



Input on the National Action Plan for Responsible Business Conduct May 2022

The Bank Information Center (BIC) welcomes the opportunity to provide input on the revised National Action Plan (NAP) for Responsible Business Conduct (RBC). BIC encourages the U.S. Government to recognize its leadership role at the multilateral development banks (MDBs) and push the institutions to improve their policies and practices, aligning with the highest global RBC standards. Further, the U.S. should hold the Development Finance Corporation (DFC) to the highest industry standards and at least what it requires of the MDBs. This is essential for the U.S. to preserve its credibility with the MDBs, international partners, and project-affected communities.

BIC's Recommendations

1. **Improve transparency at DFC:** The 2016 NAP called on OPIC (now DFC) to enhance existing procedures and standards that require clients to implement RBC principles and develop an Environmental and Social Safeguard Policy. While we recognize the progress DFC has made in operationalizing its safeguard policies, we encourage DFC to work to improve its transparency and access to information practices to meet the highest industry standards. At a minimum, DFC should align its policies with what the U.S. requires of the MDBs in which it is a member. Specifically, DFC should:
 - a. Match the Pelosi Amendment MDB disclosure requirement. This provision requires U.S. Executive Directors at the MDBs to abstain or vote against any project with significant environmental impacts if an appropriate environmental assessment has not been conducted and made available to the public 120 days before a vote. Currently, DFC requires the disclosure of projects with heightened environmental or social risk 60 days before Board approval, hindering opportunities for civil society and project-affected communities to have a voice in the approval process.
 - b. Disclose more information on the DFC website to facilitate improved access to information. In particular, DFC should systematically publish project information for Category B projects, co-financing data, annual total greenhouse gas emissions portfolio, and statistics on DFC's entire portfolio, such as the proportion of DFC investments in the energy sector.
 - c. Provide sufficient notice and robust opportunities for public comment on new and revised policies, which DFC routinely fails to do. These shortcomings prevent DFC from carrying out the effective stakeholder engagement necessary to achieving inclusive and equitable development and critical to providing full access to project benefits for marginalized groups, including persons with disabilities, gender and sexual minorities, Indigenous Peoples, and other local communities.

2. **Use U.S. leverage at the MDBs to push them to:**

- a. **Operationalize commitments on reprisals:** Since the 2016 NAP's publication, MDBs in which the U.S. is a shareholder, including the World Bank, International Finance Corporation (IFC), and Inter-American Development Bank (IDB), have made commitments or policy requirements not to tolerate and to address reprisals against stakeholders of their projects. The Asian Development Bank (ADB) and African Development Bank (AfDB) are expected to include commitments on reprisals in the updated versions of their respective safeguard policies, which are currently under review. We commend these institutions for acknowledging the risks that project stakeholders take when raising concerns about project impacts, particularly in restrictive contexts, and urge the U.S. to champion continued work at each institution to thoughtfully operationalize these commitments. To implement their commitments on reprisals, the U.S. should push MDBs to:
 - Conduct assessments on civic space and contextual risks at the country and project levels to identify where heightened risks of reprisals exist and should be mitigated.
 - Develop guidance for staff on how to design projects that are sensitive to reprisal risks and include measures to prevent reprisals, especially within stakeholder engagement and grievance redress components.
 - Discuss zero-tolerance policies, reprisal risks, and prevention with borrowers and clients.
 - Develop protocols for responding to reprisals.
- b. **Provide access to remedy:** MDBs are increasingly acknowledging the need to focus on providing access to remedy when the projects they finance lead to environmental and social harms. The U.S. should push MDBs to develop remedy frameworks that build provisions and leverage points for remedy in case of harm into their contractual agreements with borrowers and clients and consider options for remedy from the earliest stages of project design. Remedy frameworks should also address how MDBs and their clients will remediate harm if the client or MDB exits the investment in the project.
- c. **Strengthen environmental and social safeguards:** The U.S. should continue to take a leadership role in pushing the MDBs to strengthen and expand the coverage and implementation of their environmental and social policies. The AfDB and ADB are currently reviewing their safeguards, and the IFC is expected to undertake a review in the next two to three years. IDB is developing guidance to support the implementation of its new Environmental and Social Policy Framework (ESPF). The U.S. should push for comprehensive and meaningful consultation processes on safeguards with a broad range of external stakeholders, including independent civil society organizations. The U.S. should prioritize broadening coverage of



safeguards to explicitly include requirements around human rights due diligence, better address climate, the inclusion of marginalized groups, prevention of sexual exploitation, abuse and harrassment, reprisals, and access to remedy. Further, the U.S. should support the allocation of ample budget, resources, and training to build the institutional capacity needed to strengthen MDBs' due diligence and supervision processes as new safeguards requirements go into effect.

- d. **Safeguards should address full supply chains:** Currently, the most commonly applied safeguards, IFC's Performance Standards, do address supply chains but only require tracing of primary suppliers, and caveat this by adding that the "ability of the client to fully address these risks will depend upon the client's level of management control or influence over its primary suppliers." This is insufficient because supply chains may involve several intermediaries.

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