

November 12, 2013

Dr. Jim Yong Kim, President
World Bank Group
1818 H St. NW
Washington, D.C. 20433
United States

Re: Learning from Failure: Management Action Plans Needed in Response to
Inspection Panel and CAO Investigations

Dear President Kim:

We are writing to express our concern about the trend by World Bank Group (WBG) Management to refute, deny or otherwise fail to act on critical findings of its accountability mechanisms—the Inspection Panel and the Compliance Advisor Ombudsman (CAO).

This trend is in stark contrast to your commitments¹ to learn from failure and ensure that the voices of all citizens can be heard. Communities often take great personal risks to bring complaints about harm from WBG projects. When their complaints result in findings of non-compliance with WBG policies, they deserve a response that addresses them. We urge you to direct Management to respond to Inspection Panel and CAO investigations not by denying or refuting non-compliance findings, but by committing to address all such instances of non-compliance, remedy any harm that resulted from non-compliance, and correct any implicated practices to prevent future non-compliance.

The new WBG Strategy commits to solicit citizen feedback in order to “gain insights on the results ordinary people most value, suggestions about potential risks and ways to address them, and feedback on the effectiveness of WBG-supported programs.”² But through its accountability mechanisms, the WBG has had citizen feedback mechanisms in place for years. The Inspection Panel and the CAO enable those who have borne the cost of risky projects to raise their concerns to the highest levels of the institution. However, in a number of recent cases, the WBG has responded to findings by denying or refuting the adverse impact of its funding and failing to learn from those problems or correct them:

- **Tata Mundra Project in India:** The International Finance Corporation’s (IFC) October 2013 response, which you approved, to the CAO’s investigation of its investment in Coastal Gujarat Power Limited, a subsidiary of Tata Power, in Mundra, Gujarat, India, did not include an action plan to address the CAO’s findings of harm caused by non-compliance. Rather it was in large part devoted to refuting the findings of the investigation with information that the CAO had already taken into consideration when making its independent findings.
- **Financial Intermediary Investment:** IFC’s initial response, in January 2013, to CAO’s investigation of its investments in financial intermediaries did not include an action plan

¹ Jim Yong Kim, Address to the Boards of Governors of the World Bank Group at the Joint Annual Discussion (Oct. 12, 2012) available at: <http://www.imf.org/external/am/2012/speeches/pr04e.pdf>.

² World Bank Group, *World Bank Group Strategy* ¶ 59 (2013).

to address the CAO's findings. It was only when CODE intervened that IFC developed an action plan, approved in September 2013.

- **Eskom Energy Project in South Africa:** The Bank Management's March 2012 response to the Inspection Panel's investigation of the Eskom project in South Africa refuted the Panel's findings of policy violations and did not develop an action plan. Bank Management only prepared a "supplemental note" after a request from Board members. In May 2012, Management refuted the Panel's conclusion that the Bank failed to ensure sufficient water for scrubbers to minimize sulfur dioxide (SO₂) emissions. The fact that a year later Eskom began the process to request an exemption from meeting new South African regulations on Minimum Emissions Standards for SO₂, arguing there is insufficient water to operate such scrubbers,³ only confirms the Panel's conclusion.

The new WBG Strategy calls for "an accountability mechanism that complements compliance with a focus on outcomes."⁴ It has always been Bank Management's responsibility, in responding to Panel or CAO findings, to ensure that an investigation improves the outcomes for those affected by WBG-funded activities. The failure to produce better outcomes in the cases mentioned above and others, is not the fault of the mechanisms, which are only one half of the accountability system at the WBG, but the result of Management's failure to fulfill its responsibility to remedy the harms its own accountability mechanisms have determined it bears responsibility for.

An upcoming test of Management's commitment to meet its responsibility is the CAO's report, currently before Management, on IFC's investment in Corporación Dinant, in Honduras. According to a report by the National Human Rights Commissioner of Honduras, 92 people were killed in land disputes in Bajo Aguán from 2009 through 2012. Most of the victims have been active members of peasant organizations. According to a March 2013 report,⁵ in only seven cases have investigations been brought before a judge, and not a single case has resulted in a conviction. The CAO's report was triggered by allegations that Corporación Dinant "conducted, facilitated or supported forced evictions of farmers in the Bajo Aguan region," where Dinant operates palm oil plantations, and that violence against farmers occurred "due to inappropriate use" of "security forces under the control or influence"⁶ of Dinant. Dinant denies any wrongdoing. We urge you to ensure the expeditious release of a constructive and self-critical response to the findings of the CAO investigation, in order to send a clear signal that IFC funding will only be provided in a manner that respects and protects human rights and that is consistent with the performance standards implicated in this investigation and the IFC's sustainability framework.

³ Eskom, Application for Exemption from the Minimum Emissions Standards for the Medupi Power Station (2013), available at: <http://www.iliso.com/EMES/PDFE/Medupi.pdf>.

⁴ World Bank Group, *supra* ¶ 65.

⁵ Comisión Interamericana de Derechos Humanos, Informe Annual, Capítulo IV Desarrollo de los derechos humanos en la Región, Honduras, ¶ 193, OEA/Ser.L/V/II.147 (2013) available at: <http://www.oas.org/es/cidh/docs/anual/2012/indice.asp>.

⁶ Compliance Advisor Ombudsman, *Appraisal Report, Corporación Dinant S.A. de C.V.*, 1 (2013), available at: http://www.cao-ombudsman.org/cases/document-links/documents/CAOAppraisalReport_Dinant_August132012.pdf

You were recently quoted as saying, “[i]f you have a spectacular failure, the only thing that I would be disappointed about is if we didn’t ensure we learned from that failure.”⁷ The WBG can only achieve this if you ensure that Management prepares and implements constructive action plans in response to every investigation by the Inspection Panel and the CAO where instances of harm and non-compliance are found. At the twentieth anniversary of the Inspection Panel, you emphasized that communities will not bear the cost of the risks taken by the WBG. We are waiting for your actions to match your words.

Sincerely,

Accountability Counsel
Bank Information Center
Bretton Woods Project
CEE Bankwatch Network
Center for Human Rights and Environment - CEDHA
Center for International Environmental Law
CNCD-11.11.11, Centre National de Coopération au Développement
Crude Accountability
Friends of the Earth – US
Forest Peoples Programme
Global Initiative for Economic, Social and Cultural Rights
Human Rights Watch
Inclusive Development International
Institute for Policy Studies, Climate Policy Program
Interamerican Association for Environmental Defense - AIDA
International Accountability Project
International Rivers
Jamaa Resource Initiatives
KOSID, Kosovo Civil Society Consortium for Sustainable Development
Oxfam
Pacific Environment
Social Justice Committee of Montreal
SOMO, The Centre for Research on Multinational Corporations
Trocaire
Urgewald
We Effect
11.11.11- Coalition of the Flemish North-South Movement

cc: Jin-Yong Cai, Executive Vice President and CEO, IFC
Sanjay Pradhan, Vice President for Change, Knowledge and Learning, World Bank
Meg Taylor, Vice President and CAO, IFC
Eimi Watanabe, Chair of the Inspection Panel, World Bank
Juan José Bravo Moisés, Executive Director and Chair of the Committee on Development Effectiveness

⁷ Annie Lowrey, *World Bank, Rooted in Bureaucracy, Proposes a Sweeping Reorganization*, Int. N.Y. Times, Oct. 6, 2013, available at: http://www.nytimes.com/2013/10/07/business/international/world-bank-rooted-in-bureaucracy-proposes-a-sweeping-reorganization.html?adxnnl=1&adxnnlx=1382526627-3KHfMkAT0nEt65B30XhJug&_r=0.