

INDIAN LAW RESOURCE CENTER

CENTRO DE RECURSOS JURÍDICOS PARA LOS PUEBLOS INDÍGENAS

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June 17, 2020

Board of Executive Directors
Inter-American Development Bank
1300 New York Avenue NW
Washington, D.C. 20577

RE: Indigenous Peoples' Joint Comments on the Draft Environmental and Social Policy Framework

Dear Executive Directors and Counselors,

My name is Armstrong Wiggins and I am the Director of the Indian Law Resource Center's (the Center) Office in Washington, D.C. The Center is a non-profit law and advocacy organization, established and directed by American Indians. We provide legal assistance to indigenous peoples of the Americas who are working to protect their lands, resources, human rights, environment, and cultural heritage. Since the early 1980s, we have been advocating for better policies on indigenous issues within public sector financial institutions, such as the World Bank and other multilateral development banks.

The purpose of this letter is to share with you the concerns and comments that indigenous peoples from the region have about the Inter-American Development Bank's (I.D.B.) new Draft Environmental and Social Policy Framework (Draft Policy), in particular the drafts of the Environmental and Social Performance Standard No. 7 Indigenous Peoples (Draft Standard No. 7) and the No. 1 Assessment and Management of Environmental and Social Risks and Impacts (Draft Standard No. 1). While under normal circumstances we would meet with you in-person to discuss these concerns and comments, we are sharing them with you in writing given the restrictions on in-person meetings due to the COVID-19 pandemic.

As the I.D.B. considers changes for a second draft of the Environmental and Social Policy Framework, I would like to take this opportunity to express my disapproval with the first draft, in particular the Draft Standard No. 7 and No. 1. The I.D.B.'s existing policy on indigenous peoples, Operational Policy on Indigenous Peoples (OP-765) -- the first policy of its kind that was adopted by the I.D.B. -- was a decent policy that was inclusive of the issues we are most concerned about with respect to protecting indigenous peoples and the healthy environment they depend upon for their physical and cultural survival from harmful bank projects. Surprisingly, the Draft Standard No. 7 that the I.D.B. is now considering is retrogressive, removing critical safeguards and disregarding indigenous rights issues that we as indigenous peoples hold dear to our hearts. Furthermore, the Draft Standard No. 1 fails to establish how human rights risks and impacts, in particular those relating to indigenous peoples, would be assessed

and managed throughout the project cycle. In effect, these first drafts fall below the standards set in the OP-765 and by current applicable legal norms. Today, when there are worldwide demands to embrace diversity and address racial inequalities, the I.D.B. regresses by undermining the policy and legal foundations that were set to remove indigenous peoples from the region's lowest poverty indicators.

For these reasons, in conjunction with the Interethnic Association for the Development of the Peruvian Rainforest (AIDSESEP), the Center organized a meeting with grass-roots indigenous leaders and indigenous representatives from the Peruvian Amazon to discuss the first drafts of these policies and prepare constructive, detailed comments. As a result, we presented a written proposal to the I.D.B. during the public consultation held in Lima, Peru in early March. When developing the proposal, we took into account two key policies: the 2016 World Bank's Environmental and Social Standard No.7 Indigenous Peoples and the 2006 I.D.B. OP-765. We also considered the lessons learned from the following I.D.B.-funded projects that negatively affected indigenous peoples: (1) the Mareña Renovables Wind Power Project in Mexico, and (2) the Survey, Titling, and Registry of Rural Lands in Peru Project. That proposal was then developed into the joint written comments that the Center and AIDSESEP filed with the I.D.B. on April 20th and are sharing with you today. It is worth noting that more than ten indigenous organizations from Central and South America endorsed the joint comments. Summaries of the main arguments for why we proposed changes to the Draft Standard No. 7 and No. 1 can be found below. Please refer to our joint comments attached to this letter for further details.

- i. **Scope of Application.** We request that the I.D.B. include indigenous families that relocate seasonally and cross-border indigenous peoples within the scope of the Draft Standard No. 7. These are real situations that many indigenous peoples and families of the region encounter. The OP-765 did consider the situation of cross-border indigenous peoples; however, the Draft Standard No. 7 does not take into account either of these regional particularities.
- ii. **Guiding Principles.** We believe that the I.D.B. must include the guiding principles of indigenous rights and indigenous development to ensure that projects do not cause harm to indigenous peoples and communities, but rather benefit them. Both principles come from the OP-765, which the Draft Standard No. 7 completely eliminates.
- iii. **Specific Safeguards.** We address three specific safeguards as a result of the lessons learned from I.D.B.-funded projects and other multilateral development bank policies. These include: (1) cadastre, titling, and registration of indigenous lands and territories; (2) indigenous peoples in isolation or initial contact; and (3) free, prior, and informed consent (F.P.I.C). These safeguards are fundamental to ensure that the I.D.B. and borrowing countries do not seek projects that would undermine indigenous peoples' collective ownership over their lands and territories or affect indigenous peoples that live in isolation or in initial contact. In addition, it is critical that the I.D.B. and borrowing countries obtain F.P.I.C. throughout the life of a given project, bearing in mind the consultation protocols established by indigenous peoples, and fulfill the commitments assumed by borrowers as a result of such a consultation process. The Draft Standard No. 7 address these issues in a very vague or limited manner.

The Center and AIDSESEP remain eager to work towards producing the strongest and most effective environmental and social policy framework in order to safeguard the rights of indigenous peoples and tackle the inequalities that indigenous peoples throughout the region encounter. We look forward to your response and are available to discuss these comments in greater detail, if necessary.

Without further ado, we take this opportunity to express our highest consideration and esteem.

Sincerely,

A handwritten signature in black ink, appearing to read "Armstrong Wiggins". The signature is stylized and cursive, with a large initial "A" and "W".

Armstrong Wiggins
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