http://www.oxfamamerica.org/press/pressreleases/aid-group-lauds-new-world-bank-policies-on-indigenous-rights-and-oil-and-mining-transparency/

Aid group lauds new World Bank policies on indigenous rights and oil and mining transparency

Aug 10, 2011
For more information, contact:

- Jessica Forres, *Extractive Industries and Humanitarian Press Officer*
  (202) 777-2914 (office)
  (202) 460-8272 (mobile)
  jforres@oxfamamerica.org

Washington, D.C. – Oxfam commends the International Finance Corporation (IFC), the World Bank Group's private sector lending arm, for improving policies that will increase protection of indigenous communities affected by development as well as transparency in the oil, gas and mining sectors. After spending 18 months consulting nongovernmental organizations, government agencies, companies and others, IFC released last week its new Sustainability Framework.

The Framework— a set of policies outlining IFC's responsibilities and requirements for companies that receive loans for development projects—now requires IFC clients to secure the Free Prior and Informed Consent (FPIC) of indigenous communities prior to launching development activities expected to generate adverse impacts on their lands and natural resources.

"The IFC has been widely criticized for funding socially and environmentally risky projects that, in some cases, have had negative impacts on local communities, but IFC's efforts to improve its lending policies are a step in the right direction " said Raymond C. Offenheiser, president of Oxfam America. "Although we would have liked to see stronger human rights language in the policies, we hope that the IFC's new requirements on community consent and transparency will raise the bar for better social and environmental performance and set a precedent for international financial institutions, export credit agencies, companies, and governments to follow."

In the past, the IFC has failed to properly measure the risks of oil and mining projects, such as the Chad-Cameroon pipeline, before providing loans to companies operating in countries with serious human rights problems and weak institutions. For example, the World Bank in 2006 had to cut loans to Chad for the pipeline after the country gutted a law earmarking oil revenues for education, healthcare and other social needs, requirements of the loan. Oxfam hopes the new IFC framework will help prevent such controversial projects from ever being financed.

"The revised IFC Sustainability Framework has the potential to help indigenous people get their fair share of natural resource wealth, particularly in emerging economies and conflict-prone countries where Australian mining companies are increasingly doing business", said Andrew Hewett, executive director of Oxfam Australia.

The new policy on FPIC sets a standard for companies and financial institutions, including the

72 export credit agencies and private banks that commit to the Equator Principles-- a voluntary set of standards for identifying and managing social and environmental risk in project financing. The Equator Principles are based largely on IFC policies.

"FPIC is critical to ensuring that indigenous communities participate in decision-making processes around development projects that affect their lands, cultural identity, and livelihoods," said Offenheiser. "It will also benefit governments and companies seeking to promote long-term sustainability and prevent social conflict."

Additionally, the new Framework requires IFC-funded oil, gas and mining companies to publicly disclose their contracts with host governments, providing the public with information it can use to hold their governments accountable.

"More often than not, opacity around oil and mining projects leads to corruption and conflict. Requiring companies to publicly disclose their contracts with the countries in which they operate will spread the transparency net far and wide, preventing secret deals and helping citizens hold their governments accountable for decisions regarding natural resource management," said Offenheiser. "Recent disclosures of oil contracts by the government of Ghana show that this is practical and useful."

However, the IFC missed an opportunity to significantly strengthen its policies on assessing the human rights risks related to its projects. The IFC's new policies fall short of requiring companies to consider the human rights risks of their activities as part of the social and environmental impact assessment process. These risks might include, for example, repressive governments cracking down on communities peacefully protesting a project, and should be factored into company planning processes.

Frequently Asked Questions on Free, Prior, and Informed Consent

Q: What is Free, Prior, and Informed Consent?
FPIC is a dynamic process. It ensures communities receive adequate and timely information about oil, mining, and other development projects affecting them and their lands. It also ensures that communities have the opportunity to approve or reject projects. However, some governments and companies fear that FPIC implies a one-off procedure, a simple yes or no vote, but it's really about giving all sides the opportunity to share their concerns. Within an FPIC process, for example, an oil company could learn that its planned pipeline is located on land considered sacred by the community. With that information, the company can choose to reroute the pipeline to another site, improving its relationship with local communities and in some cases even preventing conflict and revenue losses in the long-term.

Q: Is the right to FPIC protected by international law?
In short, yes. International bodies like the International Labour Organization through its Convention No. 169, Concerning Indigenous and Tribal People in Independent Countries, and the Inter-American Court of Human Rights (IACHR) have recognized the right to FPIC in certain circumstances. For example, in 2007 the IACHR ruled that the government of Suriname had violated the Saramaka peoples' right to collective property for awarding a timber concession on their lands without prior consultation. The United Nations Declaration on the Rights of Indigenous Peoples also calls on states to secure the FPIC of indigenous peoples for projects that affect their lands or resources.

Q: How does the private sector view FPIC?
Oil, gas and mining companies have started adopting FPIC into their own policies and standards. For the private sector, it's a bottom-line issue and it also promotes responsible spending. When communities become unhappy and begin protesting a particular project like blocking off roads or shutting down production facilities, projects becomes riskier. That was the case for Newmont's Yanaocha Mine in northern Peru. When the company decided to expand the mine without consulting the community, thousands of people staged demonstrations and blocked access to the mine for two weeks. During those two weeks, the company's stock price fell 7 percent, a loss of more than $ 1 billion in shareholder value, according to calculations made by Oxfam.

Because companies in the oil and mining sector are especially vulnerable to financial and reputational risks, many of them such as Newmont, Rio Tinto, Xstrata, Anglo American, BHP Billiton, ConocoPhillips, Pluspetrol and Talisman Energy have made some type of commitment to securing community consent prior to launching projects.

Socially Responsible Investment (SRI) fund managers have also started highlighting the importance of FPIC as a way to ensure that the companies within their client's portfolios demonstrate a commitment to sustainability and respect for indigenous peoples' rights. In 2009, mutual fund company Calvert Asset Management Company removed Weyerhaeuser from the Calvert Social Index for failing to recognize FPIC in its relationship with the Indian Tribe Grassy Narrows First Nation of Ontario, Canada.

More recently, international financial institutions are requiring companies to implement FPIC as a condition of financing. In August 2011, the International Finance Corporation – the World Bank Group's private sector lending arm – released its new sustainability framework. For the first time, companies receiving IFC financing will be required to consult and receive the FPIC of indigenous communities prior to launching development projects that could potentially impact them adversely. This is a significant move by the IFC. The new policy will set a global standard for companies and financial institutions to follow. This includes the 72 export credit agencies and private banks that commit to the Equator Principles-- a voluntary set of standards for identifying and managing social and environmental risk in project financing. The Equator Principles are based largely on IFC policies.

Q: Does FPIC work in practice?
The practice of FPIC is relatively new. Only Australia and Philippines have laws that allow communities to say no to mining or oil operations on their lands. Increasingly, governments, companies, and international financial institutions are embracing FPIC as a best practice and putting it to the test.

A recent case study produced by Oxfam describes Bolivia's Ministry of Hydrocarbons and Energy successfully applying FPIC during a gas exploration project in the indigenous territory of Charagua Norte e Isoso, located in the Santa Cruz region. The Ministry consulted the community about the project and, prior to exploration, indigenous leaders signed an agreement with the Bolivian government documenting consent for exploration activities by the Argentine company Pluspetrol. The consultation process reached a positive outcome thanks largely to the willingness of the government to respect the use of traditional indigenous institutions and systems, provide complete and truthful information to affected communities, and approach the process with good faith.