peoples' rights are recognized in international law, they are often in a weak position in negotiations with governments and industry over proposed extractive industries projects—assuming they even get the chance to participate in negotiations at all. (Chapter 1)

(...) increased extractive activities on indigenous peoples' traditional lands, territories, and resources without guarantees for their rights often create public disorder, health concerns, political and social instability, and legal uncertainty. The U.N. Committee on Economic, Social and Cultural Rights concludes, and the EIR concurs, that "in indigenous communities, the health of the individual is often linked to the health of the society as a whole and has a collective dimension. In this respect, the Committee considers that development-related activities that lead to the displacement of indigenous peoples against their will from their traditional territories and environment, denying them their sources of nutrition and breaking their symbiotic relationship with their lands, has a deleterious effect on their health." (Chapter 2)

The World Bank Group is currently reviewing its policy on indigenous peoples. This revision has been repeatedly repudiated by indigenous peoples for the manner in which consultations have been carried out and because it appears that the revised draft policy fails to uphold their rights and is in fact weaker than the policy it is designed to replace. There are concerns that in the draft Operational Policy 4.10 on indigenous peoples, WBG staff and borrowers are not required to recognize or respect indigenous peoples' property and other rights. To be legitimate and effective, a Safeguard Policy must be seen by the intended beneficiaries to provide adequate safeguards and must be consistent with their internationally guaranteed rights. This is presently not the case. (Chapter 2)

With the meaningful participation of indigenous people, the WBG should revise its Safeguard Policy (Operational Directive 4.20 now in the form of draft Operational Policy 4.10) and ensure that it is consistent with indigenous rights in international law. The WBG must also ensure that there is consensus among indigenous peoples about the contents of the policy; the policy's beneficiaries must consider that it provides adequate safeguards. Indeed, the WBG should refrain from approving the current draft OP 4.10 before high-level discussions with indigenous peoples, including a legal roundtable discussion between WBG lawyers, indigenous representatives, and legal experts on the consistency of the policy with internationally guaranteed human rights. It is recommended that this high-level discussion take place within a year of the submission of this report. (Chapter 3)

(...) companies should be formally required to invest in offsets or compensatory areas that are commensurate with the area to be converted under the proposed extractive industry project. Special attention must always be paid to ensuring that the rights of indigenous peoples to their lands, territories, and resources traditionally owned or otherwise occupied and used are respected when choosing and designing an offset. In all cases, the region in general should clearly be better off in the net benefit sense. (Chapter 3)

The WBG should be informed and guided by the deliberations and conclusions of the United Nations Permanent Forum on Indigenous Issues regarding free prior and informed consent. The WBG should ensure that indigenous peoples' right to give their free prior and informed consent is incorporated and respected in its Safeguard Policies and project-related instruments. Ideally, local governments should play an important role in such processes and in the implementation and monitoring of the agreements between local communities and companies. (Chapter 3)

(...) the WBG should promote only those "sector reforms" that concomitantly recognize and guarantee indigenous peoples' rights to lands, territories, and resources traditionally owned or otherwise occupied and used by them. (Chapter 3)

Involuntary resettlement

WBG Safeguard Policies on indigenous peoples and involuntary resettlement seek only to mitigate the impacts of destructive development schemes. They permit forced resettlement. But in order to lessen the consequences for vulnerable social groups, specific plans are required during project preparation that, in the case of indigenous peoples, are meant to secure their lands and ensure participation in WBG-funded projects. (Chapter 2)

Involuntary resettlement of indigenous peoples should be strictly prohibited.

Resettlement should only be allowed if the indigenous community has given free and prior informed consent, there are guarantees of a right to return once the reason for resettlement ceases to exist, and subsequent to agreement on resettlement benefits. Moreover, the WBG should not support extractive industry projects that affect indigenous peoples without prior recognition of and effective guarantees for indigenous peoples' rights to own, control, and manage their lands, territories, and resources. (Chapter 3)

The WBG should engage in consent processes leading to free prior and informed consent before resettlement takes place, thereby complying with indigenous peoples' rights and receiving a social license to operate. This means WBG projects would only result in voluntary resettlements, not forced ones. (Chapter 3)

Structural adjustment

(...) although these policy reforms had significant impacts on the people and the environment of these countries, reforms were not carried out in a transparent way and did not involve the public. (Chapter 2)

In some cases, structural reform processes have exacerbated macroeconomic imbalances and increased vulnerabilities. Case study examples include increased vulnerability to external shocks associated with significant reliance on EI and fluctuating international EI commodity prices; decreased tax revenues; increased economic dependency on primary commodities (...); significant negative pressure on balance of payments from increased energy imports, largely to support the expanding mining sector; and domestic private-sector development stifled by significant concentration of foreign-controlled EI assets. (Chapter 2)

Significant extractive industry expansion occurred prior to addressing several important failures that are harmful to the poor, the environment, and the economy. Often the accelerated selling off of key state-owned mineral and hydrocarbon assets, mostly to foreign investors, resulted in contracts that locked in weak environmental and social standards for 10 years or more and created powerful vested interests that may make it difficult in the future to implement overdue social and environmental reforms. (Chapter 2)

Testimony from labor and community representatives from Eastern Europe revealed that in the drive to privatize and liberalize the EI sector, many WBG mine closure projects in the coal sector were underfunded, at the expense of social and other concerns. (...) This resulted in situations where communities were poorer than before. In some cases labor's views were ignored, creating distrust and fear of job losses, unemployment, and further poverty. The lack of transparency and involvement of all stakeholders in the process of privatization contributed to socially unacceptable close-down strategies of unprofitable state-owned companies. (Chapter 2)

The EIR concurs that for privatization to succeed, it is imperative to have an established and effective legal and regulatory framework in place. However, it is also imperative for privatization to be carried out in a transparent way, with meaningful public participation. (Chapter 2)

(...) even though the IMF has no environmental and few social requirements for lending, WBG operations staff have repeatedly stated that the WBG has no responsibility for assessing the environmental or social impacts of IMF policy prescriptions, even though, according to the framework for their collaboration, the WBG is the lead agency responsible for environmental policy areas.

(Chapter 2)

In the case studies, the IMF's approach to the extractive sectors was mainly one that promoted aggressive privatization of significant mining and hydrocarbon assets for short-term financing of the deficit. This did nothing to ensure the creation of competition, efficiency gains, development of a domestic private sector, or environmentally and socially sound development strategies for the extractive sectors. (Chapter 2)

In the [EIR-supported research] study countries, there was significant social unrest associated with extractive industry investment activities initiated under the structural reform programs. Furthermore, social unrest, in part related to structural reform programs, has had direct negative impacts on the investment climate in all three countries. (Chapter 2)

[Governments] would like to retain as much wealth as possible and to generate more employment from value-added and semi-finished extractives products, and they seek WBG support to foster relevant research and development. However, this area has not received much support from the WBG. (Chapter 2)

Other areas of special concern regarding WBG support for governments in the extractive industry sector include a lack of participation by all stakeholders during the liberalization and privatization of companies, incorrect classification of projects, support for exploration in protected areas, and an overall lack of transparency. (Chapter 2)

(...) IBRD and IDA should not promote increased private investments in extractive industries through country-wide reform programs, such as structural adjustment loans, sectoral adjustment loans and so on, where governance is inadequate. (Chapter 3)

IBRD/IDA policy lending in the oil, gas, and mining sectors should ensure that it does not support reforms that streamline investment processes and create new contract models in the extractive industries that undermine social benefits, local community rights, environmental protection, or domestic private-sector vis-à-vis transnational companies, which makes balanced development in all sectors of the economy difficult. IBRD and IDA should be especially cognizant of stability agreements, of new mining, oil, and gas codes on development and investment, and of domestic access to finance and markets. (Chapter 3)

In countries with significant extractive industries or anticipated growth in these sectors, the WBG's Operational Policy on structural adjustment (OP 8.60) should require upstream social and environmental analyses for policy lending affecting the oil, gas, and mining sectors—that is, for structural adjustment loans (SALs), sector adjustment loans (SECALs), technical assistance, and analytic and advisory activities (AAAs). These analyses should be developed in transparent and participatory processes with full public access to the drafts and final documents. (Chapter 3)

Revenue management

There is a risk that benefits and costs arising from extractive industries are shared unevenly. Although local communities bear the negative social and environmental impacts of extractive industry activities, they may not receive much of the revenues. (Chapter 1)

At the national level, the WBG has not given enough attention to helping governments develop strong pro-poor public governance, especially to manage

revenues prudently and transparently. (Chapter 2)

IFC and MIGA should ensure that there will be an open, public planning process to distribute revenues in any proposed oil, gas, and mining projects fairly, whether this is provided for in the national legal framework or established on a project-specific basis, and that the local community will have equal access to the information it needs for meaningful participation in negotiation processes. Revenue and expenditure information should also be publicly available during project implementation. (Chapter 3)

Revenues should be shared among local, regional, and national governments. Regional governments have specific demands put on them in terms of planning and addressing such issues as in-migration and maximizing development impacts through infrastructure creation regionwide. An equitable share of the revenues should be provided to local communities. The WBG should consider “direct” or “local and regional” poverty alleviation goals as mandatory for the extractive industries projects it finances. (Chapter 3)

Jobs and labour rights

The poor, lacking the necessary skills and education, often fail to benefit from jobs created in the extractive industries; in many cases, employees are brought in from outside of the area. Often these negative impacts from a project occur before it even starts to generate revenues. (Chapter 1)

While the WBG supports [ILO’s Core Labour Standards] as an overall policy commitment, it often undermines labor rights through its advice at the WBG country policy level. Unions have complained that their views have been ignored, creating distrust and fear of massive job losses, thereby contributing to unemployment and further poverty. In October 2003 the World Bank Group published *Doing Business in 2004*, calling on developing countries to reduce the scope of employment legislation, to reduce minimum wages, and to replace collective negotiation by contracts “at will” between employers and employees—reinforcing the impression of many developing-country unions that the World Bank Group remains fundamentally anti-worker. (Chapter 2)

The promotion of the CLS is in line with the WBG’s overarching goal of poverty alleviation. (...) The CLS should be a contractual requirement for project financing; they should be included in the procurement guidelines as mandatory elements of the WBG’s Standard Bidding Document. (Chapter 2)

IFC and MIGA should adopt all four of the Core Labour Standards as part of their safeguard policies, and not just two, as is currently the case. Furthermore, IFC and MIGA should improve the monitoring and reporting mechanisms for these policies so as to ensure that they are complied with in the projects in which they invest, and should ensure that project sponsors subject themselves to independent and impartial third-party verification. (Chapter 3)

Governance

In order for IBRD/IDA activities in a given country to contribute to sustainable development, there must be also supportive economic structures, policies, and institutions. In many developing countries, such elements are lacking. (Chapter 2)

Regarding the extent to which IFC and MIGA have dealt with the broader issues influencing the sustainability of extractive projects, the CAO concluded that the “economic and governance aspects scored lowest of the three sustainability

dimension that were examined.” (Chapter 2)

When IFC and MIGA consider investing in an oil, gas, or mining project, they need to specifically assess the governance adequacy of the country as well as the anticipated impacts of the project. Explicit core and sectoral governance requirements should be met before a project qualifies for IFC or MIGA funding. It is important that such criteria are appropriate for a given project and relevant to its size and anticipated impacts. (Chapter 3)

Monitoring and evaluation

There is an absence of publicly available empirical data on the impacts and benefits of the IFC and MIGA investments and guarantees. Furthermore, data are collected at the time of environmental or social impact assessments but rarely tracked over time. Virtually no gender analysis is publicly available about employment or impacts of projects on women and children. When schools and medical clinics are reported, use of them (versus use of other informal medical systems) is not tracked. More-extensive data are needed for adequate poverty assessments, such as access to potable water, access to services and infrastructure, education levels of women and children, women’s income, and other quality-of-life measures. In the absence of reliable data, it is impossible to conclude that poverty reduction is achieved through investments and guarantees in the extractive industries. (Chapter 2)

Data are gathered almost unilaterally by companies and validated through project visits. There is very little participatory evaluation or monitoring of IFC or MIGA projects, with a notable exception of the newly formed committees overseeing the Chad-Cameroon pipeline. Poverty reduction measures are therefore not likely to be defined locally and rarely validated by third parties. (Chapter 2)

IFC and MIGA should adopt clear reporting guidelines for projects so that regional and local impacts and benefits of investments and guarantees are systematically monitored and, if need be, mitigated. Marginalized and at-risk communities should be carefully monitored at the local level and should participate in poverty alleviation plans for a region. Reporting on the impact of the extractive industries should be locally driven and participatory. Furthermore, ongoing assessments should be made available publicly in a timely manner. (Chapter 3)

In addition to internal staff, monitoring systems should involve the public and outside experts to provide early warning of any previously unforeseen social or environmental impacts of an extractive industry project. Results should be transparently reported to the public. Independent and impartial third-party monitors may be appropriate. Any significant unforeseen impacts should be remedied as soon as detected by the monitors. (Chapter 3)

The WBG should systematically report on lessons learned, good or bad, from its interventions in the extractive sector. Such a report should be linked to monitoring of impacts and should be readily available to staff preparing similar projects to ensure institutional learning and prevent the repetition of mistakes. Lessons learned should also be reported systematically in Annual Reports to assure institutional accountability. Adjustments in individual projects as well as project concepts should be made promptly when the lesson that is learned is that a project had unintended negative impacts. (Chapter 3)

Transparency and disclosure

The EIR learned about a number of accidents in WBG projects in extractive industries, in which communities and NGOs felt that companies were not entirely forthcoming about impacts, the extent of the accident, or the nature of emergency plans in case of accidents. (Chapter 2)

Lack of transparency and consistency in reportage leads to inconclusive data. While the WBG consistently concludes that poverty reduction is a key outcome of the extractive industries, EIR-funded research could not validate sufficient data to come to this conclusion. (Chapter 2)

The WBG Disclosure Policy should be revised and broadened to include a series of documents that thus far have been protected by confidentiality agreements between IFC, MIGA, and project sponsors. Protection of the proponent's technical processes should be guaranteed, but this needs to be achieved with less confidentiality. (...) the documents to be disclosed should include production-sharing agreements, host-country agreements, power purchase agreements, economic and financial assessments, environmental and social assessment documents, and monitoring and evaluation results, as well as information on accident prevention and emergency response. Environmental and social obligations should be covenanted in loan, grant, or other agreements and be disclosed to public. Business confidentiality should only apply to information whose disclosure would cause some proven harm; furthermore, that harm has to outweigh the public interest in disclosure. (Chapter 3)

All relevant project documents need to be translated into local languages and disseminated in a culturally appropriate and timely manner. (Chapter 3)

Net benefit analyses—including revenue flows to the national as well as the local level, taxes, and other means of income for each project—need to be prepared and published. The WBG could help governments create a database of agreements between governments and oil, gas, and mining companies in order to allow comparison of different arrangements. (Chapter 3)

There should be an independent and impartial Information Ombudsman to monitor disclosure policy implementation and to ensure that citizens have the right to appeal in cases where they feel they have been wrongly denied information. The Information Ombudsman would also be responsible for implementation of the disclosure policy in regards to business confidentiality. A member of the inspection panel or the CAO might take on this function. (Chapter 3)

Participation

The knowledge, power, financial, and technical resource gaps between major extractive industry companies, civil society, developing-country governments, and local communities throughout the world are profound. The inequalities between local communities and transnational companies are not just economic in nature; they include access to political power and information and the ability to know and use the legal system to their advantage. (Chapter 2)

Many grievances from communities and especially from indigenous peoples living near extractive industries projects relate to their claims that their rights to participate in, influence, and share control over development initiatives, decisions, and resources are ignored. EIR findings suggest that when this happens, often the result is ongoing conflict that is detrimental to all stakeholder interests. (Chapter 2)

Current WB policy does not require that projects involve communities in terms of

influencing or sharing control over development initiatives, decisions, and resources. MIGA and IFC also have no explicit commitment to ongoing consultation after a project has been approved. Furthermore, an evaluation by the Operations Evaluation Unit found that one of the weakest areas of safeguards consistency for the projects reviewed was public consultation and disclosure of environmental and social impacts. (Chapter 2)

The EIR concludes that indigenous peoples and other affected parties do have the right to participate in decision making and to give their free prior and informed consent throughout each phase of a project cycle. This consent should be seen as the principal determinant of whether there is a “social license to operate,” and hence is a major tool for deciding whether to support an operation. However, the EIR also acknowledges that there are real issues that need to be worked out to make free prior and informed consent a clearer and more effective tool. These should be worked out in cooperation with bodies that have expertise in indigenous peoples’ issues, such as the U.N. Permanent Forum on Indigenous Issues, which has established a working group on the topic. (Chapter 2)

To participate meaningfully in decision making, timely access to relevant information is necessary. In many cases, local communities and indigenous peoples in developing countries with WBG-supported projects do not have the capacity or the institutions to negotiate in an international context. Efforts from governments, extractive industry companies, and the WBG to bridge this gap varied. They sometimes only received serious attention after a problem, such as a mercury spill or a cyanide spill in a gold mine, had occurred. (Chapter 2)

Consultations between extractive industry companies and local communities encounter various problems that hinder people’s participation. Examples found by the EIR include: Relevant documents that should be disclosed and provided to communities are often not physically accessible or are available only in a foreign language; Affected communities are often not informed about their rights or their entitlement to comment on the various project documents; People who oppose the project are often ignored, threatened, or harassed; Consultations are often not properly announced, only certain people or groups are invited, or the meetings are organized at an inconvenient time or location; The process of consultation is often not adequately monitored by WBG staff; Women are often not included in the consultation process, even where the local community follows a matrilineal tradition. (Chapter 2)

Often communities do not know that the WBG is involved in a project. (...) This has important implications. And even though the IFC has grievance mechanisms available, people are unlikely to know about them. They also do not know about any of the Safeguard Policies, community engagement strategies, or environmental management recommendations that are now part of IFC policies for corporations with investment. But communities without accidents or grievances seem to have little information available to them. This suggests a reactive information strategy on the part of both the company and the WBG. (Chapter 2)

People should have a role in making and be informed of decisions that affect their lives. This becomes especially important in countries where exploitation of resources could have extensive environmental and social impacts. The strategy for a country’s oil, gas, and mining sectors, as well as for specific projects, should be developed in an open and transparent manner, with the full participation of a country’s citizens and government. Stakeholder participation in this decision-making process is vital for achieving meaningful poverty alleviation and sustainable development goals. (Chapter 3)

The communities closest to extractive projects should become involved in participatory assessments of projects, giving free and prior informed consent to plans and projects and developing poverty reduction plans before projects begin. (Chapter 3)

The WBG should ensure that borrowers and clients engage in consent processes with indigenous peoples and local communities directly affected by oil, gas, and mining projects, to obtain their free prior and informed consent. For indigenous peoples, this is an internationally guaranteed right; for local communities, it is an essential part of obtaining social license and demonstrable public acceptance for the project. Participation should start at the project identification and comprehensive options assessment stage, before social and environmental assessment begins. It should lead to an agreed-upon environmental and social management system for construction, operation, and decommissioning. Social and environmental assessments need to be fully participatory and systematically updated as soon as there are plans to change any conditions. (Chapter 3)

Clearly, such consent processes ought to take different forms in different cultural settings. However, they should always be undertaken in a way that incorporates and requires the free prior and informed consent of affected indigenous peoples and local communities. The most affected groups are often the poorest and the most vulnerable. Women, ethnic minorities, and indigenous peoples might otherwise not be included in local decision-making processes, even though they often bear the brunt of the burden of negative impacts. (Chapter 3)

The WBG should require the use of independent, experienced, objective, and trusted facilitators in participatory processes. Professional services need to be effectively secured as part of social and environmental assessment and be paid for by the project proponent. (Chapter 3)

Capacity building of local communities is crucial to ensure effective public participation and to help local communities understand and evaluate an integrated assessment process that incorporates social and environmental impacts along with the other important factors related to a project's potential to contribute to sustainable development. To participate effectively, people need a timely disclosure of information about projects. (Chapter 3)

IFC and MIGA should ensure that there is an effective local complaints and dispute resolution system in place in affected communities when supporting extractive projects. This might be done through the development of a Safeguard Policy on access to impartial dispute resolution. (Chapter 3)

Spills and technologies

In response [to environmental accidents], the gold-producing industry and the U.N. Environment Programme (UNEP), with multistakeholder input, developed a code for the manufacture, transport, and use of cyanide in the production of gold—the International Cyanide Management Code. This voluntary program focuses exclusively on the safe management of cyanide and cyanidation mill tailings and leach solutions. (...) While the EIR welcomes these kinds of initiative, it cannot endorse them because of concern that the code's acceptable concentration of cyanide might still be toxic to a great many aquatic organisms in the environment. (Chapter 2)

Riverine tailing disposal is considered by some companies to be a practice of the past that is no longer acceptable. Scientific evidence clearly demonstrates

that this method of waste disposal causes severe damage to water bodies and surrounding environments, and at least three major mining companies—Falconbridge, WMC, and BHP—have made public statements that they will not use riverine tailings disposal in future projects. In practice, this technology is being phased out due to recognition of its negative consequences: today only three mines in the world, all on the island of New Guinea, still use this method to dispose of mine wastes. The EIR agrees with the call for a ban on riverine tailings disposal. (Chapter 2)

The effects of STD (if any) on tropical marine life, marine resource use, and ecosystem function are not well understood, and there is an urgent need to address the major gap in biological data on the possible effects of STD on tropical marine ecosystems, particularly in the Indo-Pacific deep sea. On the basis of the precautionary principle, since marine biodiversity has global conservation significance and since the possible effects of STD on the tropical marine ecosystem are not well understood, STD should be avoided especially in island regions where this method of disposal may not assure people's sustainable livelihoods. (Chapter 2)

The WBG should apply the precautionary principle and not fund projects that would require submarine tailings disposal until balanced and unbiased research, accountable to balanced stakeholder management, demonstrates the safety of such technology. Future decisions should be based on the outcome of such research and be guided by it. The EIR further recommends that, irrespective of the final outcome of the research, STD and tailings disposal in rivers not be used in areas such as coral reefs that have important ecological functions or cultural significance or in coastal waters used by indigenous peoples and local communities for subsistence purposes. (Chapter 3)

IFC and MIGA should mandate best practice from their sponsors and insist that they follow the highest social and environmental standards. They should further require that sponsors keep up to date with evolving best practice. (Chapter 3)

The WBG should develop a list of criteria for tailings placement for all mining projects. It should include information on climate (...); water, both hydrology and hydrogeology; land forms; geology and geochemistry; biological information; and adherence to all recommendations of the Tailings Dam Subcommittee of the International Commission on Large Dams. Social and cultural criteria need to be included also to avoid harm to local communities. All tailings disposal options should be rigorously evaluated, with an emphasis on the need for ongoing monitoring of waste and tailings dumps. (Chapter 3)

WBG support for mines using toxic materials such as cyanide and mercury should be minimized and, where possible, safer substitutes should be used. The EIR recommends that the WBG make active efforts to stimulate the development of safer substitutes. Support of any substance used should depend on the country's and the company's capacity to handle the dangers associated with it. The WBG needs to revise its cyanide effluent guidelines so that they are consistent with the most advanced comparable guidelines in Canada, the United States, and the European Union or are adequate to prevent environmental degradation. It needs to promote the development of local and regional laboratories capable of performing suitable cyanide and metal analyses and toxicity testing (of mine effluents and affected waters) within the required holding times. If a region is unable to analyze for cyanide, the project should only go ahead once that capacity has been acquired. (Chapter 3)

Where cyanide is used, companies should be required to routinely monitor for other breakdown products associated with it. All of this recommended monitoring

should be done within and around the mine site as well as on any nearby waters that serve as potential sources of drinking water and aquatic life habitats. (Chapter 3)

WBG guidelines and its work in the oil, gas, and mining sectors should assure emergency response plans are in place from the outset of a project—involving plans and procedures to establish good lines of communication to be able to warn local communities, sufficient recognition of potential impacts, and adequate monitoring and maintenance. Such practice should be required in IFC and MIGA projects and encouraged in reforms of national legislation and regulation. (Chapter 3)

The WBG should mandate that projects it supports only use safe, modern, and well-run vessels to carry oil or hazardous cargoes. Safety and age criteria and labor standards should be required for all such vessels, along with systematic and stringent inspections. (Chapter 3)

No go zones

If the WBG is endorsing EI activities in protected areas, this could be counterproductive to the organization's commitment to sustainable development. Furthermore, a recent CAO report reviewing how IFC and MIGA have been dealing with sustainability issues in extractive industries found that where valuable habitat is sometimes affected by projects, there is not always adequate provision for mitigation measures. It further concluded that "where impacts on rare, protected, threatened, or endangered species were identified, there was a tendency to accept these impacts as inevitable, rather than develop proactive mitigation measures. Neither the Natural Habitats nor Environmental Assessment policies provided clear guidance on how to approach ecological impact and mitigation." Combined with the tendency to endorse EI activities in protected areas, this current WBG approach could have serious impacts on biodiversity. (Chapter 2)

Under no circumstances should the IFC and MIGA support oil, gas, and mining projects in areas involved in or at high risk of armed conflict. (Chapter 3)

The WBG should not finance any oil, gas, or mining projects or activities (including through policy lending and technical assistance) that might affect existing World Heritage properties, current official protected areas, or critical natural habitat (as described in its current Natural Habitat Policy) or areas planned in the future to be designated by national or local officials as protected. In addition, any extractive industry projects financed within a known "biological hot spot" must undergo additional alternative development studies. (Chapter 3)

Legacy and project closure

People often leave traditional livelihoods behind in search of opportunities at extractive industry projects, but when the project closes, they lose their livelihoods. Communities may be left to deal with a loss of community services, long-term environmental risks, and unresolved grievances. (Chapter 2)

Project closure is something that many workers and their families live through, often several times. Labor maintains that sustainable development in the extractive industries really must imply the building of human capital, so that when a project closes its workers have the skills to find other jobs. This also requires a more transparent atmosphere around closure so that workers gradually learn where the project is going and have a chance to make their own plans or decisions rather than be subject to "surprise closure," as has occurred

too often. (Chapter 2)

Currently, WBG policies provide no clear guidance concerning project closure. There is strong concern about the perceived lack of closure plans for WBG-related extraction projects, including projects that still are in the proposal stage. Communities have expressed their concern that these plans are put in place too late. The CAO also found that “there are currently no provisions for ensuring that clients continue to make financial provisions for closure once IFC and MIGA have exited a project.” (Chapter 2)

Legacies of the past were by far the most frequent grievance voiced by community members in EIR hearings; many of these problems continue to haunt communities today. (Chapter 2)

IBRD and IDA should support a focused effort to build capacity for conducting and participating in integrated closure planning in countries with the potential to develop significant mining, oil, and gas sectors. They should develop clear guidelines and require, as a condition of financing, that there is provision for sufficient funds to be built up in the balance sheet for closure from the start of any new development. This should be independently verified and annually updated, and the closure plans should be available to the public. (Chapter 3)

The EIR supports the CAO review of recent extractive industries projects and recommends that the IFC and MIGA apply available guidance on closure to all EI projects and ensure that social considerations are taken into account. Measures should be implemented to ensure funds allocated to closure are “ring-fenced,” or protected, even after the WBG exits. (Chapter 3)

IBRD and IDA should make a strong commitment to helping governments tackle the legacy of extractive industry projects and to building partnerships with governments and the private sector to help fund the cleanup. They should identify technologies and support programs to clean up the environmental legacy, develop inventories of abandoned sites, and establish priorities for cleanup based on socioeconomic and environmental risk. Compensation funds should be established for people affected by past developments. IFC and MIGA should address issues of inherited past liabilities, including human rights abuses, in all their projects where relevant. (Chapter 3)

In cooperation with the Global Environment Facility and other funding agencies, and in partnership with private industry, civil society, affected communities, indigenous peoples, and governments, the WBG should establish a targeted program aimed at restoring degraded lands, improving the life of the poor who are affected by previous project closures, and generating employment and skills training. (Chapter 3)

When a mine is to close, a “just transition fund” could be created to finance programs for community development, retraining, and social safety nets. The fund could be supported by trust funds from industrial countries, in light of their contribution to climate change problems. (Chapter 3)

Extractive industry projects should offer health insurance or compensation for project-caused sickness, accidents, and toxic legacy issues. All relevant WBG-supported projects should mandate a health impact assessment along the lines of the course manual published by the World Health Organization in 2003. (Chapter 3)

Extractive industry project design and operation should emphasize public health prevention and stringent risk reduction (...). Affected communities should be

informed of all human and environmental health risks. Non-employees in the vicinity of a project should be admitted to the project's clinic for all public health measures that benefit the project, especially the control of communicable diseases, and this should be included in the project planning. (Chapter 3)

Climate change

Given the long "lock-in" period for energy infrastructure, which may be in place for decades, the WBG has an opportunity to encourage greater use of renewables and clean technologies in countries that are trying to expand access to modern energy supplies rather than passively watching them invest in and install infrastructure for fossil fuels. (Chapter 2)

Oil, gas, and coal are produced not as ends in themselves but as a means to provide energy that is beneficial for poverty alleviation. To meet the need for sustainable development, however, energy that is generated by fossil fuels must take into account the release of greenhouse gases and their contribution to climate change, with its negative impact on agriculture and food production in developing countries. (Chapter 3)

The WBG should apply carbon shadow value analysis systematically to its cost-benefit analysis and rate of return calculations in order to internalize the currently externalized costs of all energy projects, such as greenhouse gas emissions, as a follow-up to its carbon back-casting as input for its strategies to encourage investment in low and no-carbon energy alternatives. Shadow pricing should internalize both local costs, like pollution, and global costs, such as climate change. (Chapter 3)

(...) the WBG should phase out investments in oil production by 2008, the year of the first commitment period under the Kyoto Protocol, and devote its limited scarce resources to investments in renewable energy resource development, emissions-reducing projects, clean energy technology, energy efficiency and conservation, and other efforts that delink energy use from greenhouse gas emissions. During this phasing out period, WBG investments in oil should be exceptional, limited only to poor countries with few alternatives. (Chapter 3)

The WBG has for the last few years not invested in new coal mining development. This should continue. (Chapter 3)

IBRD and IDA should accelerate the help given to countries to phase out uneconomic and environmentally unsound coal mining by helping them address any negative economic impacts of a phase-out and bridge a transition to cleaner energies. (Chapter 3)

The WBG should make funds available through the Global Environment Facility or other body to promote renewable energy vigorously. It should develop a robust portfolio for renewable energy, aggressively increasing investments in renewable energies by about 20 percent annually and thereby moving toward a better balance between support for fossil fuel projects, currently 94 percent of the energy portfolio, and renewables projects, currently just 6 percent. (Chapter 3)

The promotion of renewable energy that is needed in poverty alleviation efforts and in response to climate change should be done by setting up a specialized WBG unit or team for renewables and energy conservation. It should support country teams by proactively identifying possible energy conservation and renewables projects or programs, assessing country capacity to produce and service renewables and energy conservation, and identifying ways to build up

that capacity, as well as by assessing lending capacity for renewables and energy conservation and ways to strengthen that capacity. (Chapter 3)

[The WBG] should publicize research on climate change as a public information good and should publicly “name and shame” countries or companies with irresponsible policies and practices. (Chapter 3)

Safeguard policies general

The reality in the field suggests that the current Safeguard Policies have been unable to ensure that “no harm is done” and that this is due to both poor implementation rates and deficiencies in the policies themselves. In general, the EIR found a strong level of discontent in all regions, especially among civil society, indigenous peoples, and academia, about the effectiveness of the WBG Safeguard Policies, some of which are out of date and inadequate to ensure poverty alleviation and sustainable development outcomes from EI projects. (Chapter 2)

WBG Safeguard Policies that are in place are often not supported by effective compliance mechanisms; furthermore, project screening is often inappropriate, sometimes resulting in projects being incorrectly put at a lower level. The effectiveness of Safeguard Policies is jeopardized further by weak supervision, monitoring, and reporting. (Chapter 2)

IFC and MIGA social and environmental policies in this sector lag behind industry best practice in many areas. Those of special concern include community and indigenous peoples’ participation in decision-making processes, the sharing of benefits with local communities, human rights, and the transparency of information on IFC/MIGA projects and policies as well as on the services available to communities, such as the CAO. (Chapter 2)

While welcoming this development [of the Equator Principles], the EIR wants to be assured that these policies are binding, with assurance of compliance to make sure that companies are actually adhering to the policies in their operations. (Chapter 2)

The WBG should take a holistic, multidimensional approach to environmental and social impact assessments, identifying cumulative impacts of projects and socioeconomic linkages to environmental issues. Social impacts should be fully identified, including health impacts and the impacts on vulnerable groups. And a strategy for impact prevention, minimization, and mitigation is needed. ESAs should be completed for all activities, including project expansion. They should be living documents and receive further attention during implementation. (Chapter 3)

Extractive industry projects should be classified as Category A projects—likely to have significant adverse environmental impacts—unless there are compelling reasons to the contrary. (Chapter 3)

Compliance rates with existing Safeguard Policies are often far below acceptable and, in some cases, the substance of the policies is inconsistent with internationally recognized rights. Much greater emphasis needs to be placed on ensuring compliance with Safeguard Policies and the consistency of these policies with human rights. (Chapter 3)

Women

The WBG recognizes the relevance of gender equality to poverty reduction and

economic growth. It has had an operational policy on gender since 1994 and an external gender consultative group. However, WBG support for extractive industry projects, such as with the Lihir Gold Mine located in Papua New Guinea, have further disadvantaged and disenfranchised local women. Despite its policy commitments, the failure of extractive industry projects to take adequate account of gender inequalities and women's perspectives have increased inequality and undermined the rights, roles, and responsibilities of women within their local communities, which has further impoverished and marginalized them. (Chapter 2)

The EIR found that the negative impacts on women of extractive industry projects are consistent across mining, oil, and gas projects, as detailed in numerous conferences, testimonies, and studies. Any effort to reduce poverty through support for extractive industries must therefore give primary consideration to an analysis of their impacts on women's rights, gender equality, and the roles and responsibilities of the majority of the world's poor: women. Mining, oil, and gas projects and structural reform programs promoted by the WBG may serve to marginalize women. (Chapter 2)

The IBRD/IDA Safeguard Policies and other operational approaches should recognize explicitly the rights of women through a commitment to nondiscrimination—a basic tenet of human rights—but also through ensuring that social management, community development, and consultation plans and exercises explicitly reach out to women and protect them from gender-based human rights violations, such as forced prostitution and rape. (Chapter 3)

Small scale and artisanal mining

(...) WBG support for major mining companies versus small-scale mining initiatives is seriously imbalanced. For the period of 1990–2002, the IFC provided \$1.2 billion to multinational mining corporations, an average of \$100.8 million a year. Although it is much more difficult to pin down a number for WBG support of small-scale mining initiatives, in 2002 it appears the figure was \$610,100. (Chapter 2)

Concerns about the damaging environmental and social impacts of uncontrolled artisanal and small-scale mining, especially from itinerant miners, are valid. Yet a regulated ASM sector can play an important developmental role through boosting employment, supporting communities, and alleviating poverty. (Chapter 2)

At the country level, IBRD and IDA should help governments develop policies that recognize artisanal and small-scale mining (ASM) as a distinct sector and that distinguish between community-based miners and itinerant miners, giving communities clear priority over mining rights. WBG activities related to ASM should always recognize and respect indigenous peoples' rights and should particularly fight the problem of child labor in ASM. (Chapter 3)

IBRD and IDA should thus support governments in legalizing ASM and making it environmentally and socially less harmful, while helping responsible artisanal and small-scale miners earn more from their activities. The WBG needs to build the required internal capacity to address these issues, and should form a special ASM unit that is adequately funded to meet these challenges. (Chapter 3)

When it is considering financing for ASM, the WBG must include adequate, verifiable, and participatory precautionary measures to account for extra-territorial issues, such as river pollution, that may affect communities, including indigenous peoples. (Chapter 3)